

Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 20 March 2019.

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Subject:

Application for a Premises Licence for 46 High Street, Keighley, BD21 2LJ.

Summary statement:

Application for a new premises licence for the sale of alcohol for consumption off the premises and the provision of late night refreshment.

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Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the grant of a Premises Licence for the sale of alcohol for consumption off the premises and the provision of late night refreshment.

2. BACKGROUND

2.1 The applicant

Mr Marhwan Najat. A copy of the application is included at Appendix 1.

2.2 The Premises

46 High Street, Keighley, BD21 2LJ.

2.3 Proposed Designated Premises Supervisor

Mr Marhwan Najat.

2.4 Application

The application is for the grant of a Premises Licence. The operating schedule describes the following as the relevant licensable activities applied for:-

- Sale of alcohol for consumption off the premises.
- Provision of late night refreshment.

Hours of licensable activities:

Sale of alcohol

Monday to Saturday:	08.00 to 01.00
Sunday:	09.00 to 23.00

Late night refreshment

Monday to Saturday:	23.00 to 01.00
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2.5 Steps proposed by the applicant to address the Licensing Objectives

a) Prevention of crime and disorder will be achieved by;

None.

b) Public safety will be achieved by;

None.

c) Prevention of public nuisance will be achieved by;

None.

d) Protection of children from harm will be achieved by;

None.

e) General – all four licensing objectives

None.

2.6 Relevant Representations Received

Responsible Authorities

West Yorkshire Police

A representation has been submitted by West Yorkshire Police as the applicant, Mr Marhwan Najat, who is also the proposed DPS, has been convicted of two offences of fraudulent evasion of duty prohibition or provision on 24 November 2017 and 11 April 2018; sentencing was to take place on 22 February 2019.

HM Revenue and Customs and the Police have seized illicit cigarettes and hand rolling tobacco, at 18 High Street and 46 High Street, Keighley. Mr Najat has links to both shops and was the premises licence holder and DPS at 18 High Street when products were seized. Mr Najat is also the applicant and proposed DPS for this premises licence grant application. A male was also observed working at 18 High Street who did not have permission to work in the UK.

Section 11.27 of the S182 Guidance for the Licensing Act clearly states that “There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

For the sale or storage of smuggled tobacco and alcohol.

For employing a person who is disqualified from that work by reason of their immigration status in the UK.

In order to address the prevention of crime and disorder objective, the Police have requested that the application be refused.

The representation is attached at Appendix 2.

3. OTHER CONSIDERATIONS

Legal Appraisal

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance
 - d) the protection of children from harm
- 3.2** The Council must also have regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District.
- 3.3** Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 3.4** Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 3.5** Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

Statement of Policy Issues

- 3.6** The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).
- 3.7** The Annexes to the Policy sets out various types of model condition that could be considered.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management and governance implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

7.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

7.5 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state’s right to control the use of property in accordance with the general interest. The Council’s powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant’s rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

7.6 TRADE UNION

Not applicable.

7.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

7.8 IMPLICATIONS FOR CORPORATE PARENTING

There are no apparent implications.

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

There are no apparent data protection or information security implications.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Members may:

- (a) Grant a premises licence as applied for subject to any mandatory conditions and the precautions specified in the operating schedule submitted.
- (b) Grant a premises licence subject to such additional conditions relating to achievement of the licensing objectives as members think fit; or
- (c) Refuse the application for a premises licence.

9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing individuals, bodies or businesses, determine the related application(s):.

11. APPENDICES

1. Application form received 24 January 2019.
2. Representation from West Yorkshire Police.

12. BACKGROUND DOCUMENTS

Application form, plan etc.