

Report of the Interim Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 10 March 2021.

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Subject:

An application to Transfer a Premises Licence and an application to Vary a Premises Licence to specify an individual as designated premises supervisor for Roz's Deli, 97 Great Horton Road, Bradford, BD7 1PS.

Summary statement:

Police objection to two applications:

Application to transfer a premises licence

Application to vary a premises licence to specify an individual as designated premises supervisor.

EQUALITY & DIVERSITY

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

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Portfolio:

Neighbourhoods & Community Safety

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Overview & Scrutiny Area:

Corporate

1. SUMMARY

West Yorkshire Police have submitted an objection to two licensing applications. One application is for the transfer of a premises licence and the other application is to vary a premises licence to specify an individual as designated premises supervisor.

2. BACKGROUND

2.1 The applicant

Mr Morad Omer. The applications are included at Appendix 1.

2.2 The Premises

Roz's Deli, 97 Great Horton Road, Bradford, BD7 1PS.

A copy of the premises licence is included at Appendix 2.

2.3 Proposed Designated Premises Supervisor

Mr Morad Omer.

2.4 Application

The applications are for the transfer and variation of a premises licence to specify an individual as designated premises supervisor.

25. Relevant Representation Received

West Yorkshire Police

On 12 February 2021, the Licensing Authority received a notice under Section 42 (6) and Section 37 (5) of the Licensing Act 2003 from West Yorkshire Police in objection to these applications, including a detailed account of their reasons. These reasons are considered by the Licensing Authority to constitute a valid objection under the Act.

The notice is attached at Appendix 3.

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** An application for the transfer of an existing premises licence under Section 42 of the Act and an application to vary a premises licence to specify an individual as designated premises supervisor under Section 37 of the Act, is normally a straightforward licensing procedure and is dealt with as an administrative matter. As part of the application process, the applicant is required to give notice of the application to the police.
- 3.5** Where a chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must serve notice to the Licensing Authority within fourteen days of receiving the application.
- 3.6** When a valid objection is received from the police and the objection has not been withdrawn, the matter must be referred to the Licensing Panel for a hearing to determine the application.
- 3.7** Where an application includes a request that the application shall have immediate effect, the premises licence has effect during the application period as if the licence has been transferred or varied in the manner as set out in the application. The application period begins when the application is received by the Licensing Authority and ends when the application is granted or rejected.
- 3.8** The applicant or the police have a right to appeal to the Magistrates Court if they are aggrieved with the decision of the Licensing Authority. Any such appeal must be lodged within 21 days of the date when the Licensing Authority first made notification of the decision and the application period will continue until determination by that Court.

Statement of Policy Issues

- 3.6** The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).



4. FINANCIAL & RESOURCE APPRAISAL

A decision made by the Licensing Panel is subject to appeal at the Magistrates Court and/or by way of judicial review. Should the applicant or the police wish to appeal against the decision of the council, the council would incur costs although the court may decide to award costs if the council's decision is upheld.

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 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.3 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.

7.4 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.



7.5 TRADE UNION - Not applicable.

7.6 WARD IMPLICATIONS

Ward Councillors have been notified of the meeting.

7.7 IMPLICATIONS FOR CORPORATE PARENTING

There are no apparent implications.

7.8 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 the applications for transfer and variation of a premises licence to specify an individual as designated premises supervisor; or
- (b) Reject the applications for the transfer and variation of a premises licence to specify an individual as designated premises supervisor if Members consider it appropriate to do so for the promotion of the prevention of crime and disorder objective.

9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence 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 the parties, determine the related application(s):

11. APPENDICES

- 1. Application forms received 5 February 2021.
- 2. Premises Licence.
- 3. Notice from West Yorkshire Police.

12. BACKGROUND DOCUMENTS

Application forms, plan etc.

