

Report of the Interim Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford District Licensing Panel to be held on 4 August 2021.

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Subject:

Application for a Review of a Premises Licence for Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol for consumption off the premises.

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

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the review of a premises licence authorising the sale of alcohol for consumption off the premises.

A copy of the Licence is attached at Appendix 1.

2. BACKGROUND

2.1 The Premises

Piotr I Pawel, 23 Duckworth Lane, Bradford, BD9 5ES.

2.2 Premises Licence holder

Mr Mariwan Tofiq Mustafa.

2.3 Application Received asking for a Review of the Licence

Responsible Authority

West Yorkshire Trading Standards has applied for a review of the premises licence.

Intelligence was received by West Yorkshire Trading Standards (WYTS) which indicated that the premise was dealing in illegal tobacco.

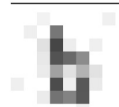
On 31 August 2019, WYTS carried out a test purchase using an underage volunteer. A WYTS officer witnessed the sale of 2 single cigarettes to a child by Mr Mariwan Mustafa.

Attempts were made to interview Mr Mustafa, but no responses were received to the letters sent to his home address.

On 10 March 2020, officers attended the business address in an attempt to locate Mr Mustafa and serve a summons for him to appear at Magistrates' Court. Officers saw illegal cigarettes behind the counter (40 packs), issued the appropriate paperwork and seized the illicit tobacco products. Mr Mustapha attended the business and confirmed that he was the owner of the business. Advice was provided to Mr Mustafa to stop the supply of illicit tobacco.

On 30 June 2020, a PACE letter was sent to Mr Mustafa. Mr Mustafa stated that it was a member of staff who was responsible and he had dismissed her.

On 23 November 2020, a successful test purchase was carried out of counterfeit cigarettes by an undercover officer.



On 8 December 2020, an inspection was carried out by WYTS and a seizure of illegal tobacco products was made from behind the counter. In total 208 packs of illicit cigarettes and 5 packets of hand rolling tobacco. Working behind the counter was the member of staff whom Mr Mustafa had claimed had been dismissed following the previous seizure of illicit tobacco on 10 March 2020.

On 12 January 2021, at Bradford Magistrates' Court, Mr Mustafa pleaded guilty to supplying single cigarettes to a trading standards child test purchaser.

PACE interviews by letter were sent to Mr Mustafa on 4 February 2021 and 16 February 2021, in relation to the additional test purchase and seizure on 8 December 2020. Mr Mustafa has failed to respond to any of the questions or get in touch with WYTS.

The criminal investigation is still ongoing.

West Yorkshire Trading Standards considers the above matters to be extremely serious and therefore recommend revocation of the licence.

The application for review 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. Paragraphs 11.1 to 11.29 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Home Office Guidance is attached to this report at Appendix 3.

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 and Part 7 Protection of Children from Harm.
- 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 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.

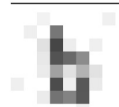
7.2 GREENHOUSE GAS EMISSIONS IMPACTS

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 receipt of the application.

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) Reject the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or



- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the 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 interested parties, determine the related application(s).

11. APPENDICES

1. Premises Licence.
2. Application for review received 22 June 2021
3. Extract from the Government Guidance.
4. Location plan of premises

12. BACKGROUND DOCUMENTS

Application form, plan etc.

