

## **Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford District Licensing Panel to be held on 31 October 2023.**

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### **Subject:**

**Application for a Review of a Premises Licence for Food Master, 284 Leeds Road, Shipley, BD18 1DZ.**

### **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

Food Master, 284 Leeds Road, Shipley, BD18 1DZ.

### 2.2 Premises Licence holder

Mr Azhy Othman.

### 2.3 Application Received asking for a Review of the Licence

#### Responsible Authority

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

On 15 February 2023, a test purchase of counterfeit cigarettes was made. A male working at the store retrieved the cigarettes from his pocket.

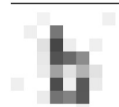
On 20 February 2023, an inspection visit was made. Working there was Mr Jwanro Othman who is believed to be the father of the licence holder. Five unopened packets of Illegal cigarettes were in his pockets. More illegal tobacco was recovered from a box in the cold room at the rear of the store and from a motor vehicle parked in front of the store, the keys for which were obtained from behind the sales counter. Illegal vapes were also seized.

Mr Othman consented to a search of his home address, where further substantial quantities of illegal counterfeit/illicit cigarettes and hand rolling tobacco were recovered from his car parked on the drive and the garden shed at the address.

In order to address the prevention of crime and disorder objective and public safety objective, West Yorkshire Trading Standards would recommend revocation of the licence.

The application for review is attached at Appendix 2

### 2.4 Relevant Representations Received



**Individual, Body or Business**

A representation in support of the premises licence holder has been received.

The representation 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. 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 4.

**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 5 Public Safety.

**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 CHILDREN AND YOUNG PEOPLE.**

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 7 September 2023.
3. Representation in support
4. Extract from the Government Guidance.
5. Location plan of premises.

## **12. BACKGROUND DOCUMENTS**

Application form, plan etc.

