

**Name of meeting:** Licensing Panel

**Date:** Tuesday 06 March 2018, at 10:00, Meeting Room 3, Huddersfield Town Hall, Ramsden Street, Huddersfield

**Title of report:** APPLICATION FOR REVIEW HEARING UNDER S51 LICENSING ACT 2003 – International Express, 27 John William Street, Huddersfield, HD1 1BL

**Purpose of report:** To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name  Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?  Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No financial implications If yes give date  No
Cabinet member portfolio	Give name of Portfolio Holder Cllr Mather

**Electoral wards affected:** Newsome Ward

**Ward councillors consulted:** N/A

**Public or private:** Public

## 1. Summary

On 09 January 2018 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that two of the four Licensing objectives are not being achieved at this premises, being:

- The prevention of crime and disorder
- Public safety

Full details of the grounds for the review are contained in the attached review application at **Appendix 1**.

## **2. Information required to take a decision**

The key information required to make a decision is contained in the initial application from West Yorkshire Police. Below is the background information relating to the premises and its licence.

The premises has benefited from the premises licence, PR(A)1613 since December 2016. The current premises licence holder is Mohammad Zada. Mr Zada took over the premises licence on 14 December 2017. Due to Mr Zada being linked to selling non-duty paid tobacco products from this shop, West Yorkshire Police objected to the transfer which was refused at a hearing on 25 January 2018. Currently Mr Zada has 21 days from receipt of his letter to appeal the decision.

## **3. Implications for the Council**

3.1 Policy considerations (extracts from Kirklees Licensing Policy 2015-2020).

### **Para 2.3 Licensing Objectives**

The Policy promotes the four licensing objectives contained in the Act and each has equal weight.

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm;

Para 7.9 The Licensing Authority will determine any application by considering the Act, the statutory guidance, this Policy and the four licensing objectives including how it may support other key aims, strategies and objectives.

Para 7.10 The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):

- The type of use, the numbers and type of customers likely to attend the premises;
- The proposed hours of operation;
- The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that would be used by the customers;
- The impact of car parking on local residents or businesses;
- The scope for mitigating any impact;
- How often the activity occurs.

and, in considering any application the Licensing Authority may also take into account

- historical evidence, whether favourable or adverse, relating to activities carried out at the premises, especially on local residents or businesses;
- and where adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

3.2 The following provisions of the Secretary of State's guidance apply to this application:

Paras 11.1 – 11.30 – Reviews

Paras 2.1 – 2.5 Crime and disorder

Paras 2.21 – 2.30 Protection from children from harm

#### **4. Other Representations**

No further representations have been received.

#### **5. Consultees and their opinions**

##### 6.1 Advertising

The responsible authorities defined under Section 13 (4) of the Licensing Act 2003 have all received a copy of the application for review. Additionally in accordance with regulation 39 of the Licensing Act 2003 (Premises Licences and Club Certificates) Regulations 2005, Officers from Kirklees Licensing Service arranged for advertisement of the review including being posted on the premises for 28 days and on the public notice board at the licensing office. Interested parties and responsible authorities are therefore allowed to make additional representations during that 28 day period. The period of advertisement ended on **06 February 2018**.

No response was received from each of the responsible authorities; however information from Environmental Health is contained in the representation made by Licensing.

#### **6. Next steps**

Not applicable

#### **7. Officer recommendations and reasons**

In determining the application the panel can take such any of the steps as it considers necessary for the promotion of the licensing objectives, which are:

- Issue warning with licence unaffected;
- modify conditions of the licence;

- exclude a licensable activity from the scope of the licence;
- remove the designated premise supervisor;
- suspend the licence for a period not exceeding 3 months;
- revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

**8. Cabinet portfolio holder recommendation**

Not applicable

**9. Contact officer and relevant papers**

Stephanie Mashiter – Licensing Officer – 01484 221000 Ext 70530

Appendix 1 – Application for review from West Yorkshire Police

**10. Background Papers and History of Decisions**

The premise previously appeared before the committee in January 2018, the papers and decision can be viewed at

<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=156&MIId=5533&Ver=4>

**11. Assistant Director responsible**

Joanne Bartholomew



## APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE UNDER THE LICENSING ACT 2003

### Please read the following instructions first

Before completing this form, please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I, (insert name of applicant) **RICHARD WOODHEAD**

- **Apply for the review of a Premises Licence under Section 51**
- **Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below**

#### Part 1 – Premises or Club Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

International Express, 27 John William Street, Huddersfield

Town/City: **Huddersfield**

Postcode: **HD1 1 BL**

Name of premises licence holder or club holding club premises certificate (if known):

**Mohammed Zada**

Number of premises licence or club premises certificate (if known): **PR(A) 1613**

#### Part 2 – Applicant details

Please 'check' appropriate box(es)

I am:

1. An interested party (please complete A or B below)
  - (a) a person living in the vicinity of the premises
  - (b) a body representing persons living in the vicinity of the premises
  - (c) a person involved in business in the vicinity of the premises
  - (d) a body representing persons involved in business in the vicinity of the premises
2. A responsible authority (please complete C below)
3. A member of the club to which this application relates (please complete A below)

#### A – Details of individual applicant

Surname:

Forename(s):

I am 18 years old or over:

Current postal address if  
different from premises  
address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

**B – Details of other applicant**

Surname: Forename(s):  
 Address: Town/City: Postcode:  
 Daytime contact telephone number:  
 E-mail address (optional):

**C – Details of responsible authority applicant**

Mr  
 Surname: RICHARD Forename(s): WOODHEAD  
 Address: West Yorkshire Police Licensing, Flint Steet  
 Town/City: Huddersfield Postcode: HD1 6LG  
 Daytime contact telephone number:  
 E-mail address (optional): rw913@westyorkshire.pnn.police.uk

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

- (a) The prevention of crime and disorder
- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

On the 19<sup>th</sup> Dec 2017, a large amount of none duty paid and counterfeit cigarettes and hand rolling tobacco was found at the premises by trading standards and West Yorkshire Police The approximate retail value of the cigarettes is £3060, at the retail value of the counterfeit tobacco is £1405.

On a return visit on the 20<sup>th</sup> Dec 2017 a further cache of illegal cigarettes and tobacco pouches were discovered by the same agencies in the stock room of the shop. There were 37 packets of none duty paid cigarettes found, with an approximate retail value of £358, and the tobacco around £244

Also on the return visit 110 bottles of Smirnoff Vodka was seized as it could not be identified by trading standards as to whether it was meant for sale in the UK. When asked for a receipt from a wholesaler showing who supplied the vodka the premises licence holder was unable to show any evidence as to where the vodka had been purchased from.

Prior to the joint visits sales of illegal tobacco products had been witnessed by town centre officers.

In July 2017 a number of none duty paid cigarettes were found in the premises by trading standards.

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Intelligence had been received that a number of town centre shops were selling counterfeit and none duty paid tobacco products with Huddersfield town centre. One of the shops was International Express, on 27 John William Street, A joint operation was put into place where the illegal products were found to be hidden and secreted in the shop.

What I need to demonstrate to you is that the premises licence holder was complicit in the sales, and the shop is a place of distribution for illegal, none duty paid products.

Mr Zada put an application in to the local authority to become the premise licence holder on the 18<sup>th</sup> Dec 2017, the day before the visit was made.

However Mr Zada has worked in the shop since it was granted a licence and the evidence I submit today will clear up any doubt that Mr Zada is not just a new shop owner who inherited the illegal stock.

I can confirm that Mr Zada has been arrested 4 times from within the shop from the 28<sup>th</sup> April 2017 to Dec 2017.

2 arrests for assault, and two for public order offences while working in the shop.

The dates of the arrests are:

28<sup>th</sup> April 2017 Assault

23<sup>rd</sup> June 2017 Public Order Offence

29<sup>th</sup> June Public Order Offence.

2<sup>nd</sup> Sept 2017 Assault

West Yorkshire police also have an intelligence report from the 4<sup>th</sup> June 2017 naming Mr Zada as selling illegal cigarettes from International Express.

Since 13<sup>th</sup> April 2016 the shop has had six assaults and three public order offences committed within the premises.

Because of the strong possibility that the International Express shop was selling illegal products town centre officers started to observe the shop and the sales made from within the licensed area.

On the 29<sup>th</sup> Nov PC Nicholls observed a sale made to a customer, of illegal cigarettes, the customer made a statement to PC Nicholls that they had definitely bought the cigarettes from the shop.

Further sales were witnessed by PC Nichols on the 30<sup>th</sup> Nov, and on the 7<sup>th</sup> Dec 2017. Statements were taken from the customers stating the shop had sold the illegal cigarettes.

Because of these incidents a joint operation was set up between West Yorkshire Trading Standards, West Yorkshire Police and Kirklees Licensing Department.

On the 18<sup>th</sup> Dec a test purchase was made by a plain clothes trading standards officer where a packet of none duty paid cigarettes were bought.

On the 19<sup>th</sup> Dec 2017 the shop was visited by the joint operation team, where the

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following products were found to be secreted in a false panel above the back door exit of the shop. ( photo one)

316 packets of counterfeit and none duty paid cigarettes, with an approximate retail value of £3060.

Also 145 pouches of counterfeit tobacco, 50grams with a retail value of £1404.

The shop assistant who was in the shop at the time stated he had only been working for one day, and Mr Zada was in overall control.

On the day after, the 20<sup>th</sup> Dec 2017, a second visit was carried out to the same shop, where a further stash was discovered behind a mirror, to open this cache you needed to trip an electronic switch. (photo 2 and photo 3)

Within the alcove was discovered 37 packets of counterfeit cigarettes and 12 pouches of tobacco, with a combined retail value of £602.

West Yorkshire police also seized 110 bottles of Smirnoff vodka as It could not be identified as to whether it was meant for the UK market, The owner Mr Zada could not produce a receipt showing where he had purchased the vodka from.

Mr Zada has a complete disregard to UK law, and is willing to put the people of Huddersfield's health at risk by selling counterfeit and none duty paid tobacco products. He is also defrauding the UK government of much needed revenue by not paying excise duty on the tobacco.

The guidance on section 144 of the licensing act, keeping smuggled good on licence premises states that this is a serious offence.

Other premises' in the Kirklees area have lost their ability through licence revocation to sell alcohol, , and so I respectfully ask that the panel strongly agree to revoke this licence, in order to send a firm message to other retailers who are thinking about selling such products

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:



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If you have made representations before relating to this premises, please state what they were and when you made them:

Please 'check' appropriate box(es)

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements, my application will be rejected

**It is an offence, liable on conviction to a fine up to Level 5 on the standard scale, under Section 158 of the Licensing Act 2003, to make a false statement in, or in connection with this application**

**Part 3 – Signatures** (please read Guidance note 3)

**Signature signing on**

**or duly authorised agent (see guidance note 4). If capacity:**

Signature: \_\_\_\_\_ Date: 09/01/2018  
 Capacity: Police Licensing Officers

Contact name (where not previously given) and postal address for correspondence associated with this application (please read Guidance note 5):

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):

If you would prefer us to correspond with you using an e-mail address, please state your e-mail address (optional):

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

False Door opened

Where the  
Cigs were stored







Kouření zabíjí,  
přestaňte nyní

Tabákový kouř obsahuje přes  
70 látek, které prokazatelně  
způsobují rakovinu.

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způsobují rakovinu.

Kouření zabíjí –  
přestaňte nyní

Mirror  
Removed.