

Name of meeting: Licensing Panel

Date: Friday 10 May 2019, at 9.30am – Huddersfield Town Hall,
 Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003:
 Westgate News, 24 Westgate, Huddersfield HD1 1NU

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 Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by Strategic Director & name	Russell Williams – Group Leader Licensing (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure)
Is it also signed off by the Service Director (Finance)?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Not applicable
Cabinet member portfolio	Cllr Naheed Mather

Electoral wards affected: Newsome

Ward councillors consulted: Not Applicable

Public or private: Public

GDPR Implications: GDPR has been considered and appropriate sections of the report have been amended

1 Summary

- 1.1 On 28 March 2019, West Yorkshire Police made an application for the review of the premises licence at Westgate News, 24 Westgate, Huddersfield under Section 51 of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention of crime and disorder, the protection of children from harm and public safety are not being achieved at the premises.
- 1.2 Full details of the grounds for the review are contained in the attached review application at **Appendix A**.

2 Information required to take a decision

2.1 Background

- 2.1.1 Westgate News is a licensed premises selling groceries, newspapers, cigarettes and tobacco products. It benefits from an alcohol licence; although it does not retail alcohol currently.
- 2.1.2 The premises has been inspected numerous times by town centre officers due to intelligence received by West Yorkshire Police about the sale of non-duty/counterfeit cigarettes to minors. Staff have been informed and educated about selling illegal products from a licensed premises.
- 2.1.3 On 21 February 2019 a test purchase operation resulted in two single cigarettes being sold to West Yorkshire Police test purchase children. The person who made the sale stated when challenged that they were not employed there and were standing in while the owner attended hospital.
- 2.1.4 A telephone conversation with the owner, resulted in them informing Officers that the sale of tobacco to youths would not happen from their shop again and that this incident had happened due to them being taken into hospital. The owner was warned that further test purchasing would be taking place.
- 2.1.5 Contact was made with Trading Standards requesting their history of illegal sales that had taken place from the shop. The following information was supplied:
 - April 2018 – sale of e-Cig liquid to child volunteer – training session and standard warning letter issued June 2018.
 - 26 March 2019 – search warrant executed at premises – single cigarettes, non-duty paid cigarettes and flavoured tobacco were found to be on sale.
- 2.1.6 Full details of the review application, including the information received from Trading Standards can be found at **Appendix A**.
- 2.1.7 The current premises licence was first issued on 29 August 2005, under premises licence number PR(A)0103; a copy of the premises licence is attached at **Appendix B**.

2.2 Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

1.0 – Executive Summary

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

1. *Public Safety*
2. *Prevention of crime & disorder*
3. *Prevention of public nuisance*
4. *Protection of children from harm*

2.3 Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the representations relate to all four licensing objectives, Members attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix C**.

3 Implications for the Council

3.1 Working with People

Resident of Kirklees need to be confident that persons holding licences under the Licensing Act 2003 are in a position to uphold the 4 licensing objectives. Taking appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003 will prevent harm to residents

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, classed as 'Responsible Authorities' under the Licensing Act 2003, these include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

3.3 Place Based Working

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

3.4 Improving outcomes for children

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, have to have regard to this objective.

3.5 Other (e.g. Legal/Financial or Human Resources)

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

4 Consultees and their opinions

Consultation has taken place in accordance with the Act. There have been no matters arising from responsible authorities.

5 Next steps and timelines

5.1 When determining the review application Members, having had regard to the information in the application, may take any of the following steps as they consider appropriate:

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- b) Exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- c) Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- d) Suspend the licence for a period not exceeding three months;
- e) Revoke the licence.

5.2 Findings on any issues of fact should be on the balance of probability.

5.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

5.4 The decision should be based on the individual merits of the application.

6 Officer recommendations and reasons

6.1 Members of the Panel are requested to determine the application

7 Cabinet portfolio holder's recommendations

Not applicable

8 Contact officer

Beth Jennings, Licensing Officer, Licensing Service
Tel: 01484 221000 ext. 71609
Email: beth.jennings@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application from West Yorkshire Police

9.2 Appendix B – Copy of Premises Licence PR(A)0103

9.3 Appendix C – Relevant sections of Secretary of State Guidance

10 Strategic Director responsible

Karl Battersby – Strategic Director Economy and Infrastructure
Tel: 01484 221000
Email: karl.battersby@kirklees.gov.uk