

**Name of meeting:** Licensing Panel

**Date:** Wednesday 4<sup>th</sup> September 2019, at 9.30am – Huddersfield Town Hall, Ramsden Street, Huddersfield

**Title of report:** Application for Review Hearing under S51 Licensing Act 2003 – KAAAY OFF LICENCE – 187 Blackmoorfoot Road, Crosland Moor, Huddersfield

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

<b>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?</b>	<b>Not applicable</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>Not applicable</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not applicable</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Russell Williams – Group Leader Licensing</b> (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure)
<b>Is it also signed off by the Service Director (Finance)?</b>	<b>Not applicable</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Not applicable</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Rob Walker</b>

**Electoral wards affected:** Crosland Moor & Netherton

**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 11th July 2019 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 the licensing objectives of the prevention of crime and disorder, public safety and protection of children from harm 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

### Background

- 2.1 On 11<sup>th</sup> July 2019 a multi-agency visit took place at Kaay Off Licence, at the time of the visit officers found an artificial wall with a concealed compartment which contained 267 packets of cigarettes, approx. retail value £2670, forty five pouches of 50g hand rolling tobacco approx. retail value £1080.

During the visit officers discovered that the electric metre was being bypassed and a number of items were seized from the premises.

West Yorkshire Police recommend revocation of the premises licence. A copy of the review application and the grounds of review is attached at **Appendix A**.

- 2.2 The current premises licence was first issued on the 22<sup>nd</sup> August 2005, under premises licence number PR(A)0079 a copy of the premises licence is attached at **Appendix B**.

### 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*

### **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 review relates to prevention of crime and disorder and public safety, 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**

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

### **3.2 Working with Partners**

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible Authorities 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**

The 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, will have to have regards 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**

4.1 Consultation has taken place in accordance with the Act, and no further representations have been received.

## **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**

7.1 Not applicable

## **8 Contact officer**

Rox Javaid, Licensing Officer, Licensing Service

[Tel:01484 221000](tel:01484221000) ext. 70545

Email: [rox.javaid@kirklees.gov.uk](mailto:rox.javaid@kirklees.gov.uk)

## **9 Background Papers and History of Decisions**

9.1 Appendix A – Review Application

9.2 Appendix B – Copy of Premises Licence

9.3 Appendix C – Secretary of States Guidance

## **10 Strategic Director responsible**

Karl Battersby – Strategic Director Economy and Infrastructure

Tel: 01484 221000

Email: [karl.battersby@kirklees.gov.uk](mailto:karl.battersby@kirklees.gov.uk)