

Name of meeting: Licensing Panel

Date: Wednesday 5th May 2021 at 10am

Title of report: Application for Review Hearing under S51 Licensing Act 2003:
 Polski Sklep, 10 Broadway House, Foundry Street, Dewsbury,
 WF13 1QQ

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 <u>Strategic Director</u> & name	Fiona Goldsmith as agreed by Colin Parr
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 Paul Davies

Electoral wards affected: Dewsbury East

Ward councillors: Cllr Eric Firth
 Cllr Aleks Lukic
 Cllr Cathy Scott

Public or private: Public

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

1 Summary

1.1 On 24th March 2021, West Yorkshire Police made an application for the review of the premises licence under Section 51 of the Licensing Act 2003. The applicant believes that the following Licensing Objectives are not being met.

- Prevention of Crime and disorder
- Public Safety

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 The shop known as Polski Sklep, 10 Broadway House, Foundry Street was found to have over 75,000 illegal cigarettes along with 272 x 50g pouches of tobacco. The approximate value of the illegal tobacco products would have a retail value of £43,667 for the cigarettes and £7,017 for the tobacco, giving a total retail price of £50,681. There was also a hidden compartment with approximately £10,000 in notes concealed in the staircase.

2.1.2 West Yorkshire Police have submitted all the findings in the Review application which also include statements from Police officers. This includes statement from Trading Standards. This can be seen at **Appendix A**.

2.1.3 Current licence PR(A)1682 was issued on 30th August 2018, can be seen 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**

Residents of Kirklees need to be confident that persons holding licences under the Licensing Act 2003 are in a position to uphold the four 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 Safeguarding 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 requirements under the Licensing Act 2003. 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

Jordan Barrett, Licensing Officer, Licensing Service
Tel: 01484 221000 ext. 71665
Email: Jordan.barrett@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)1682

9.3 Appendix C - Secretary of State Guidance

10 Service Director responsible

Sue Procter

Service Director

Environment

Tel: 01484 221000

Email: sue.procter@kirklees.gov.uk