

<b>Report to:</b>	<b>SPEAKERS PANEL (LIQUOR LICENSING)</b>
<b>Date:</b>	28 June 2022
<b>Reporting Officer:</b>	Emma Varnam – Assistant Director Operations & Neighbourhoods
<b>Subject:</b>	<b>APPLICATION FOR A REVIEW OF A PREMISES LICENCE – BEST ONE 39 CANTERBURY STREET ASHTON UNDER LYNE OL6 6HX</b>
<b>Report Summary:</b>	Members are requested to determine the application
<b>Recommendations:</b>	<p>Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:</p> <ul style="list-style-type: none"> <li>a) Modify the conditions of the licence</li> <li>b) Exclude a licensable activity from the scope of the licence</li> <li>c) Remove the designated premises supervisor</li> <li>d) Suspend the licence for a period not exceeding 3 months</li> <li>e) Revoke the licence</li> </ul>
<b>Corporate Plan:</b>	Living Well – Improve satisfaction with local community
<b>Policy Implications:</b>	Members are provided with policy guidelines to assist in the decision making process.
<b>Financial Implications: (Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	There are limited financial implications for the Council, as detailed in the report, however, any legal challenge to a policy decision may potentially incur costs.
<b>Legal Implications: (Authorised by the Borough Solicitor)</b>	Any decision to revoke/suspend a licence or impose amendments or conditions to a licence can be challenged by way of appeal (in the first instance) to the local Magistrates Court.
<b>Risk Management:</b>	Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.
<b>Access to Information:</b>	The author of the report is Mike Robinson, Regulatory Services Manager (Licensing)
<b>Background Information:</b>	The background papers relating to this report can be inspected by contacting Mike Robinson



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## 1. INTRODUCTION

- 1.1 Section 51(1) of the Licensing Act 2003 outlines the procedure whereby a responsible authority may apply to the Licensing Authority for a review of a premises licence.
- 1.2 Section 52(3) of the Licensing Act 2003 states that the Authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- 1.3 The steps mentioned in subsection (4) are:
  - (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding 3 months;
  - (e) to revoke the licence.

## 2. INTRODUCTION

- 2.1 Best One, 39 Canterbury Street, Ashton under Lyne, OL6 6HX was first granted a Premises Licence under the Licensing Act 2003 in 2012. A copy of this Premises Licence is attached at **Appendix 1**.
- 2.2 Iqbal Shamraiz has been the Premises Licence Holder and Designated Premises Supervisor of the Best One, 39 Canterbury Street, Ashton under Lyne, OL6 6HX since 2012.
- 2.3 On 20 April 2022, the Licensing Department received an application from TMBC Trading Standards acting in their capacity as a Responsible Authority under the Licensing Act 2003, to review the premises licence for Best One, 39 Canterbury Street, Ashton under Lyne, OL6 6HX . A copy of the Premises Licence Review Application is attached at **Appendix 2**.
- 2.4 Since 2021 the Council have received complaints relating to possession and supply of illicit tobacco that is not legally permitted to be sold in the UK.
- 2.5 On the 4<sup>th</sup> June 2021 Trading Standards received a report from a resident in Ashton under Lyne via the Citizens Advice Standards, alleging that the premises was selling “counterfeit cigarettes and tobacco under the counter”.
- 2.6 On 22<sup>nd</sup> June 2021 a test purchase was conducted with a successful purchase. On examination of this product it was found not to have the required warning statements in English.
- 2.7 On the 21<sup>st</sup> July 2021, a joint visit was conducted with Tim Watson, Trading Standards, Sharon Campbell, Regulatory Compliance and PC Martin Thorley GMP. Items were again found not to have the required warning statements in English.
- 2.8 On the 15<sup>th</sup> September 2021, a letter was sent to Mr Shamraiz advising him of the offences of selling illicit/counterfeit tobacco. It was acknowledged and received back on the 18<sup>th</sup> September 2021. No further action was taken at that point.
- 2.9 On the 9<sup>th</sup> December 2021, an anonymous complaint came in to Sharon Campbell Regulatory Compliance Officer, that illicit tobacco was being supplied and stored from a vehicle outside the premises.
- 2.10 On the 4<sup>th</sup> January 2022, the authority received another anonymous complaint that illicit tobacco had been sold by a Shamraiz Hussain on the 24<sup>th</sup> December 2021. It is alleged that

it was stored behind the shop in a second storage room and often kept in the boot of his car. He is known to work in the evenings and sells illicit tobacco from under the counter.

- 2.11 On the 13<sup>th</sup> February 2022 a successful test purchase was made under the operation Red Snapper.
- 2.12 On the 14<sup>th</sup> February 2022 an email was received from PC Daniel Wilson from GMP. He stated that he had received intelligence that this premises is selling fake cigarettes.
- 2.13 On the 17<sup>th</sup> February 2022 Officers from Tameside Council and GMP, as part of Operation Avro attended the premises in which they carried out a full search. A number of items were seized and again were found not to have the required warning statements in English.
- 2.14 On the 28<sup>th</sup> April 2022, Sharon Campbell, Regulatory Compliance Officer and Mike Robinson Regulatory Services Manager attended at Best One, 39 Canterbury Street, Ashton under Lyne, OL6 6HX. The CCTV was operational but no-one could download the footage onto a USB. Also some of the high percentage alcohol was not behind the counter but on the shop floor. Advice was given for this to be addressed.

### **3. REPRESENTATIONS & EVIDENCE SUBMITTED**

- 3.1 Representations have been received by TMBC Licensing Authority, TMBC Population Health, Greater Manchester Police,

#### **3.2 TMBC Trading Standards**

- 3.3 A supporting statement relating to the application provided by Tim Watson of TMBC Trading Standards. A copy of this is attached at **Appendix 3**.

#### **3.4 Greater Manchester Police**

- 3.5 A statement has been provided by PC Craig Foley in relation to his involvement with the premises. A copy of this is attached at **Appendix 4**.

- 3.6 A statement has been provided by PC Lee Cocks in relation to his involvement with the premises. A copy of this is attached at **Appendix 5**.

#### **3.7 TMBC Licensing Authority**

Regulatory Compliance Officer Sharon Campbell has submitted representation on behalf of the Licensing Authority and this is attached at **Appendix 6**.

#### **3.8 TMBC Population Health**

A representation received from James Mallion on behalf of TMBC Population Health. A copy of this is attached at **Appendix 7**.

### **5. HOME OFFICE GUIDANCE**

- 5.1 The current guidance issued by the Home Office under section 182 of the Licensing Act 2003 deals with the Powers of a Licensing Authority on the determination of a review, with

particular attention being drawn to section 11.19, where a Licensing Authority considers action under its statutory powers:

*11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

- 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;*
- 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);*
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- suspend the licence for a period not exceeding three months;*
- revoke the licence.*

## **6. CONCLUSION AND OPTIONS FOR THE PANEL**

- 6.1 Panel are requested to consider the evidence and decide what (if any) steps to take as it considers appropriate for the promotion of the licensing objectives. The options available to the Panel are set out at the front of the report.