



Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	4 April 2023
Reporting Officer:	Emma Varnam – Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A REVIEW OF A PREMISES LICENCE – PL0197 – MARIA AND PHILLIP, 7 STOCKPORT ROAD, HYDE, SK14 1RH
Report Summary:	Members are requested to determine the application
Recommendations:	<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"> a) Modify the conditions of the licence b) Exclude a licensable activity from the scope of the licence c) Remove the designated premises supervisor d) Suspend the licence for a period not exceeding 3 months e) Revoke the licence
Corporate Plan:	Living Well – Improve satisfaction with local community
Policy Implications:	Members are provided with policy guidelines to assist in the decision making process.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	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.
Legal Implications: (Authorised by the Borough Solicitor)	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.
Risk Management:	Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.
Access to Information:	The author of the report is Mike Robinson, Regulatory Services Manager (Licensing)
Background Information:	The background papers relating to this report can be inspected by contacting Mike Robinson
	 Telephone: 0161 342 4122  e-mail: mike.robinson@tameside.gov.uk

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. REPORT

- 2.1 Maria and Phillip, 7 Stockport Road, Hyde, SK14 1RH has been a licensed premises since 24 November 2005. Ms Erika Demeterova has been the Premises Licence Holder since 14 April 2020. A copy of the premises licence is attached at **Appendix 1**.
- 2.2 Thomas Joy was the Premises Licence Holder at Maria and Phillip from 6 January 2015 to 13 April 2020. Mr Joy was the Designated Premises Supervisor from 10 February 2015 to 15 February 2023. Mr Joy is the owner of property; 7 Stockport Road, Hyde.
- 2.3 A site plan, including an up to date photograph of the premises is attached at **Appendix 2**.
- 2.4 On 14 February 2023, the Licensing Authority received a review application for Maria and Phillip, 7 Stockport Road, Hyde from Trading Standards Officer, Nicola Briers. This application is attached at **Appendix 3**.
- 2.5 The background pertaining to this review application is set out below.
- 2.6 On 28 June 2021, Tameside Trading Standards received a complaint stating that the premises was selling illicit tobacco, selling tobacco to children and selling single cigarettes.
- 2.7 On 8 July 2021, a visit was conducted to the premises by Ms Briers, Trading Standards Officer where six pouches of foreign labelled Amber Leaf hand rolling tobacco found in the back store room were seized.
- 2.8 On 13 July 2021, Rebecca Birch, Licensing Officer conducted a visit to the premises and spoke with Andrew Bridge, store assistant. Mr Bridge informed Ms Birch that he did not know of a Mr Thomas Joy, Designated Premises Supervisor. He was advised to stop the sale of alcohol during the visit. Mr Bridge informed the officer that 'Shaun' was Zishan Shaikh, the owner of the business and the husband of Ms Erika Demeterova.
- 2.9 Ms Birch attended the premises on 16 July 2021 to meet with the Ms Erika Demeterova, Mr Thomas Joy and Mr Zishan Shaikh to confirm that Mr Joy is the Designated Premises Supervisor. Ms Birch proposed that a minor variation be to add conditions to the Premises Licence to ensure the promotion of the licensing objectives.

- 2.10 A test purchase operation was carried out on 14 February 2022 at Maria and Phillips where one packet of illicit Richmond Superking was purchased. The test purchaser observed that the cigarettes were obtained from a jacket hanging up in the back stock room.
- 2.11 On 17 February 2022, Trading Standards visited the premises with Officers from Greater Manchester Police. During this visit, one packet of Amber Leaf hand rolling tobacco was found in the pocket of a jacket hung behind the counter.
- 2.12 On 27 June 2022, Ms Briers contacted the Premises Licence Holder and Designated Premises Supervisor detailing the issues found at the premises and requesting they attend a meeting on 7 July 2022 at the Council Offices with the view to discuss amendments to the conditions on the Premises Licence.
- 2.13 Mr Joy rearranged this meeting on three occasions over two months due to the Premises Licence Holder being out of the country. The final meeting was arranged for 30 August 2022; Ms Briers advised Mr Joy that this meeting would not be rearranged again.
- 2.14 On 30 August 2022, Mr Joy attended the meeting with Nicola Briers, Trading Standards Officer and Rebecca Birch, Licensing Officer. The Premises Licence Holder was unable to attend due to being out of the country. During this meeting, Mr Thomas Joy indicated that he no longer wanted to be the DPS for the premises and that Zishan Shaikh (Shaun) was looking to become the DPS of the premises.
- 2.15 On 4 September 2022 a test purchase exercise was carried out and a packet of illicit Richmond Superking size were purchased.
- 2.16 On 13 September 2022, Mr Zishan Shaikh submitted a Personal Alcohol Licence application to the Licensing Authority. This application was granted.
- 2.17 A visit was conducted on the 13 October 2022 with officers from Trading Standards, Greater Manchester Police, Licensing and a tobacco detection dog. An entry warrant was executed for the flat above Maria and Phillip. The following products were seized from the premises:
- Products found and seized within the flat above Maria and Phillip:
- 8x packets of Richmond Super King
 - 19 packets of Marlboro
 - 10x packets of Gold Leaf
 - 37x packets of illicit tobacco were found and seized.
- Products found and seized from the shop:
- 1x opened packet of Benson and Hedges
 - 66x Elux 3550
- 2.18 On 14 February 2023, following submission of the review application, Ms Briers contacted Mr Joy to inform him of the application. Mr Joy stated that as far as he was aware he was no longer the DPS of the premises.
- 2.19 A visit was conducted to the premises on 14 February 2023 by Ms Briers and Ms Birch to meet with Mr Joy. During this visit, Mr Joy stated that he presumed Mr Shaikh was the DPS but he would remain the DPS due to his current involvement in the premises.
- 2.20 On 15 February 2023, the Licensing Authority received an application to vary the Designated Premises Supervisor from Erika Demeterova to specify Mr Zishan Shaikh as the Designated Premises Supervisor of Maria and Phillip.

3. REPRESENTATIONS & EVIDENCE SUBMITTED

Trading Standards

- 3.1 A statement has been received by Nicola Briers on behalf of Trading Standards. This is attached at **Appendix 4**.

Greater Manchester Police

- 3.2 A statement has been received from Police Licensing Officer, Craig Foley on behalf of Greater Manchester Police, a statement is attached at **Appendix 5**.

Licensing Authority

- 3.3 A statement has been received from Rebecca Birch on behalf of the Licensing Department. This is attached at **Appendix 6**.

4. HOME OFFICE GUIDANCE

- 4.1 In determining this review, the Panel must have due regard to the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy 2016-2021 published pursuant to s5 of the Licensing Act 2003.
- 4.2 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 sections 12.22, 12.23 and 12.24, where a Licensing Authority considers action under its statutory powers:

12.22 The licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the chief officer's application. There can be no adjournment of the hearing or delay in reaching a determination beyond the end of the 28 day period. This must take place even if the chief officer asks to withdraw his application or representations. At the review hearing, the licensing authority must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken (if any).

12.23 In making its final determination the steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

12.24 Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

5. CONCLUSION AND OPTIONS FOR THE PANEL

- 5.1 The Panel is requested to consider the content of this report and appendices and any oral evidence/submissions put forward at the hearing and to determine this review and to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are set out at the front of the report.