



|   |  |
|---|--|
| <b>Report to:</b>   | <b>SPEAKERS PANEL (LIQUOR LICENSING)</b>   |
| <b>Date:</b>  | 19 December 2023   |
| <b>Reporting Officer:</b>   | Emma Varnam – Assistant Executive Director, Operations & Neighbourhoods  |
| <b>Subject:</b>   | <b>APPLICATION FOR A REVIEW OF A PREMISES LICENCE – PL210038 – SAVE MORE CONVENIENCE STORE, 75-77 MARKET STREET, DROYLSDEN, M34 6DD</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:</b><br>(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.  |
| <b>Legal Implications:</b><br>(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.  |
| <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>  | <p>The background papers relating to this report can be inspected by contacting Mike Robinson:</p> <p> Telephone: 0161 342 4122</p> <p> e-mail: <a href="mailto:mike.robinson@tameside.gov.uk">mike.robinson@tameside.gov.uk</a></p>   |

## 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 Save More Convenience Store, 75-77 Market Street, Droylsden, M34 6DD is a licensed premises, the current Premises Licence Holder and Designated Premises Supervisor is Reza Enayati. Mr Enayati has held these positions since 3 February 2023. A copy of the premises licence is attached at **Appendix 1**.
- 2.2 A site plan, including an up to date photograph of the premises is attached at **Appendix 2**.
- 2.3 The Premises Licence was previously subject to a Premises Licence Review following concerns regarding the sale of illicit tobacco. On 6 December 2022 a Speakers Panel (Liquor Licensing) Hearing took place and Panel determined to suspend the licence for a period of 3 months and the conditions on the licence were modified. The decision letter is attached at **Appendix 3**.
- 2.4 The suspension of the Premises Licence took affect following the appeal period and the licence remained suspended until 2 April 2023. On 3 April 2023, a compliance visit was carried out at the premises and found that nine conditions were being breached and no Personal Licence Holder was present at the premises. The inspection record sheet is attached at **Appendix 4**.
- 2.5 On 18 April 2023, a further visit to the premises was conducted where a number of breaches were also identified. These breaches included no licence summary on display, no Personal Licence Holder on site, no authorisations list, no staff training records and the member of staff at the premises was unable to use the CCTV system. This inspection sheet is attached at **Appendix 5**. A letter was sent to Mr Enayati outlining the breach of conditions, this letter is attached at **Appendix 6**.
- 2.6 On 26 April 2023 another visit was conducted at the premises. Regulatory Compliance Officers found that the premises had not addressed the breaches previously identified on 18 April 2023. The inspection sheet is attached as **Appendix 7**.
- 2.7 On 31 August 2023, the Licensing Department were made aware that Greater Manchester Police had received two intelligence reports stating that illegal cigarettes were being sold from the premises and that the cigarettes were being stored in a vehicle at the rear of the shop. The intelligence report received from Greater Manchester Police is attached at **Appendix 8**.

2.8 On 7 September 2023, a visit was carried out by Licensing, Trading Standards and Greater Manchester Police. At the time of the visit a male went to the back of the shop to use the toilet. The male was searched by Police Officers and car keys, which belonged to a black Audi, were found in his possession.

2.9 The car was parked in the car park at the rear of the premises and when unlocked, various illicit/non-compliant items were found, including:

- 40 x Marlboro
- 80 x M1 Red
- 40 x Richmond King Size Real Blue
- 120 x Benson and Hedges Gold
- 140 x Richmond King Size
- 300 x Marlboro Limited Edition (White and Gold)
- 9 x Amber Leaf
- 13 x Amber Leaf (Original)
- 2 x Crystal Galaxy 4500 Vapes
- 33 x Crystal Pro Max 4000 Vapes
- 28 x Crystal Galaxy 4500 Vapes
- 55 x ENE 3500 vapes
- 9 x Prime Bar 8000 Vapes
- 10 x Firerose EX 4500 vapes
- Empty Packaging of tobacco
- Back seat Car arm rest had a Marlboro Gold

Behind the counter there was also an empty box Crystal Pro Max 4000+ vape.

2.10 The vehicle was subsequently seized by Police. Upon inspection, the premises was found to be not compliant with the following licensing conditions:

- No Personal Licence Holder on premises
- Refusals Book not up to date
- No staff training record
- No CCTV checks being made
- No staff able to use CCTV
- List of authorised persons up to date
- CCTV not storing footage for 28 days.
- No waste contract in place.

The visit sheet is attached as **Appendix 9**.

2.11 On 8 September 2023, a letter was hand delivered to the premises licence holder by a Regulatory Compliance Officer outlining the breaches found from the previous visit on 7 September 2023. This letter is attached as **Appendix 10**.

2.12 On 21 September 2023, Mr Enayati was invited in by a Regulatory Compliance Officer and Trading Standards Officer to discuss the visit on the 7 September 2023. Mr Enayati was asked to bring in CCTV footage from the 7 September 2023, however he could not produce it. During the conversation Mr Enayati said that he would be sorting all the issues raised on the 7 September 2023. He was asked to produce the CCTV later that day and that a visit would take place 2 weeks after this meeting. No CCTV could be produced as he said the system had not been recording since the 8 August 2023. This constituted a breach in licence conditions.

2.13 On the 4 October 2023 a visit was made by Regulatory Compliance Officers in the company of PC Craig Foley. The premises was again found to be non-compliant and there were a number of issues still not addressed. These being:-

No Personal Licence Holder on premises  
Refusals Book not up to date  
No staff training records  
No CCTV checks being made  
No staff able to use CCTV  
List of authorised persons up to date  
No waste contract in place

The visit sheet is attached as **Appendix 11**

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

#### **3.1 Greater Manchester Police**

A statement has been received from Police Licensing Officer, PC Craig Foley on behalf of Greater Manchester Police, the statement is attached at **Appendix 12**.

#### **3.2 Trading Standards**

A statement has been received from Tracy Jones Lacy on behalf of Trading Standards. This is attached at **Appendix 13**.

#### **3.3 Public Health**

A statement has been received from James Mallion on behalf of Public Health. This is attached at **Appendix 14**.

### **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 2022 – 2027, published pursuant to s5 of the Licensing Act 2003.

4.2 The 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, where a Licensing Authority considers action under its statutory powers, with particular attention drawn to the following paragraphs:

#### **Determining actions that are appropriate for the promotion of the licensing objectives**

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors

which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

### **Reviews arising in connection with crime**

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **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.