

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	22 November 2021
Reporting Officer:	Emma Varnam – Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A REVIEW OF A PREMISES LICENCE – PREMIER - HURST CROSS CONVENIENCE STORE, 187-193 KINGS ROAD, ASHTON-UNDER-LYNE, OL6 5HD
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> <p>(a) to grant the licence subject to –</p> <p style="padding-left: 40px;">(i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and</p> <p style="padding-left: 40px;">(ii) current mandatory conditions;</p> <p>(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;</p> <p>(c) to refuse to specify a person in the licence as the premises supervisor;</p> <p>(d) to reject the application.</p>
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



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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 REPORT

- 2.1 Premier - Hurst Cross Convenience Store, 187-193 Kings Road, Ashton-under-Lyne, OL6 is an off licence. 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 On 14 October 2021, Gemma Lee, Regulatory Compliance Officer, acting on behalf the Licensing Authority in the capacity of a Responsible Authority, submitted an application to review the premises licence in respect of the above premises. A copy of the review application is attached at **Appendix 3**.
- 2.4 The review application was submitted following the previous premises licence holder, Mr Mohammed Ayoob making a complaint has complained to the Council and Greater Manchester Police that he did not consent to the transfer of the premises licence to Mr Tasadaq Ahmad and maintains that the consent form was fraudulently signed.
- 2.5 On 25 May 2021 an incident took place at the premises requiring the attendance of the Police. The incident involved the parties who are in dispute regarding the transfer of the licence. Therefore, the Licensing Authority have concerns that the Prevention of Crime and Disorder Licensing Objective is not being promoted.
- 2.6 On 19 March 2021, the Licensing Authority received an application to transfer the premises licence from Mr Adil Khurshid to Mr Mohammed Ayoob. **Appendix 4**.
- 2.7 On 16 April 2021, an email was received by the Licensing Department, from Mr Ayoob, stating that he had not received a copy of his licence following the transfer application and raised concerns that the licence may be subject to a transfer without the consent of Mr Ayoob. **Appendix 5**.
- 2.8 On 28 April 2021, the Licensing Authority received an application to transfer the premises licence from Mr Ayoob to Mr Tasadaq Ahmad. This application was submitted by a Licensing Consultant, Tony Dales. This document is signed by Mr Ayoob. However, Mr Dales has confirmed that he never met Mr Ayoob and did not verify his identity. It is clear from the signature on the consent page of the transfer that this is different to the signature previously provided by Mr Ayoob – it appears that this application was fraudulently signed. **Appendix 6**.

- 2.9 Mr Ayoob disputes that he signed the form and maintains that he did not consent to the transfer of the licence to Mr Tasadaq Ahmad.
- 2.10 Both Mr Dales and Mr Tasadaq Ahmad have confirmed that they had not seen Mr Ayoob sign the consent form and alleged they had been dealing with the former licence holder, Mr Khurshid.
- 2.11 On Wednesday 3 November 2021, Gemma Lee, Regulatory Compliance Officer visited the premises and conducted a full compliance check. It was apparent that the premises were operating in accordance with the premises licence. They also provided a due diligence folder provided by Tony Dales.

3 REPRESENTATIONS & EVIDENCE SUBMITTED

- 3.1 A representation has been received from Gemma Lee, Regulatory Compliance Officer on behalf of the Licensing Authority. This is attached at **Appendix 7**.
- 3.2 A representation has been received from Mr Tony Dales, Licensing Consultant, Due Diligence Matters. This is attached at **Appendix 8**.
- 3.3 A representation has been received from Police Constable, Martin Thorley of the Greater Manchester Police. This is attached at **Appendix 9**.
- 3.4 A representation has been received from the Premises Licence Holder and Designated Premises Supervisor Mr Tasadaq Ahmad. This is attached at **Appendix 10**.
- 3.5 A representation has been received from Mrs Tahira Khan, owner of the premises. This is attached at **Appendix 11**.
- 3.6 A representation has been received from Mr Adil Khurshid, a previous holder of the premises licence. This is attached at **Appendix 12**.
- 3.7 A representation has been received from Mr Mohammed Mushtaq, an associate of Mr Mohammed Ayoob. This is attached at **Appendix 13**.
- 3.8 A representation has been received from Mr Mohammed Ayoob, the previous premises licence holder. This is attached at **Appendix 14**.

4 HOME OFFICE GUIDANCE

- 4.1 In determining this application the Panel must have regard to the Council's Statement of Licensing Policy and the statutory guidance issued pursuant to s182 of the Licensing Act 2003. The statutory guidance includes the following:

4.2 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 the 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.

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.

6. RECOMMENDATIONS

- 6.1 As set out at the front of the report.