

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	6 December 2021
Reporting Officer:	Emma Varnam – Assistant Director Operations & Neighbourhoods
Subject:	APPLICATION FOR A PREMISES LICENCE – ACRE STREET MINI MARKET, 21 ACRE STREET, DENTON, M34 2BB
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>
Links to Community Strategy:	The licensing of premises under the Licensing Act 2003 contributes towards the Community Strategy theme of providing a safe environment.
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)	If the Panel rejects the application that decision can be challenged by the Applicant. If the Panel grants the licence the Applicant can appeal against any of the conditions imposed on the licence or against a decision to refuse to specify a person in the licence as the premises supervisor. Any person who made relevant representations can appeal against the decision to grant the licence or against any of the conditions imposed on the licence or on the grounds that the Panel should have refused to specify a person in the licence as the premises supervisor. Any challenge would be by way of an appeal to the Magistrate’s Court which may dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the licensing authority, or remit the case to the licensing authority to dispose of it in accordance with the direction of the court, and may make such order as to costs as it thinks fit. If an appeal were successful the

Magistrates would be unlikely to order costs against the Local Authority if the authority had acted honestly, reasonably, properly and on grounds that reasonably appeared to be sound, in exercise of its public duty.

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 17 of the Licensing Act 2003 outlines the procedure whereby an application can be made to the Licensing Authority for a premises licence.
- 1.2 Section 18(3) of the Licensing Act 2003 states that where relevant representations are made in respect of such an application, the authority must:
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such steps as 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 grant the licence subject to –
 - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
 - (ii) current mandatory conditions;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application.

2. REPORT

- 2.1 Acre Street Mini Market, 21 Acre Street, Denton is a former licensed premises . A site plan, including an up to date photograph of the premises, is attached at **Appendix 1**.
- 2.2 The previous premises licence, held by Murtza Hussain from 17 July 2014, was revoked at a Speakers Panel (Liquor Licensing) hearing on 27 September 2017. The licence was revoked following a prolonged period of non-compliance, evidenced on numerous visits to the premises between May 2015 to June 2017.
- 2.3 During this period the premises was found to be in breach of the licence conditions on numerous occasions, in addition on 15 June 2017, a large quantity of illicit tobacco and 600 nitrous oxide gas canisters were seized from the premises following a joint enforcement visit with Greater Manchester Police. A copy of the decision letter from the hearing on 27 September 2017 is attached at **Appendix 2**.
- 2.4 The Licensing Department were informed, by Mr Hussain, following the Speakers Panel Hearing that he intended to appeal the decision at the Magistrates Court. Enquiries with the Court revealed that no appeal had been submitted. Sales of alcohol should have ceased at the premises following the revocation of the licence.
- 2.5 The premises was still found to be selling alcohol on 23 February 2018, Mr Hussain was informed during the visit in addition to receiving a hand delivered letter that he must immediately cease the sale of alcohol.
- 2.6 On 9 March 2018, a test purchase of alcohol was conducted by an officer who was served a bottle of wine and obtained a receipt of purchase. Alcohol was still being offered for sale on 13 March 2018.
- 2.7 On 16 May 2018 the Licensing Department received an application for a new premises licence from Mr Hussain's wife, Ms Shabana Kousar, in respect of the same premises. On 4 June 2018, a visit was conducted to the premises following receipt of this application

where a large fridge on the shop floor was found full of a range of alcoholic products. The stock room also contained a large amount of alcohol.

- 2.8 On 17 July 2018 this premises licence application was refused at a Speakers Panel (Liquor Licensing) Hearing. A copy of this decision letter is attached at **Appendix 3**.
- 2.9 Tameside Council's Trading Standards Department continued to receive complaints that the premises was selling single cigarettes, illicit tobacco and concerns regarding underage sales.
- 2.10 Illicit tobacco was seized from the premises in March 2019 and in March 2020. In June 2021 illicit tobacco obtained from a backroom within the premises was sold to a test purchaser as part of an operation arranged by Trading Standards.
- 2.11 On 4 October 2021, the Licensing Office received an application from Ms Shabana Kousar for a premises licence at Acre Street Mini Market, 21 Acre Street, Denton, M34 2BB. A copy of this application is attached at **Appendix 4**.

2 REPRESENTATIONS & EVIDENCE SUBMITTED

3.1 Greater Manchester Police

A representation has been received from PC Martin Thorley, on behalf of Greater Manchester Police. This is attached at **Appendix 5**

3.2 TMBC Licensing Authority

A representation statement has been received from Rebecca Birch, Regulatory Compliance Officer, on behalf of the Licensing Authority. This is attached at **Appendix 6**

3.3 Trading Standards

A representation has been received from Tracy Jones-Lacy, Trading Standards Officer, on behalf of Trading Standards. This is attached at **Appendix 7**

3.4 Members of the Public

A representation has been received from a member of the public. This is attached at **Appendix 8**

A representation has been received from a member of the public. This is attached at **Appendix 9**

A representation has been received from a member of the public. This is attached at **Appendix 10**

A representation has been received from a member of the public. This is attached at **Appendix 11**

3.5 Applicant

Evidence bundle received on 26 November 2021 from Anthony Horne, on behalf of the applicant. This is attached at **Appendix 12**.

4 HOME OFFICE GUIDANCE

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 Revised Guidance issued under section 182 of the Licensing Act 2003 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.

5. CONCLUSION AND OPTIONS FOR THE PANEL

5.1 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;

(a) to grant the licence subject to –

- (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
- (ii) current mandatory conditions;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.