

Report for: **Licensing Sub Committee 26th August 2020**

Title: **Review of a Premises Licence under the Licensing Act 2003
Buckys Off Licence 1 Moorefield Road Tottenham London
N17**

Report
authorised by : **Daliah Barrett-Licensing Team Leader – Regulatory Services.**

Ward(s) affected **Bruce Grove**

**Report for Key/
Non Key Decision: Not applicable**

1. Describe the issue under consideration

- 1.1 An application for the review of the Premises Licence for Buckys Off Licence, 1 Moorefield Road, Tottenham London N17-held by Mr Baksie was submitted by the Haringey Trading Standards Team. A copy of the application form is attached to this report at **Appendix 1**.
- 1.2 The applicants of the review are Haringey Trading Standards and have cited their reason for the review due to the operation of the premises has failed to uphold the licensing conditions and licensing objective of:
- The prevention of crime and disorder
- 1.3 The Guidance issued under section 182 of the Licensing Act 2003 (para 11.2) states that at any stage following the grant of a premises licence, a responsible authority, such as the Police or the Environmental Health Service, or any other person who can seek a review, may ask the Licensing Authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 1.4 As such, in accordance with section 52(2) of the above-mentioned Act, the Licensing Authority must hold a hearing to consider the application and any relevant representations.

2. Licensing history of the premises

- 2.1 The premises was issued with a New Premises Licence in September 2010. The current holder Mr Bariz took over the licence in in February 2019. The named DPS Mr Jabarkhil started in September 2019.
- 2.2 The current licence permits:
Supply of Alcohol
Monday to Saturday 0800 to 2300
Sunday 1000 to 2230
The opening hours of the premises:
Monday to Saturday 0730 to 2300
Sunday 0900 to 2230

Supply of alcohol for consumption **OFF** the premises only

- 2.3 These review proceedings are brought under the licensing objectives on the grounds of the protection of children from harm. Further documents that were submitted as part of the review application can be found at **Appendix 1**.
- 2.4 The reason for review was the discovery of non-Duty paid cigarettes and hand rolling tobacco on the premises on 12th November 2019 following a visit by officers of Trading Standards and Her Majesty's Revenue and Customs (HMRC). The total amount of UK excise duty evaded from the seizure is £2934.61. This relates to 11200 cigarettes and 350grams of hand rolling tobacco.
- 2.5 At approximately 13:09 hours on the 12th November 2019, Trading Standards carried out an inspection of the Licenced premises in partnership with officers of Her Majesty's Revenue and Customs (HMRC). The purpose of the visit was to inspect the alcohol and tobacco products on the premises. During the visit officers initially discovered non-Duty paid cigarettes and tobacco behind the counter. Upon closer examination officers discovered a trap door which was concealed with a dustbin on top of it. In the cellar area beneath the shop floor, further larger quantities of cigarettes and tobacco were found.

3. **Other considerations**

- 3.1 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, or the sale of firearms. 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.
- 3.2 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 go beyond any findings by the courts, which should be treated as a matter of undisputed evidence before them.
- 3.3 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 in the interest of the wider community and not those of the individual licence holder.

3.4 **Options**

The Committee must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives. The options are:

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence
- To take no action.

3.5 The Sub-Committee must ensure that all licensing decisions have:

- a direct relationship to the promotion of one or more of the 4 licensing objectives;
- regard to the Council's statement of Licensing Policy;
- regard to the Secretary of State's National Guidance.

Where the authority modifies the conditions or excludes a licensable activity from the scope of the licence it may determine that the modification or exclusion is to have effect permanently or for a period not exceeding 3 months.

3.6 The Licensing Authority's determination of this application does not have effect until the 21 days appeal period has expired or if the decision is appealed, the date the appeal is determined and or disposed of.

3.7 **Section 182 Guidance – relevant sections.**

The most recent statutory guidance was Issued in April 2018 and applies to this application.

3.8 The following provisions of the Secretary of State's guidance (2018) apply to this application:

Chapter 11-this chapter gives guidance around the review process and determining an application for a review.

3.9 Guidance issued under section 182 of the Licensing Act 2003 (para 11.2) states that at any stage following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

3.10 In accordance with section 52(2) of the Act, the Licensing authority must hold a hearing to consider the application and any relevant representations.

3.11 Section 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.

3.9 Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonable to prevent crime and disorder in its area”.

3.10 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

4. Use of Appendices

Appendix 1 - Application form review

Appendix 2 – Copy of current licence.

Background papers: **Licensing Act 2003**
 Section 182 Guidance
 Haringey Statement of Licensing policy
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