

Report of the Chief Officer Elections and Regulatory

Report to the Licensing Sub Committee

Date: Tuesday, 19 December 2023

Subject: Review of the Premises Licence for Baba Jaga 2, 12 - 14 Strathmore Drive, Harehills, Leeds, LS9 6AB,

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Gipton & Harehills	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		

Executive Summary

This report informs the Licensing Sub Committee that West Yorkshire Police has served on the Licensing Authority an application under Section 51 of the Licensing Act 2003 for a review of a premises licence in respect of Baba Jaga 2, 12 - 14 Strathmore Drive, Harehills, Leeds, LS9 6AB.

The narrative of this report sets out the background of the premises licence, the relevant law and highlights appropriate guidance to assist Members in reaching their decision. A recommendation is also made to Members that the premises licence is reviewed using their statutory powers.

The grounds for review relate to the seizure of illicit tobacco, non-duty paid alcohol, illegal vapes and two failed test purchases, where the premises sold alcohol to persons under the age of 18 years old.

Recent applications have been made to apply additional conditions to the licence, to transfer the premises licence and to specify a new individual as designated premises supervisor (DPS).

Due to objections lodged by West Yorkshire Police the applications to transfer the licence and to change the DPS have been determined by a Licensing Sub Committee. At the time of writing, the decision is not yet available.

The licensing authority is now under a duty to review the premises licence held by these premises.

1.0 Purpose of this Report

- 1.1 This report informs Members of the Licensing Sub Committee of an application for a licence review made by West Yorkshire Police in respect of Baba Jaga 2, 12 – 14 Strathmore Drive, Harehills, Leeds, LS9 6AB. The application is made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm.
- 1.2 A copy of the application can be found at **Appendix A** and includes supporting information in the form of officer statements and photographic evidence.

2.0 Background Information

- 2.1 The premises currently has the benefit of a premises licence, issued during the transitional period in November 2005.
- 2.2 On 18 October 2023 West Yorkshire Police applied to review the licence following a multi-agency operation targeting off licence premises in Harehills. Following submission, it became apparent that the application had not been signed and West Yorkshire Police were instructed to resubmit.
- 2.3 Applications to transfer the premises licence to Gusto Market Mini Ltd. and to vary the licence to specify Nabaz Ibrahim Karim as the DPS were received by the Licensing Authority on 24 October 2023. Both applications were marked to have immediate effect - the existing licence holder was Baba Jaga 2 Ltd. and the existing premises supervisor was Omar Rashka.
- 2.4 The applications to transfer the licence and to change the DPS attracted objections from West Yorkshire Police, therefore requiring the Licensing Sub Committee's consideration and determination.
- 2.5 A valid review application was served on the Licensing Authority and the statutory consultation period began on 6 November 2023.
- 2.6 On 10 November 2023 a minor variation application was submitted by the licence holder, proposing to add a number of additional conditions to the licence. One of those conditions was that Omar Rashka will be excluded from holding the licence, acting as DPS and being involved in the day-to-day running of the business. Without attracting relevant representation, the minor variation application was granted as applied for on the 25 November 2023.
- 2.7 The applications to transfer the premises licence and to change the DPS were considered by the Licensing Sub Committee on the 5 December 2023. On conclusion of the hearing all parties were advised that they would be notified of the decision within 5 working days and the outcome of those applications will be provided verbally at today's hearing.

3.0 Premises Licence

- 3.1 The premises licence holder is Gusto Market Mini Ltd.
- 3.2 A copy of the premises licence details can be found at **Appendix B** of this report. In summary, the premises licence authorises the:

Sale by retail of alcohol (for consumption off the premises)

Monday to Saturday

08:00 – 22:30

Sunday

10:00 – 22:30

4.0 Designated Premises Supervisor

4.1 The Designated Premises Supervisor for the premises is Nabaz Ibrahim Karim.

5.0 Location

5.1 A map which identifies the location of the premises is attached at **Appendix C**.

6.0 Main Issues

6.1 A joint operation in collaboration with West Yorkshire Police, HMRC, West Yorkshire Trading Standards and Leeds City Council Licensing, resulted in the seizure of illicit tobacco, non-duty paid alcohol and illegal electronic disposable vapes from the premises.

6.2 Earlier visits to the premises resulted in two failed test purchases, where the premises sold alcohol to persons under the age of 18 years old.

6.3 The view of the applicant is that the evidence obtained demonstrate those operating the premises are not promoting the licensing objectives and are supporting serious and organised crime by being involved in the smuggling of goods to the UK.

7.0 Relevant Representations

7.1 Under the Act representations can be received from responsible authorities and or other persons. Representations must be relevant and, in the case of other persons, must not be frivolous or vexatious.

7.2 Representations in support of the review application sought by West Yorkshire Police have been received from a Senior Liaison and Enforcement Officer, on behalf of Entertainment Licensing, Public Health and the Local Ward Councillors.

7.3 Member's attention is drawn to copies of the representations at **Appendix D**.

8.0 Cumulative Impact

8.1 The Cumulative Impact Policy for Harehills was approved by the Licensing Committee in October 2018. These premises do reside within the Harehills Cumulative Impact Area.

9.0 Matters Relevant to the Application

9.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

9.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act (Statutory Guidance). A copy of the relevant section is attached at **Appendix E**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear.

10.0 Implications for Council Policy and Government

10.1 It is stated in the licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 11.16 of the policy with particular seriousness, including; "use of the premises for criminal activities such as the supply of drugs, money laundering or the keeping and supply of illicit goods."

11.0 Legal and Resource Implications

11.1 There are no resource implications in determining the review.

11.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

12.0 Recommendations

12.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
- to remove the Designated Premises Supervisor;
- to suspend the licence for a period not exceeding 3 months; and/or
- to revoke the licence.

12.2 Members may decide that no action is necessary and that the circumstances of the review do not require the Committee to take any steps to promote the licensing objectives.

12.3 Members should note the Statutory Guidance suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However, the guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.

12.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.

12.5 Members are directed to paragraphs 11.24 to 11.28 of the Statutory Guidance which related to reviews arising in connection with crime.

12.6 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must be appropriate for the promotion of the licensing objectives.

Appendices

Appendix A	Review Application
Appendix B	Premises Licence Details
Appendix C	Map of Premises
Appendix D	Representations
Appendix E	Extract from the s182 Guidance