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**Report of the Chief Officer Elections and Regulatory**

**Report to the Licensing Sub Committee**

**Date: 9th January 2024**

**Subject: Review of the Premises Licence for Potraviny Danko, 39 Compton Road, Burmantofts, Leeds, LS9 7BJ,**

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:		

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**Executive Summary**

This report informs Members 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, 39 Compton Road, Burmantofts, Leeds, LS9 7BJ.

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 and non-duty paid alcohol.

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 the Members of the Licensing Sub Committee of an application for a licence review made by West Yorkshire Police in respect of, 39 Compton Road, Burmantofts, Leeds, LS9 7BJ. The application is made on the grounds of (the prevention of crime and disorder, the prevention of public nuisance, public safety, the protection of children from harm). The application can be found at **Appendix A**.

## **2.0 Background Information**

- 2.1 On the 10<sup>th</sup> April 2015 a Premises Licence application was submitted by Mr Mohammad Rastegar which attracted a representation from West Yorkshire Police (WYP). This was a part 2 agreement was agreed and WYP withdrew their representation. The application was granted as applied subject to these conditions agreed. The Premises Licence was granted for Sale by retail of alcohol Everyday 09:00-21:00.
- 2.2 On the 23 January 2023 an application to transfer the licence was submitted naming Saman Ali Faiak as the licence holder and DPS. Neither application attracted a representation from West Yorkshire Police and they were both granted as requested.

## **3.0 Premises Licence**

- 3.1 The premises licence holder is Saman Ali Faiak.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:

### ***Sale by Retail of Alcohol***

***Everyday 09:00 – 21:00.***

## **4.0 Designated Premises Supervisor**

- 4.1 The Designated Premises Supervisor for the premises is Saman Ali Faiak.

## **5.0 Location**

- 5.1 A map which identifies the location of the premises are attached at **Appendix C**. The map is unavailable at the time of publishing and will follow as supplementary information.

## 6.0 Main Issues

- 6.1 On 16th June 2023 a joint operation was executed in Harehills aimed at off licences selling illicit tobacco and non-duty paid alcohol. The operation was in collaboration with HMRC, Trading Standards, West Yorkshire Police and Leeds City Council Licensing.

Potraviny Danko was found to be storing nonduty paid alcohol openly in the store for sale to members of the public along with illicit tobacco within a hidden wall cavity.

On the 10th July 2023 Trading Standards then conducted a further test purchase for cigarettes. Despite less than a month earlier having illicit tobacco seized from the shop, Trading Standards were able to buy another packet of illegal cigarettes.

Prior to these dates Trading Standards have documented that between 26/09/2017 and 24/05/2018 they made 2 seizures of illegal cigarettes and rolling tobacco and that during the same period there were 5 test purchases where illegal tobacco was sold.

Then on 12th June 2023 they conducted a test purchase prior to the joint operation where another illegal packet of cigarettes was sold.

Potraviny Danko and the people operating it are habitually selling illegal cigarettes as well as non-duty paid alcohol. The sale of smuggled goods is a criminal offence which must be taken especially serious given the fact Potraviny Danko currently holds a premises licence. Potraviny Danko are not promoting the licensing objectives and are supporting serious and organised crime by being involved in the smuggling of goods to the UK.

Further to that on Wednesday 13th September 2023 West Yorkshire Police conducted a test purchase operation whereby the shop sold alcohol to Police Cadets who were under the age of 18 years old.

This further demonstrates how far away the premises are from upholding the licensing objectives.

## 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 people, 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, the Local Ward Councillors.
- 7.3 Redacted copies of each representation can be found at **Appendix D** and original copies will be circulated to Licensing Sub Committee Members in advance of the hearing.

## **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 the stated 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 13.15 of the policy with particular seriousness.

## **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
Appendix C	Map of premises
Appendix D	Representations
Appendix E	Extract from the s182 Guidance