

## Report of the Head of Elections, Licensing and Registration

### Report to the Licensing Sub Committee

**Date:** 27th February 2018

**Subject:** Review of the Premises Licence for Krakow Mini Market (formerly Continental Foods), 35 Town Street, Armley, Leeds, LS12 1UX

|   |   |  |
|---|---|--|
| Are specific electoral Wards affected?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| If relevant, name(s) of Ward(s):  | Armley                                  |  |
| 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 Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by West Yorkshire Trading Standards in respect of Krakow Mini Market (formerly Continental Foods), 35 Town Street, Armley, Leeds, LS12 1UX. 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 provides Members with the background and history to the making of the review application made by West Yorkshire Trading Standards (**Appendix A**). The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act") and informs members of the options available to them when reviewing a premises licence.

### 2.0 Background Information

2.1 A new application for a premises licence was received in March 2014 from a company known as Continental Foods. West Yorkshire Police submitted a representation but after reaching an agreement this was withdrawn and the licence granted.

2.2 Since May 2015 the licensing authority have received two further applications to transfer the licence holder and one to change the designated premises supervisor.

### **3.0 Premises Licence**

- 3.1 The premises licence holder is Mr Arman Solymani.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits sale by retail of alcohol everyday 09:00 - 21:00 for consumption off the premises.

### **4.0 Designated Premises Supervisor**

- 4.1 The Designated Premises Supervisor for the premises is Mr Arman Solymani.

### **5.0 Location**

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

### **6.0 Main Issues**

- 6.1 The application for review of the premises licence is made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm.
- 6.2 The grounds for this review centre on the premises in question dealing in illegal tobacco products.
- 6.3 On 30/03/2017 officers from West Yorkshire Trading Standards (WYTSS) carried out an inspection of the shop and found 3200 illegal cigarettes.
- 6.4 On 26/09/2017 an officer from WYTSS carried out a test purchase and was sold a 50g packet of Golden Virginia tobacco for £13 which was non-duty paid.
- 6.5 On 28/09/2017 officers from WYTSS carried out an inspection of the shop where 1220 illegal cigarettes were found concealed in the wall and in a bag in the bin outside the back of the shop.
- 6.6 All the tobacco products were examined, some were foreign labelled and non UK duty paid therefore it did not bear the statutory health warnings. Some were confirmed to be counterfeit in contravention to the Trade Marks Act 1994.
- 6.7 The street value of the total tobacco products seized is almost £3,000 based on £13 a packet of tobacco product which is far lower than the recommended retail price.
- 6.8 WYTSS, as a responsible authority, considers the matters outlined above to be extremely serious. In these circumstances WYTSS considers that they have no option other than to seek a review of the premises licence and would recommend a full revocation of the licence.
- 6.9 In addition to the application, West Yorkshire Trading Standards have provided supplementary evidence to support the review application.
- 6.10 Included are witness statements from WYTSS, copies of the seizures, copies of the Code B notice of power and rights and photographs of the seized tobacco. These are attached at **Appendix D**.

## **7.0 Relevant Representations/Letters of Support**

- 7.1 Under the Act representations and letters of support 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 No representations or letters of support have been received by the licensing authority.

## **8.0 Matters Relevant to the Application**

- 8.1 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.
- 8.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act. 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.

## **9.0 Implications for Council Policy and Government**

- 9.1 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.

## **10.0 Legal and Resource Implications**

- 10.1 There are no resource implications in determining the review.
- 10.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

## **11.0 Recommendations**

- 11.1 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);
  - exclude any licensable activities to which the application relates;
  - to remove the Designated Premises Supervisor;
  - to suspend the licence for a period not exceeding 3 months; and/or
  - to revoke the licence.
- 11.2 Members may decide that no action is necessary and that the circumstance of the review does not require the Committee to take any steps to promote the licensing objectives.

- 11.3 Members should note the guidance also 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.
- 11.4 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.
- 11.5 Members are directed to paragraphs 11.25 to 11.30 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 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.

## **12.0 Background Papers**

- 12.1 Guidance issued under s182 Licensing Act 2003
- 12.2 Leeds City Council Statement of Licensing Policy

## **Appendices**

- |            |                                |
|------------|--------------------------------|
| Appendix A | Review application             |
| Appendix B | Premises Licence               |
| Appendix C | Map of premises                |
| Appendix D | Supplementary Evidence         |
| Appendix E | Extract from the s182 Guidance |