

Report of the Chief Officer Elections and Regulatory

Report to the Licensing Sub Committee

Date: Tuesday 7th January 2020

Subject: Review of the Premises Licence for Fountain Food And Wine, 1 Fountain Street, Morley, Leeds, LS27 9AA

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Morley South	
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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 9.2(b) and 10.4.1 and 10.4.2. The appendices are also exempt under Regulation 14 of the Licensing Act 2003 Hearings Regulations 2005 (SI 2005 No 44) Appendix A only		

Executive Summary

This report informs Members that West Yorkshire Trading Standard Service 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 Fountain Food and Wine, 1 Fountain Street, Morley, Leeds, LS27 9AA.

The application was served on the Licensing Authority on 13th November 2019.

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 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 Trading Standards Service in respect of Fountain Food & Wine, 1 Fountain Street, Morley, Leeds, LS27 9AA.
- 1.2 The application is made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. Member's attention is drawn to a copy of the application at **Appendix A**, which includes a chronology of events leading to submission of the review application and photographic evidence in support.
- 1.3 Due to the ongoing criminal investigation, the application and supplementary information is exempt from public viewing.

2.0 Background Information

- 2.1 A premises licence was initially issued in January 2012 for 1 Fountain Street, Morley, Leeds, LS27, and traded under the name of Morley Convenience and Off Licence.
- 2.2 In April 2012, the Licensing Authority received applications to transfer the premises licence and vary the designated premises supervisor, both of which successfully specified Hosahear Saeed Hassan as the licence holder and the designated premises supervisor. At this time, the premises were known as Fountain Food and Wine.
- 2.3 Applications to transfer and vary the designated premises supervisor were received in May 2013 appointing Mr Aram Osman Mohhamad as both the premises licence holder and designated premises supervisor.
- 2.4 In April 2016 further applications were received successfully naming Hosahear Hassan as the premises licence holder and designated premises supervisor.
- 2.5 The transfer application appointing the current licence holder Mr Ali Mahmood was received by the Licensing Authority in September 2018. This was followed by an application to nominate the same individual as the current designated premises supervisor in October 2018. Without either application attracting an objection from West Yorkshire Police, they were granted as requested with immediate effect.

3.0 Premises Licence

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

Sale by Retail of Alcohol for consumption off the premises
Every Day 07:00 - 22:00

4.0 Designated Premises Supervisor

- 4.1 The Designated Premises Supervisor for the premises is Mr Ali Mahmood.

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 Intelligence received by West Yorkshire Trading Standards has indicated that the business have been dealing in illegal tobacco. Numerous test purchases have been carried out as well as in inspection of the premises. During these visits illicit cigarettes and hand rolling tobacco were found.

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 A representation in support of the review application has been received from a Senior Liaison and Enforcement Officer of Leeds City Council Entertainment Licensing. A copy of which can be found at **Appendix D**.

8.0 Access to Information

8.1 Appendix A contains confidential information and is exempt from publication under the council's Access to Information Procedure Rules. In addition the information is exempt from publication under the Licensing Act 2003.

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);
 - 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.
- 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.