

Report of the Chief Officer Elections and Regulatory

Report to the Licensing Sub Committee

Date: 11th January 2022

Subject: Review of the Premises Licence for Mama Mia Convenience Store Ltd,
274 Harehills Lane, Harehills, Leeds, LS9 7BD

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 Members that West Yorkshire Trading Standards 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 Mama Mia Convenience Store, 274 Harehills Lane, Harehills, Leeds, LS9 7BD.

The application was served on the Licensing Authority on 23rd September 2021 and originally scheduled for hearing on the 16th November 2021.

It became apparent at the hearing that the licence holder understood little or no English. At the request of the licence holder's representative the Licensing Sub Committee resolved to adjourn the hearing to allow an interpreter to be present at the hearing and for the licence holder to fully understand the proceedings. The Committee were of the view that without the full participation of the licence holder it was not appropriate to proceed and that it would be fundamentally unfair to the licence holder to do so.

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 in respect of Mama Mia Convenience Store, 274 Harehills Lane, Harehills, Leeds, LS9 7BD. The application is made on the grounds of the prevention of crime and disorder, the prevention of public nuisance and public safety. The application can be found at **Appendix A1**. West Yorkshire Trading Standards have provided supplementary information to support the application at **Appendix A2** and information on the plea and trial hearing at Leeds Crown Court which is attached at **Appendix A3**.

2.0 Background Information

- 2.1 These premises have held a premises licence for off sales since March 2010. The licence has been transferred a number of times and has operated as a convenience store throughout. In June 2017 the licence was transferred to "Mama Mia Convenience Store Ltd". In February 2021 Mr Ali Mohamed made an application to transfer the licence to his name and to alter the designated premises details to himself. However the application was made incorrectly in both cases and invalidated waiting for amendments to be made to the forms.
- 2.2 In August 2021 West Yorkshire Trading Standards made an application to review the licence under Section 51 of the Licensing Act 2003. However it was brought to the attention of the licensing authority that the application had not been served correctly so was rejected with advice given to West Yorkshire Trading Standards.
- 2.3 West Yorkshire Trading Standards served the licensing authority and all responsible authorities with an application to review the licence on 24th September 2021, which is the matter to be decided today.
- 2.4 Subsequent to this application, Mama Mia Convenience Store Ltd have made an application to vary the designated premises supervisor details to Ali Mohamad. However this application has received a representation from West Yorkshire Police and has been scheduled to be heard at this same licensing sub-committee hearing.

3.0 Premises Licence

- 3.1 The premises licence holder is Mama Mia Convenience Store Ltd, 274 Harehills Lane, Harehills, Leeds LS9 7BD.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the sale by retail of alcohol for consumption off the premises, every day from 09:00 to 23:00.

4.0 Designated Premises Supervisor

- 4.1 The recently appointed Designated Premises Supervisor is, Ali Mohamad; the application as mentioned above has attracted an objection from West Yorkshire Police. At the time the review application was made, Sakar Khoshnaw, was the Designated Premises Supervisor.

5.0 Location

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

6.0 Main Issues

- 6.1 A review of the premises licence is requested under s51 of the Licensing Act 2003 due to the sale of illegal tobacco witnessed initially by two PCSOs in June 2020. Police officers carried out an inspection and seized 2,757 packs of cigarettes and 496 packs of tobacco. Further visits were undertaken by West Yorkshire Trading Standards officers between November and February where further illegal sales were witnessed and cigarettes and tobacco seized. West Yorkshire Trading Standards, taking note of paragraphs 11.27 and 11.28 of the section 182 guidance issued by the Home Office, request revocation of the licence.

7.0 Relevant Representations/Letters of Support

- 7.1 Under the Act representations/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 The licensing authority has received a number of representations supporting this review. They are attached as follows:
Appendix D1 – West Yorkshire Police PC Andy Clifford, including statements from HMRC and Immigration
Appendix D2 – West Yorkshire Police Sgt. Fred Winster – Neighbourhood Policing Team
Appendix D3 – Licensing Authority Carmel Brennan
Appendix D4 – Ward Member Cllr Selma Arif on behalf of the Gipton and Harehills ward members.

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 (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.

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 circumstances of the review do not require the Committee to take any steps to promote the licensing objectives.
- 11.3 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.
- 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 11.24 to 11.28 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.

Appendices

Appendix A	Review application
Appendix B	Premises Licence
Appendix C	Location of premises
Appendix D	Representations
Appendix E	Extract from the s182 Guidance