

**DEPARTMENT OF ENVIRONMENT AND LEISURE**

**ORIGINATING SECTION: PUBLIC PROTECTION SERVICE**

**REPORT TO: LICENSING ACT SUB-COMMITTEE Date: 17 / 5 / 2022**

**TITLE : APPLICATION FOR A REVIEW OF PREMISES LICENCE LP19227 in respect of Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB**

**1 PURPOSE OF REPORT**

1.1 For members to consider an application to review premises licence LP19277 issued to Mr Alan Ahmad in respect of Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB.

**2 BACKGROUND**

2.1 The Licensing Act 2003 provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by the Licensing Committee. The Licensing Committee may delegate these functions to sub-committees. The Council's constitution has been amended to incorporate this.

2.2 The Statement of Licensing Policy indicates how the licensing authority approaches its various functions.

2.3 Under the provisions of the 2003 Act, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate, or police objection to an application for a personal licence, or to an activity taking place under the authority of a temporary event notice, these matters are dealt with by officers.

2.4 The Licensing Committee will receive regular reports on decisions made by officers so that they maintain an overview of the general situation.

2.5 Each application that comes before this committee will be treated on its own merits, and this licensing authority will take its decision based upon:

- The merits of the application
- The promotion of the four licensing objectives
- The Council's statement of Licensing Policy
- The Statutory Guidance issued by the Secretary of State in April 2018, under section 182 of the Licensing act 2003

### **3**      **DETAIL**

- 3.1      An application has been submitted under section 51 of the Licensing Act 2003, by Blackburn with Darwen Trading Standards, for a review of the premises licence for Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB (**Appendix 1**).
- 3.2      The premises has benefitted from a licence to sell alcohol for consumption off the premises since September 2009.
- 3.3      The current Premises Licence Holder successfully applied to transfer the licence to himself and to be the Designated Premises Supervisor and to change the trading name of the store to Smak Polski in July 2016 (**Appendix 2**).
- 3.4      The application from Trading Standards was submitted following the successful prosecution of Mr Alan Ahmad, the premises licence holder, in respect of the possession and supply of a significant amount of illicit tobacco at the licensed premises trading as Smak Polski, along with a conviction for fraud in relation to the supply of illicit tobacco, which seriously undermines prevention of crime and disorder licensing objective.
- 3.5      The investigation also resulted in the seizure of a significant amount of alcohol which was subsequently determined to be non-UK duty paid.
- 3.6      Trading Standards are suggesting that the revocation of the licence is a proportionate response to the seriousness of the offences which the Premises Licence Holder/Designated Premises Supervisor has been convicted for.
- 3.7      Following service of the review application Mr Ahmad contacted the Licensing Department to ask the Council not to take the licence off him and enclosing a copy of a warning issued by his landlord that any further breaches in his lease agreement would result in the lease being terminated (**Appendix 3**).
- 3.8      He was advised that he would have to opportunity to put his case before the Licensing Sub Committee who would consider the matter in due course.
- 3.9      Councillor Jackie Floyd, in her capacity as member for the Billinge and Beardwood ward has submitted a representation supporting the application made by Trading Standards which is reproduced at **Appendix 4**.
- 3.10     The Licensing team have also received 6 emails from other persons voicing support for Mr Ahmad (**Appendix 5**).

### **4**      **CONSULTATION**

- 4.1      All responsible authorities have been consulted and public notices have been displayed in accordance with the Act.
- 4.2      There have been seven electronic representations submitted, one supporting Trading Standards (the applicant) and 6 supporting the Premises Licence Holder.
- 4.3      No representations have been received from any of the other Responsible Authorities.
- 4.4      The representations received are considered relevant in accordance with Section 52(7) Licensing Act 2003.

4.5 All relevant parties to this hearing have been given notice under Regulation 6(1) Licensing Act 2003 (Hearings Regulations) 2005.

4.6 The Notice of Hearing was compiled in accordance with Regulation 7 Licensing Act 2003 (Hearings Regulations) 2005.

## **5 POLICY CONSIDERATIONS**

5.1 The section of the Licensing Authority's current statement of Licensing Policy that deals with reviews has been reproduced at **Appendix 6** to this report.

5.2 The relevant section on reviews in the guidance issued by the Secretary of State in April 2018 under section 182 of the Licensing Act 2003 has been reproduced at **Appendix 7** to this report.

## **6 THE LICENSING ACT 2003**

6.1 The Licensing Act 2003 requires you to have regard to the application and relevant representations, and take such steps as you consider necessary for the promotion of the licensing objectives.

6.2 The steps available to you are to -

- modify the conditions of the premises licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

The conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

## **7 LEGAL IMPLICATIONS ARISING FROM THE REPORT**

7.1 Members are reminded that they must follow the rules of natural justice and they are bound by the code of conduct for elected members in licensing applications.

7.2 Members are reminded that they should have read or should hear all the facts prior to making a determination

7.3 Members are reminded of the consideration they should give to the Human Rights Act 1998, in particular Article 1 – the right to peaceful enjoyment of possessions, Article 6 – the right to a fair hearing, Article 8 – respect for private and family life and Article 10 – the right to freedom of expression.

## **8 BACKGROUND PAPERS**

8.1 Appendices

8.2 Statement of Licensing Policy

8.3 The guidance issued by the Secretary of State on March 2015 under section 182 of the Licensing act 2003

8.4 The Licensing Act 2003.

**9**      **RECOMMENDATION**

9.1      That members consider the application for the review of the Premises Licence.

**10**     **WARDS AFFECTED**

10.1    The premises are situated in the Blackburn Central Ward.

**11**     **CONTACT OFFICER**

11.1    Niky Barrett, Principal Officer - Licensing

**12**     **DATE PREPARED**

12.1    29 April 2022