This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for Deansbrook Supermarket, 207 Deansbrook Road, London, HA8 9BU.

Recommendations

1. This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for Deansbrook Supermarket, 207 Deansbrook Road, London, HA8 9BU.
1. WHY THIS REPORT IS NEEDED

1.1 The licensing authority having received valid review application for an existing premises licence must hold a hearing to consider that application and any valid representations that may have been submitted.

2. REASONS FOR RECOMMENDATIONS

2.1 Where an application is submitted under section 51 of the Licensing Act 2003, the authority must hold a hearing to consider it.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 N/A

4. POST DECISION IMPLEMENTATION

4.1 The decision will have immediate effect

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Members are referred to the Council’s Licensing Policy for consideration

5.1.2 Timely legal and fair decisions support objectives contained within the Corporate Plan. In particular in relation to a “successful London borough” by ensuring that only legal, well regulated licensable activities occur within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 N/A

5.3 Legal and Constitutional References

5.3.1 The Licensing Act 2003 sets out how applications for premises licences should be dealt with where valid representations have been submitted.

5.3.2 Under the Constitution, Responsibility for Functions (Annex A), the Licensing Act 2003 and associated regulations, as delegated to it by the Licensing Committee, including the determination of review applications.

5.4 Risk Management

5.4.1 N/A
5.5 Equalities and Diversity

5.5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the

5.6 Consultation and Engagement

5.6.1 The statutory consultation process that has been followed in accordance with the Licensing Act 2003

6. BACKGROUND PAPERS

9.1 The review application and report of the Licensing Officer are and necessary appendices are attached to this report.
Officers Report
LICENSING ACT 2003

REPORT FOR PUBLIC HEARING

Review of the premises licence:

Deansbrook Supermarket, 207 Deansbrook Road, Edgware, HA8 9BU

1. The Applicant

An application was submitted by Jack Dowler on behalf of the London Borough of Barnet Trading standards.

2. The Application

This application has been made under Section 51 of the Licensing Act 2003 to review the Premises Licence held by Kishan Hirani

Licensing objectives to which the review application relates is:

- The prevention of Crime and Disorder,
- Public safety.

Jack Dowler has made the following statements within trading standards application:

- Trading Standards are primarily concerned with the quantity of non-duty paid tobacco (foreign labelling) and alcohol which was brought from a “white van man”. These products can be counterfeit and can lead to serious harm and health issues to a member of the public.

A full copy of the Review application is attached to this report in Annex 1.

3. Premises Licence History

This premises licence was first applied and granted in 2005. Since then there have been 1 application to vary the designated premises supervisor and 1 application to transfer the premise licence. The last transfer granted on 1st May 2013 placed Kishan Hirani as the premises licence holder.
4. Current Premises Licence

The current licence allows the following licensable activities:

**Sale or supply of Alcohol**

**Standard Days & Timings**

Monday to Sunday 07:00hrs - 21:00hrs

The current premises licence showing the above stated hours and all of the conditions attached to the premises licence can be found in full attached to this report as Annex 2.

5. Representations

The licensing team have received a representation from PC Vicky Wilcock on behalf of the metropolitan police. The representation relates primarily to crime and disorder and public safety.

The full representation can be found attached to this report in Annex 3.

6. Guidance

A Section from the Guidance issued under Section 182 Licensing Act 2003 (June 2013) regarding Reviews is attached to this report in Annex 4.

7. Determination

The sub-committee shall determine the application in accordance with Section 52 of the Licensing Act 2003.

S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

(a) to modify the conditions of the licence;
(b) to exclude a licensable activity from the scope of the licence;
(c) to remove the designated premises supervisor;
(d) to suspend the licence for a period not exceeding three months;
(e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Full Copies of the Councils Statement of Licensing Policy and the Statutory Guidance to the Act will be available at the Licensing Sub Committee hearing or in advance if required.

A matters for decision sheet is attached at Annex 4

Daniel Pattenden
Licensing Officer
Wednesday, 31 August 2016

Annex 1 – Review Application
Annex 2 – Current Premises Licence
Annex 3 - Representation
Annex 4 – Guidance issued under Section 182 Licensing Act 2003 (June 2013)
Annex 5 – Matters for Decision
Review Application
Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I ____________________________

(Insert name of applicant)

apply for the review of a premises licence under section 51 (delete as applicable)

Part 1 – Premises or club premises details

| Postal address of premises or, if none, ordnance survey map reference or description |
| Deansbrook Supermarket/Londis 207 Deansbrook Road |

| Post town | Edgware |
| Post code (if known) | HA8 9BU |

| Name of premises licence holder or club holding club premises certificate (if known) |
| Kishan Hirani |

| Number of premises licence or club premises certificate (if known) |
| LN/199906592 |

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)
   a) a person living in the vicinity of the premises
      ☐
   b) a body representing persons living in the vicinity of the premises
      ☐
   c) a person involved in business in the vicinity of the premises
      ☐
   d) a body representing persons involved in business in the vicinity of the premises
      ☐

2) a responsible authority (please complete (C) below) ☒
3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick
Mr ☐  Mrs ☐  Miss ☐  Ms ☐  Other title (for example, Rev)

Surname  First names

I am 18 years old or over  Please tick yes

Current postal address if different from premises address

Post town  Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)
(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Jack Dowler
Trading Standards Enforcement Officer
Community Protection (Regulation)
London Borough of Barnet, 2nd Floor Barnet House,
1255 High Road,
Whetstone,
N20 0EJ

Telephone number (if any)
020 8359 7575

E-mail address (optional)
jack.dowler@barnet.gov.uk

This application to review relates to the following licensing objective(s)

1) the prevention of crime and disorder
2) public safety
3) the prevention of public nuisance
4) the protection of children from harm

Please tick one or more boxes

Please state the ground(s) for review (please read guidance note 1)
The prevention of crime and disorder - Following a search of the premises with a sniffer dog, a concealed cellar was found, which contained a large quantity of non-duty paid tobacco and alcohol.

Public safety - The premises licence holder admitted to buying some alcohol from a white van man. These products can be counterfeit and can lead to serious harm to a member of the public.
Please provide as much information as possible to support the application
(please read guidance note 2)

On Tuesday 14th June, Barnet Trading Standards led a joint operation with the Met Police, HMRC, Licensing and Environmental Health, along with sniffer dogs from Operation Wagtail. We decided to attend 207 Deansbrook Road due to the fact that we had received some intel about offences taking place at the premises. I attach a job sheet to this application which shows the intel received. When the sniffer dog entered the premises, it took a particular liking to a carpet in the stock room. When the carpet was lifted, an entrance to a cellar was found. Upon inspection of the cellar, over 14,000 cigarettes and over 10kg of rolling tobacco with no duty paid were found and seized. It is also an offence under S144 of the Licensing Act 2003. Subsection 1 states - A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported. Trading Standards have cautioned Mr Hirani and will be bringing him in for an interview under the Police and Criminal Evidence Act 1984. I have attached a statement from the HMRC, who were present during the Operation as JD/1. HMRC also seized a significant amount of non duty paid alcohol and tobacco from a premises two doors down at 211 Deansbrook Road, which is also owned by Kishan Hirani. I have attached a printscreen of the drinkaware.co.uk website which outlines the health risks from counterfeit alcohol as JD/2.
Have you made an application for review relating to this premises before

Please tick yes

If yes please state the date of that application

Day  Month  Year

If you have made representations before relating to this premises please state what they were and when you made them
Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 -- Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature  

Date  

Capacity  

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

<table>
<thead>
<tr>
<th>Post town</th>
<th>Post Code</th>
</tr>
</thead>
</table>

Telephone number (if any)
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.
Current Premises Licence
**Licensing Act 2003**

**Part A: Premises Licence**

Premises Licence Number: LN/199906592

<table>
<thead>
<tr>
<th>Licensing Authority:</th>
</tr>
</thead>
<tbody>
<tr>
<td>London Borough of Barnet,</td>
</tr>
<tr>
<td>Building 4, North London Business Park</td>
</tr>
<tr>
<td>Oakleigh Road South</td>
</tr>
<tr>
<td>New Southgate, London,</td>
</tr>
<tr>
<td>N11 1NP</td>
</tr>
</tbody>
</table>

LPRL/07/21177 (20/05/2013)

**Part 1 – Premises details**

<table>
<thead>
<tr>
<th>Postal address of premises, or if none, ordnance survey map reference or description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deansbrook Supermarket, 207 Deansbrook Road</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Post Town</th>
<th>Post code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Edgware</td>
<td>HA8 9BU</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone number</th>
</tr>
</thead>
<tbody>
<tr>
<td>None given</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Where the licence is time limited the dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>This premises licence is not time limited</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensable activities authorised by the licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Sale by Retail of Alcohol</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The times the licence authorises the carrying out of licensable activities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sale by retail of alcohol</strong></td>
</tr>
<tr>
<td>Standard Days and Timings:</td>
</tr>
<tr>
<td>Monday to Sunday</td>
</tr>
<tr>
<td>07:00hrs - 21:00hrs</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The hours that the premises are open to the public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not restricted</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Where the licence authorises supplies of alcohol whether these are on and/ or off supplies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off supplies only</td>
</tr>
</tbody>
</table>
### Part 2

<table>
<thead>
<tr>
<th><strong>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</strong></th>
</tr>
</thead>
</table>
| Mr Kishan Hirani  
207 Deansbrook Road  
Edgware  
London  
HA8 9BU |

<table>
<thead>
<tr>
<th><strong>Registered number of holder, for example company number, charity number (where applicable)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</strong></th>
</tr>
</thead>
</table>
| Kishan Hirani  
207 Deansbrook Road  
Edgware  
London  
HA8 9BU |

<table>
<thead>
<tr>
<th><strong>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>LN/200713337 - London Borough of Barnet</td>
</tr>
</tbody>
</table>
Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence-
   (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
   (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
   (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Annex 2 – Conditions consistent with the operating schedule

4. The premises will be operated in accordance with a written and publicly displayed Policy, which will identify the type of documentation acceptable as reliable evidence of age, when produced by any person appearing to those authorised to sell or supply alcohol to be under the age of 18, and who is attempting to purchase alcohol.

5. All cameras and recording equipment will be installed and maintained in accordance with the manufacturers instructions and will be fully operational when the premises are open to the public.

6. The medium upon which images are recorded will be clearly identifiable, stored securely, retained for a period of not less than 31 days, and be made available to Council and Police Officers on request.

7. All staff shall be trained in the promotion of the licensing objectives.

Annex 3 – Conditions attached after hearing by the licensing authority

N/A

Annex 4 - Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference: LPRL/07/21177
Representations
Dear Licensing Officer

I write with regards to the application to review the premises licence of 207 Deansbrook Road HA8 9BU submitted by Trading Standards Officer, Jack Dowler.

PC Downes and I were part of the operation which took place on Deansbrook Road HA8 on Tuesday 14th June 2016. At 1035 hours we split in to two teams. The team I was part of went in to Londis (Deansbrook Supermarket) 207 Deansbrook Road HA8 9BU while the other team went in to another shop nearby.

The owner, Mr Hirani, was working behind the till at the time and presented me with his personal licence confirming that he owned the premises. I conducted a licensing inspection while HMRC, Trading Standards and the Wagtail unit inspected the alcohol and tobacco products. When going through the conditions of the premises licence it was revealed that the CCTV was not being stored for the required time which was 31 days. The CCTV system in the shop at that time was only storing for 16 days.

The detection dog used by the Wagtail unit had given an indication on a couple of areas in the premises, one being a small cupboard/office next to the chilled units opposite the till and the rug on the floor in the rear store room. Nothing was found in the small cupboard, but when the rug in the store room was pulled back it revealed a hatch which led down to a basement containing numerous alcohol and tobacco products. It was obvious that this area was purposefully concealed. The images I attach to this letter show some of the items that were seized from the premises.

I spoke with Mr Hirani while the inspection continued and he told me that he knew what he was doing was wrong, but he had to in order to compete with other shops nearby. I explained that was not a reasonable defence, if he knew it was wrong, he shouldn’t have done it. We would encourage anyone to inform the authorities if they become aware of shops selling counterfeit or non duty paid products so that it can be dealt with rather than having a detrimental impact on neighbouring businesses. Mr Hirani simply said he would not be a ‘snitch’

Unfortunately it’s this type attitude towards the authorities that only perpetuates the cycle of crime and the damaging effect that it has on the surrounding community. Having admitted that some of the alcohol was purchased form a ‘white van man’ we have strong concerns that some or all of this alcohol could have been counterfeit. This is far from a victimless crime as it makes it easier for children and vulnerable people to purchase, takes advantage of cash-strapped families, and, in some cases, helps fund organised crime. Also the health risks of consuming counterfeit alcohol can be devastating.

I understand that the shop which was inspected at the same time as 207 Deansbrook Road is also owned by Mr Hirani as he told PC Downes that he and his wife owned both shops when asked. The stock was possibly moved between the two premises as the 207 had a much larger storage area and the brands which were seized were the same in both shops. I am lead to believe that the other shop will also have its licence reviewed by Trading Standards.

In the interests of promoting the licensing objectives; prevention of crime and disorder and public safety we fully support the review of this application.

Yours sincerely,

Vicky Wilcock
PC349SX
Licensing Officer, Barnet Borough (SX) Metropolitan Police
Guidance issued by Home Office on Reviews
11. Reviews

The review process

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority’s electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates’ court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents’ association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repititious grounds of review

11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government’s legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder’s legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
• suspend the licence for a period not exceeding three months;
• revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority’s decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority’s role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority’s duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person’s leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

**Review of a premises licence following closure order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates’ court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
• the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates’ court is received;
• day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.
Matters for Decision
MATTERS FOR DECISION

An application made under Section 51 of the Licensing Act 2003

Deansbrook Supermarket, 207 Deansbrook Road, London, HA8 9BU

Determination in accordance with Section 52(3) of the Licensing Act 2003.

S 52 (3);

“...The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

   (a) to modify the conditions of the licence;
   (b) to exclude a licensable activity from the scope of the licence;
   (c) to remove the designated premises supervisor;
   (d) to suspend the licence for a period not exceeding three months;
   (e) to revoke the licence;

   and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify”.

Notification in accordance with Section 52 (10) of the Licensing Act 2003.

10. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

   (a) the holder of the licence,
   (b) the applicant,
   (c) any person who made relevant representations, and
   (d) the chief officer of police for the police area (or each police area) in which the premises are situated.

11. A determination under this section does not have effect-

   (a) until the end of the period given for appealing against the decision, or
   (b) if the decision is appealed against, until the appeal is disposed of.
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