

BOROUGH OF KETTERING

Committee	Licensing Sub-Committee	Item A1	Page 1 of 5
Report Originator	Russ Howell	<i>Fwd Plan Ref No:</i>	
Wards Affected	All Saints	25 th September 2017	
Title	To determine an application for review of the Premises Licence for Maja Sklep, 28a Rockingham Road, Kettering		

Portfolio Holder: Councillor Mark Dearing

1. PURPOSE OF REPORT

To determine an application for review of the premises licence for Maja Sklep, 28a Rockingham Road, Kettering.

2. INFORMATION

- 2.1 An application for review of the premises licence for Maja Sklep, 28a Rockingham Road, Kettering has been received from Northamptonshire Police. A copy of the review application is attached at **Appendix A**.
- 2.2 The review is called in relation to the licensing objective of the Prevention of Crime & Disorder. Between 2014 and February 2017 a number of visits by trading standards officers have identified the storage and sale of smuggled tobacco.
- 2.3 The review application form details the incidents and warnings given in relation to these offences.
- 2.4 Documentation issued by Northamptonshire County Council Trading Standards Officers is also included at **Appendix B**.
- 2.5 A street plan is attached showing the location of the premises. (**Appendix C**).
- 2.6 The current premises licence authorises the sale of alcohol for consumption off the premises Monday to Sunday 08.00 – 23.00

3. CONSULTATION AND CUSTOMER IMPACT

- 3.1 In accordance with the requirements of current licensing legislation, a copy of the review application was supplied to all responsible authorities and a notice was displayed outside of the premises for 28 days giving details of the review application.

BOROUGH OF KETTERING

Committee	Licensing Sub-Committee	Item A1	Page 2 of 5
------------------	--------------------------------	------------	----------------

3.2 The following representations were received:

Police	Applied for Review
Public	No representation
Child Protection	No representation
Trading Standards	No representation
Environmental Health	No representation
Borough Councillors	No representation
Planning	No representation
Fire	No representation
Customs and Excise	No representation
Health	No representation

3.3 The Police application relates to a history of illegal trading of tobacco from 2014 to 2017.

3.4 The review application makes reference to Sections 11.24 to 11.28 of the Section 182 Licensing Act 2003 guidance issued in April 2017. The text of these Sections is included below. Particular attention should be given to the guidance at Paragraph 11.27 which includes reference to the storage and sale of smuggled tobacco and the guidance in Paragraph 11.28:

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, the sale of firearms, or the sexual exploitation of children. 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

BOROUGH OF KETTERING

Committee	Licensing Sub-Committee	Item A1	Page 3 of 5
-----------	--------------------------------	------------	----------------

the licensing objectives and the prevention of illegal working 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 drugs controlled under the Misuse of Drugs Act 1971 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;*
- for unlawful gambling; and*
- for the sale or storage of smuggled tobacco and alcohol.*

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.

4. POLICY IMPLICATIONS

4.1 This section highlights the sections of the Authority's 2015 - 2019 Statement of Licensing Policy that may be relevant with respect to this application, this is not exhaustive and the policy should be looked at fully prior to making decisions with respect to applications. The paragraph numbers are as shown in the Statement of Licensing Policy:-

1.4 *The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.*

1.5 *This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and, as stated above, each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or*

BOROUGH OF KETTERING

Committee	Licensing Sub-Committee	Item A1	Page 4 of 5
------------------	--------------------------------	------------	----------------

certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.

- 1.6 *The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.*
- 2.11 *Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.*
- 2.12 *This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. However this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.*
- 2.13 *In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.*
- 18.9 *This Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement. This Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.*
- 18.10 *This Licensing Authority will hold a hearing following a request for a Review from a responsible authority, from any other person or after closure procedures described earlier. This Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.*
- 18.11 *In determining a Review, this authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:*
- a) no action necessary as no steps required to promote the licensing objectives;*
 - b) issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. This Licensing Authority regards such warnings as important mechanisms for ensuring that the*

BOROUGH OF KETTERING

Committee	Licensing Sub-Committee	Item A1	Page 5 of 5
------------------	--------------------------------	------------	----------------

licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder.

- c) to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);*
- d) excluding a licensable activity from the licence;*
- e) remove the designated premises supervisor,*
- f) suspend the licence for a period of three months;*
- g) to revoke the licence.*

18.12 *This Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.*

4.2 Section 17 of the Crime and Disorder Act 1998 requires that local authorities and others must consider crime and disorder reduction while exercising all their duties.

5. USE OF RESOURCES

5.1 There are no financial implications.

6. RECOMMENDATION

The committee's decision is requested.

Background Papers:

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes:

Ref:

Date: