

BOROUGH OF KETTERING

Committee	LICENSING SUB COMMITTEE	Item A1	Page 1 of 3
Report Originator	Russ Howell	<i>Fwd Plan Ref No:</i> N/A	
Wards Affected	St Michaels and Wicksteed	19 th December 2019	
Title	Review of a Premises Licence under the Licensing Act 2003		

1. PURPOSE OF REPORT

- 1.1 To consider an application for review of the premises licence for Bryant Road Stores, Bryant Road, Kettering under the Licensing Act 2003.

2. INFORMATION

- 2.1 An application for review of the premises licence for Bryant Road Stores, Bryant Road, Kettering has been received from Northamptonshire Police. A copy of the application is attached at **Appendix A**.
- 2.2 Since this action was taken, applications to transfer the premises licence and vary the DPS have been received.
- 2.3 A copy of the premises licence at the time of the application is attached at **Appendix B**.
- 2.4 A copy of the street plan showing the location of the premises is attached at **Appendix C**.

3. CONSULTATION AND CUSTOMER IMPACT

- 3.1 The application has been out for consultation as required by the Licensing Act 2003 and associated regulations. No other representations have been received.
- 3.2 The review application relates to a visit to the premises by the Immigration Service on 3rd October 2019. At that visit one Indian National male was identified who had illegally entered the country and one Indian National male who had over-stayed. Both were arrested and removed.

4. POLICY AND RESOURCE IMPLICATIONS

- 4.1 The Committee must have regard to the Authority's Statement of Licensing Policy, the relevant legislation and the national Section 182 guidance made under the Licensing Act 2003.

BOROUGH OF KETTERING

Committee	LICENSING SUB COMMITTEE	Item A1	Page 2 of 3
------------------	--------------------------------	------------	----------------

4.2 This latter guidance (paragraph numbers from guidance) states:

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

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 promoting 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. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

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)¹⁰;
- 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.
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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;

BOROUGH OF KETTERING

Committee	LICENSING SUB COMMITTEE	Item A1	Page 3 of 3
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- 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.**

5. **LEGAL AND EQUALITY IMPLICATIONS**

- 5.1 Where an application for a review of a premises licence is decided under section 52 of the Licensing Act 2003, an appeal may be made against that decision by—
- (a) the applicant for the review,
 - (b) the holder of the premises licence, or
 - (c) any other person who made relevant representations in relation to the application.

6. **CLIMATE CHANGE IMPLICATIONS**

- 6.1 There are no climate change implications.

7. **RECOMMENDATION**

- 7.1 The Committee's decision is requested.

Background Papers:
Title
Date
Contact Officer