

AGENDA ITEM NO. 3

LICENSING COMMITTEE

Date	29 March 2019
Title	DETERMINATION OF AN APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – POLSKA CHATA, MARKET PLACE, WISBECH, PE13 1DP

1 PURPOSE/SUMMARY
 To consider an application for the review of a premises licence in respect of Polska Chata (Little Europe), Market Place, Wisbech PE13 1DP

- 2 KEY ISSUES**
- The review has been triggered through a request from Trading Standards and supported by the Police & Public Health
 - The reasons for the review are:
 - Sales of Illicit Tobacco through a Test Purchase Operation, triggering a search warrant to be executed.
 - Breach of CCTV Licensing Conditions as per Annex 3 of the Premises Licence. **(APPENDIX F)**
 - Failure to appoint a Designated Premises Supervisor who is in day to day contact with the premises resulting in a breach of the Licensing Act 2003.
 - The review application is made under the following licensing objectives; the prevention of crime and disorder and public safety.
 - It is the responsibility of all premises licence holders to demonstrate that suitable and sufficient measures are undertaken to uphold the four Licensing Objectives of the Licensing Act 2003;
 - There is a requirement to hold a hearing to determine the application for the review of a premises licence.

3 RECOMMENDATION(S)

That the committee determines the application, having regard for the evidence presented by the parties to the hearing, the relevant legislation and guidance applicable to this process and the content of this report.

Wards Affected	Medworth
Forward Plan Reference No. (if applicable)	N/A
Portfolio Holder(s)	Councillor David Oliver, Portfolio Holder with responsibilities for Licensing.
Report Originator	Michelle Bishop, Licensing Manager, tel: 01354 622542, email: mbishop@fenland.gov.uk

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Background Paper(s)	Licensing Act 2003 Section 182 Guidance to the Licensing Act 2003 The Licensing Act (Hearings) Regulations 2005 Fenland District Council's Statement of Licensing Policy 2016 - 2021

1 DETAILS OF APPLICATION

1.1 The application relates to the proposed review of an existing premises licence in respect of Polska Chata, 50 Market Place, Wisbech PE13 1DP

1.2 The applicant is Kirsty Draycott, Trading Standards Officer on behalf of Cambridgeshire County Council. A copy of her application and supplementary evidence can be seen at **APPENDIX B AND APPENDIX C** to this report.

The review application has been supported by PC Grahame Robinson, Police Licensing Officer on behalf of Cambridgeshire Constabulary and Katie Johnson Consultant in Public Health for Cambridgeshire County Council & Peterborough City Council.

Copies of these supporting representations are **APPENDIX D** and **APPENDIX E** to this report.

1.3 The application to review relates to the following licensing objectives:

- The prevention of crime and disorder
- Public safety

1.4 Grounds for the application to review include:

- 07th November 2018 – Test purchase operation carried out and a packet of NZ cigarettes were sold
- 23rd January 2019 – Further intelligence received regarding sales of illicit tobacco led to a warrant being executed and the finding of: 100g hand rolling tobacco, 66 packs of cigarettes.
- 23rd January 2019 – Numerous breaches of the premises licence conditions as identified by PC Grahame Robinson

There are a further two grounds for the review which are confidential and appear on an attachment to this report.

2 DETAILS OF THE CURRENT PREMISES LICENCE

2.1 The Premises Licence Holder of Polska Chata, 50 Market Place, Wisbech PE13 1DP is Mr Omar Ali Ahmed of 9 Railway Road Wisbech PE13 2QA.

The Designated Premises Supervisor responsible for alcohol sales is Mr Jamshid Ahmad Ali of 119 London Road Kings Lynn Norfolk PE30 5ES

Personal Licence No. 16/00970/LA_PER has been issued by Kings Lynn & west Norfolk Council.

- 2.2 The current Premises Licence is valid from 5th June 2017 and is **APPENDIX F** to this report. A summary of the licence is as below:

Licensed Activity	Days and Times
Sale by Retail of Alcohol (off sales)	Mon-Sat 09:00-21:00
Sale by Retail of Alcohol (off sales)	Sunday 10:00 – 18:00
Seasonal variation:	None applied for.

3 CONSULTATION/AWARENESS

- 3.1 The Licensing Act 2003 encourages discussion between persons serving applications for the review of a premises licence and the premises licence holder with the aim of resolving issues of concern, to strike the balance between enabling the applicant to operate his/her premises in a manner that meets his/her business needs/aspirations and the necessary protection of the community. Officers are unaware of any discussion between the parties involved in the review application.
- 3.2 In accordance with the provisions of the Licensing Act 2003, applicants for the review served copies of the application for the review of a premises licence under the Licensing Act 2003 to the premises licence holder and responsible authorities.
- 3.3 In accordance with Section 51 of the Licensing Act 2003, a notice of a review was drawn up by Licensing Officers and placed in a local newspaper displayed on light blue paper at the premises, displayed at Fenland Hall in the business reception area, and displayed at the Fenland @ Your Service shop in March. The documents were also placed on the Council Website. The notice informs Responsible Authorities and Other Persons of the procedure for the inspection of the review application and for making representations concerning the review. A copy of the review notice can be seen at **APPENDIX G** to this report.

4 POLICY IMPLICATIONS

- 4.1 The Council's Statement of Licensing Policy expects applicants to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be maintained to:
- (1) reduce or prevent crime and disorder on, and in the vicinity of, their premises, relevant to the individual style and characteristics of their premises and events;
 - (2) ensure public safety, relevant to the individual style and characteristics of their premises and events;
 - (3) prevent public nuisance, relevant to the individual style and characteristics of their premises and events;
 - (4) protect children from harm, relevant to the individual style and characteristics of their premises and events.

5 COMMUNITY IMPACT

- 5.1 The Act gives greater freedom to operators and users of premises, which is balanced by greater responsibilities for licensees and tempered by strengthened protection for the community.
- 5.2 The Licensing Act 2003 seeks to provide public protection by way of the four licensing objectives.

6 DETERMINATION OF THE APPLICATION

6.1 In undertaking its statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

6.2 When determining an application for the review of a premises licence, due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance.

6.3 The committee in its determination can take one or more of the following steps as it considers appropriate for the promotion of the licensing objectives :

- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.
- to take no further action.

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.

6.4 The hearing will be conducted in accordance with the approved Procedure and can be seen at **APPENDIX A** to this report.