

AGENDA ITEM NO. 3
LICENSING COMMITTEE

Date **02 SEPTEMBER 2019**

Title **DETERMINATION OF AN APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – HARANS, 10/11 NORFOLK STREET, WISBECH PE13 3LD**

1 PURPOSE/SUMMARY

To consider an application for the review of a premises licence in respect of Harans, 10/11 Norfolk Street, Wisbech, Cambs PE13 3LD

2 KEY ISSUES

- The premises were subject to a compliance visit during a multi-agency day of action.
- The review has been triggered following this visit via a request from Trading Standards.
- The reasons for the review are:
 - Sales of Illicit Tobacco through a Test Purchase Operation.
 - Storage of Illicit Tobacco found on the premises during an inspection.
- 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 review 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 Sam Clark, 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)	Section 182 Guidance to the Licensing Act 2003 The Licensing Act (Hearings) Regulations 2005 Fenland District Council's Statement of Licensing Policy 2016 - 2021
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1 DETAILS OF APPLICATION

- 1.1 The application relates to the proposed review of an existing premises licence in respect of Harans, 10/11 Norfolk Street, Wisbech PE13 3LD.
- 1.2 The applicant is Kirsty Draycott, Trading Standards Officer on behalf of Cambridgeshire County Council and supported by responsible authority (RA) officer Joe Keegan on behalf of Liz Robin, Director of Public Health Cambridgeshire County Council.

A Copy of the review application and RA supporting evidence can be seen at **APPENDIX B** and **APPENDIX C** 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:
- On 17th January 2018, a test purchase operation was conducted and during this time the premises sold illicit tobacco. The product sold during the test purchased was a pack of NZ cigarettes and they were purchased for £7.
 - The product labelling was in Russian and was deemed to be non-duty paid.
 - On 19th June 2019 during a multi-agency action day, trading standards officer attended the premises at which time it was discovered there was a locked room in the upstairs storage area.
 - After access was gained to the locked room area, a carrier bag was identified containing 15 x 50g pouches of amber Leaf hand rolling tobacco. This tobacco was not labelled in English.
 - Since the seizure of these hand rolling pouches, the manufacturer of Amber Leaf have confirmed they were not intended for sale in the UK.
- 1.5 During the consultation period a number of responses were received, some of these were in favor of the review application and others were opposing it.
- 2 x Supporting consultation responses, including photograph can be seen at **APPENDIX D**
 - 6 X Objecting consultation responses which can be seen at **APPENDIX E**

2 DETAILS OF THE CURRENT PREMISES LICENCE

- 2.1 The Premises Licence Holder of Harans is Kanapathipillai Kumaravel Thivakaran, Haran Cottage, Osborne Road, Wisbech, Cambridgeshire PE13 3JX

The Designated Premises Supervisor responsible for alcohol sales is Kanapathipillai Kumaravel Thivakaran, Haran Cottage, Osborne Road, Wisbech, Cambridgeshire PE13 3JX

- 2.2 Personal Licence No. CAM000241 issued by Cambridge City Council.
- 2.2 The current Premises Licence is valid from 10 February 2012 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-Sun 06:00-24:00 (Midnight)
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. However, this does depend on why the application is being brought for review. 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 made available at any of our Customer Service Centres. 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.

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.

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.