

BOROUGH OF KETTERING

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Report Originator	Russ Howell	<i>Fwd Plan Ref No:</i>	
Wards Affected	All Saints, Avondale Grange, Brambleside	17 th December 2018	
Title	An application for review of the premises licence for Bath Road Convenience, 228 Bath Road, Kettering and also objection notices to an application to transfer the premises licence and to vary the Designated Premises Supervisor (DPS) at the same premises where a notice has been received from Northamptonshire Police		

Portfolio Holder: Councillor Mark Dearing

1. PURPOSE OF REPORT

To determine an application for review of the premises licence for Bath Road Convenience, 228 Bath Road, Kettering and also objection notices to an application to transfer the premises licence and to vary the Designated Premises Supervisor (DPS) at the same premises where a notice has been received from Northamptonshire Police.

2. INFORMATION

- 2.1 An application for review of the premises licence (**Appendix A**) for Bath Road Convenience, 228 Bath Road, Kettering has been received from Northamptonshire Police. A copy of the application is attached at **Appendix B**.
- 2.2 A plan showing the location of the premises is shown at **Appendix C**.
- 2.3 The grounds for the review application are that on 2nd October 2018 officers from the Immigration Compliance and Enforcement Team executed a warrant at the premises in relation to a male who had no right to work in the UK since March 2016. He was working behind the counter in the store when he was arrested. The male claimed he had been working at the premises for two months, was paid cash in hand and lived on the premises.
- 2.4 On 18th October 2018 PC Bryan and PC Stevens visited the premises and interviewed Mr Selvachantiran. He advised that he had been the owner of the premises since May 2018 and was therefore the employer of the illegal worker. He had not transferred the premises licence or varied the DPS since taking over the business.
- 2.5 There was no premises licence on the premises, Mr Selvachantiran was unable to produce his personal licence and he had no understanding of the CCTV system in the premises, as required in the conditions to the premises licence. These are all offences under the Licensing Act 2003.

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- 2.6 In the review application, PC Bryan made it clear that if Mr Selvachantiran applied to transfer the licence and/ or vary the DPS into his own name then in view of the above, those applications would be objected to.
- 2.7 Application forms to vary the DPS and transfer the premises licence both into the name of Kandasamy Selvachandran dated 12th November 2018 were received from Arka Licensing acting as agent in these matters (**Appendix D**).
- 2.8 On 14th November 2018 a notice was submitted in accordance with Sections 37(5) and 42(6) of the Licensing Act 2003 by Northamptonshire Police objecting to the variation and transfer respectively on the grounds of undermining the crime prevention objective for the details described above. A copy of the objection is attached at **Appendix E**.
- 2.9 The Licensing Act 2003 states that, where the notice is given under Section 37 (5), the Authority must “having regard to the notice, reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so”.
- 2.10 The Licensing Act 2003 states that “where the notice is given under section 42(6), [The Authority must] reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so”.

3. CONSULTATION AND CUSTOMER IMPACT

- 3.1 The following were consulted:

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

4. POLICY IMPLICATIONS

- 4.1 This section highlights the parts 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:-

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- 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 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.*
- 6.4 *It is important to note that crime and disorder are two separate elements of this objective. An authorisation can be considered by the Committee where crime alone has taken place and relevant representations are made.*
- 4.2 **Regard must also be had to the Section 182 guidance to the Licensing Act 2003, in particular :**
- 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.*
- 8.101 *In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting*

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the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons are involved in crime (or disorder) or employing illegal workers.

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.*

4.3 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.