

REPORT FOR: LICENSING PANEL

Date:	9 November 2016
Subject:	Application for review of the premises licence for Good Morning Superstore, 262 Streatfield Road, Harrow, Middlesex HA3 9BY
Responsible Officer:	Tom McCourt - Corporate Director – Community Directorate
Exempt:	No
Enclosures:	Application for review (appendix 1) Current premises licence and plan (appendix 2) Location map (appendix 3)

Section 1 – Summary

An application has been received from Brent and Harrow Trading Standards to review the premises licence of Good Morning Superstore, 262 Streatfield Road, Harrow, Middlesex HA2 6BY on the grounds of the prevention of crime and disorder, and public safety, arising from the display and storage for sale of non-duty paid alcohol and tobacco on the premises.

Representations received

From	Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	No representations
Trading Standards	Application for licence review
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
Metropolitan Police	No representations received
Licensing authority	No representations received

Representations from other persons

Letter	From	Relevant Representations details
		None

Section 2 – Report

- 2.1 An application has been received from Harrow Trading Standards to review the premises licence of Good Morning Superstore, 262 Streatfield Road, Harrow, Middlesex HA3 9BY (appendix 1).
- 2.2 Description of premises
The premises are a small, typical local convenience store serving a range of goods including age-restricted products such as tobacco, alcohol and lottery tickets situated on the Streatfield Road shopping parade.
- 2.3 Licensing history
A premises licence was first granted on 21/02/2007. It was transferred to new premises licence holders in 2010, 2013 and 2014.
- The licence was transferred to the current licence holder, Mr Amrik Singh Arora, on 24/09/2014 (appendix 2). A location map is also provided at appendix 3. The Panel will note that the premises licence is issued to Premier, trading at the same address although the review application names Good Morning Superstore Ltd. The premises are currently trading as Good Morning Superstore Ltd with Mr Arora named as the premises licence holder. There is no requirement for the licensing authority to be notified of a change in name of the premises.
- 2.4 Designated premises supervisor (DPS)
Mr Amrik Singh Arora has been the DPS since 24/09/2014.
- 2.5 The panel might wish to note that the previous premises licence holder and designated premises supervisor, Mrs Rajeswary Tharmaseelan, is still employed at the shop.
- 2.6 Details of the application
Received: 26/09/2015
Application advertised: 26/09/2016 – 24/10/2016
- In addition to Trading Standards serving a copy of the review application on the premises licence holder, the licensing authority delivered a letter by hand to the premises advising him of the application on 27/09/16. The licensing authority wrote to the premises licence holder on 10/10/16 advising him of the hearing.
- 2.7 Representations
No other representations have been received.
- 2.8 Officers' observations
The review application refers to paragraph 11.27 of the statutory guidance. The full section of that part of the guidance is set out below:

Reviews arising in connection with crime

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 the licensing objectives 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 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;*
- for unlawful gambling; and*
- for the sale or storage of smuggled tobacco and alcohol.*

11.28 It is envisaged that licensing authorities, the police 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.

2.9 In addition, paragraph 11.17 of the statutory guidance (Powers of a licensing authority on the determination of a review) states:

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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.

2.10 Licensing policy

There are no implications in relation to the statement of licensing policy arising from this application.

2.11 Legal implications

The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.12 The Licensing Panel is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives.

2.13 Having considered those relevant matters, the Licensing Panel can take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –

1. to modify the conditions of the licence;
2. to exclude the licensable activity from the scope of the licence;
3. to remove the designated premises supervisor;
4. to suspend the licence for a period not exceeding 3 months;
5. to revoke the licence

and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition added.

2.14 If the Panel takes a step mentioned in 1 or 2 of paragraph 2.13 above, it can specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.

2.15 It should be noted that –

- clear reasons must be given for the decision;
- any additional or modified conditions should be practical and enforceable;
- the applicant for the review, the premises licence holder and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in schedule 5 to the Licensing Act 2003.

2.16 In addition to determining the application in accordance with the legislation, Members must have regard to the –

- common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc);
- provisions of the Human Rights Act 1998;
- considerations in section 17 of the Crime and Disorder Act 1998.

2.17 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).

2.18 The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which states:

'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'

Financial Implications

2.19 There are no financial implications.

Appeals

2.20 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Mann	<input type="checkbox"/> y	on behalf of the Chief Financial Officer
Date: 20 October 2016		
Name: Paresh Mehta	<input type="checkbox"/> Y	on behalf of the Monitoring Officer
Date 21.10.16		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer extension 7667

Background Papers: Statutory Guidance