



<u>Committee and Date</u>
Licensing Act Sub-Committee
Tuesday 21 st October 2014 at 10.00 am

<u>Item</u>
3
Public

**LICENSING ACT 2003
APPLICATION FOR A REVIEW OF A PREMISES LICENCE**

Responsible Officer Simon Ditton, Public Protection Officer (Specialist)
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1. Summary

To consider an application for a review of a Premises Licence.

Premises: Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY. A location plan is attached to the report as Appendix A.

Shropshire Council being the authorised licensing authority for the above premises has received an application for a premises licence.

The application has been accepted as a valid application. The application is required to be determined by way of a hearing of the Licensing Sub-Committee.

In determining the application the licensing authority must give appropriate weight to:

- the steps that are necessary to promote the licensing objectives;
- the representations (including supporting information) presented by all parties;
- Guidance issued under Section 182 of the Licensing Act 2003;
- Shropshire Council's Licensing Policy.

After considering all the relevant issues the licensing authority may grant

- take no further action
- issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
- modify conditions of the licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months
- revoke the licence

Following a hearing, the licensing authority should give its decision and provide reasons to support it. This will be important if there is an appeal by any of the parties.

All parties are required to be notified of a decision and that decision should be accompanied by information on the right of the party to appeal.

2. Recommendations

That the Sub-Committee determines the application in accordance the Statutory Guidance issued under s182 of the Licensing Act 2003, the Council's Statement of Licensing Policy, the information contained within this report, supporting documentation and having had due regard to the applicant, licence holder and the parties/authorised bodies making relevant representations.

That the Sub-Committee determines the application in accordance with the options in paragraph 7.

That the Sub-Committee provides the reasons for its decision.

REPORT

3. Human Rights Act Appraisal

The Committee is required to consider the consequences of any action on the licence holder's human rights.

4. Financial Implications

None.

5. Purpose of Report

To consider an application for a review of the Premises Licence for Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY.

6. Background

6.1 Shropshire Council Public Protection, Trading Standards, has made an application for a review of a Premises Licence on the grounds that operations at the premises undermine the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives. The application is supported by evidence of illicit tobacco products being discovered at the premises on at least 3 separate occasions and a complaint of sale of tobacco to 15 year old at the premises.

6.2 The Premises Licence was first granted on 10th July 2013 (Premises Licence Number PL/SC29723). The current Premises Licence holder and designated

premises supervisor is Miss Elina Pole (the Licence being formally transferred on 18th March 2014).

- 6.3 On 6th March 2014 illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.4 A complaint was received in May 2014 by West Mercia Police from a resident, that her 15 year old son had been able to purchase tobacco from the premises (the complainant has provided a witness statement to the Council).
- 6.5 On 11th June 2014 further illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.6 On 29th July 2014 further illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.7 The current application was then submitted.

7. Objections Received (Responsible Authorities)

- 7.1 A representation has been received from the Chief Officer of the Police supporting the review. This representation has not been withdrawn.
- 7.2 A comment has been received from the Director of Public Health supporting the review.

8. Objections Received (Other Interested Parties)

- 8.1 No formal representations have been received in response to the application from other interested parties.

7. Options for Consideration

- 7.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:
 - take no further action
 - issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
 - modify conditions of the licence
 - exclude a licensable activity from the scope of the licence
 - remove the designated premises supervisor
 - suspend the licence for a period not exceeding three months
 - revoke the licence
- 7.2 Members of the Sub-Committee should be advised that the applicant, licence holder or any other person who made relevant representations in relation to

the application may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

8. Standard of Decision Making

- 8.1 In accordance with the provisions of the Licensing Act 2003 and the Council's scheme of delegation, all applications for a review of a Premises Licence have to be determined by this Sub-Committee.
- 8.2 When determining the application, the Sub-Committee should only consider issues, which relate to the four licensing objectives. The licensing objectives are:
- The prevention of Crime and Disorder
 - Public Safety
 - The prevention of a Public Nuisance
 - The protection of Children from Harm
- 8.3 Members of the Sub-Committee must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Members of the Sub-Committee may deviate from the statutory guidance and licensing policy only if they deem that there is good reason to do so.
- 8.4 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Shropshire Council Licensing Policy.
 Guidance issued under section 182 of the Licensing Act 2003 (June 2014).
 The Licensing Act 2003 (Hearings) Regulations 2005.
 Application form and associated papers.
 Copies of representations received

Cabinet Member (Portfolio Holder)

Cllr S Charmley

Local Member

Cllr D Minnery & Cllr R Hughes

Appendices

Appendix A – Location Plan
 Appendix B – Current Licence