

Licensing Panel

Licensing Act 2003 – Review of a Premises Licence following Review Notice

**Sunny News & Off Licence
4 Oxford Street
Oldham, OL9 7SN**

Report of: Executive Member – Neighbourhoods

Officer Contact: Nicola Lord
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Date of Hearing: 16th November 2021

Reason for Hearing:

Pursuant to Section 53C of the Licensing Act 2003, the purpose of this report is to ask Members to review the premises licence in respect of Sunny News & Off Licence, 4 Oxford Street, Oldham, OL9 7SN following an application for review of those premises made by Oldham Council Trading Standards.

Recommendations

Members are recommended to consider the application.

Licensing Panel – 16th November 2021

Review of Premises Licence following Review Notice

Sunny News & Off Licence, 4 Oxford Street, Oldham, OL9 7SN

1. Purpose of Report

1.1 Pursuant to Section 53C of the Licensing Act 2003, the purpose of this report is to ask Members to review the premises licence in respect of Sunny News & Off Licence, 4 Oxford Street, Oldham, OL9 7SN following an application for review of those premises made by Oldham Council Trading Standard.

2. The Premises

2.1 Sunny News & Off Licence is located at 4 Oxford Street, Oldham, OL9 7SN. The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) is Mr Riaz Ahmed.

2.2 A location map is attached at **Appendix 1**.

2.3 A copy of the existing premises licence is attached at **Appendix 2**.

3. The Application

3.1 On 23rd July 2021 the applicant, Oldham Council Trading Standards, applied for a review of the premises licence for Sunny Off Licence. A copy of the application is attached at **Appendix 3**. The last date for representations in relation to this application was 20th August 2021.

3.2 The review was lodged on the following grounds:

Prevention of Crime & Disorder
Public Safety; and,
Protection of Children from Harm

3.3 In summary Trading Standards have found illicit tobacco and single cigarettes being sold on several occasions from this premises following complaints being received. The most recent occasion being the 20th February 2021 and dating back to the 8th April 2014. During this period illicit and counterfeit tobacco has been found on six occasions.

3.4 Following the seizure of illicit and counterfeit tobacco from the premises on the 8th April 2014 the premises were issued with a letter which was acknowledged and signed by the PLH and DPS. Since this, illicit and counterfeit tobacco has been found on a further five occasions. On the 31st October 2019 and the 16th January 2021 letters were sent to the premises notifying them of recent complaints, however, no response was received.

3.5 Full details of the complaints and visits to the premises are included in the Review Application attached at **Appendix 3**.

3.6 As part of the review, Trading Standards are seeking revocation of the premises licence.

4. Representations

4.1 No representations have been received for this application

5. Licensing Policy

5.1 Members considering this application should take note of the Authority's Licensing Policy Statement. Attention should be drawn to Section 6 – Crime & Disorder, Section 7 – Public Safety and Section 9 – Protection of Children from Harm.

5.2 A full copy of the Councils Licensing Policy Statement will be available at the hearing.

6. Secretary of State's Guidance

6.1 Members also need to consider statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

6.2 Chapter 11 of the guidance deals with reviews. Members attention is drawn to paragraphs 11.17 to 11.20 which provide:

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

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- a. modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- b. exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- c. remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- d. suspend the licence for a period not exceeding three months;
- e. revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

6.3 Sections 11.24 to 11.28 cover reviews arising in connection with crime and members attention is drawn to this area and specifically paragraph 11.27 and 11.28 which provide:

11.27 There is certain 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 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 any 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.

6.4 A full copy of the guidelines will be available at the hearing.

7. Options

7.1 When determining the application Members may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps available to Members are:

- a. To modify the conditions of the licence
- b. To exclude a licensable activity
- c. To remove the designated premises supervisor
- d. To suspend the premises licence for a period not exceeding 3 months; or
- e. To revoke the licence

7.2 Any steps appropriate to promote the licensing objectives should be specified. If none of the steps are appropriate and proportionate, no action should be taken.

7.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure. The decision should be based on the individual merits of the application.

8. Consultation

8.1 Consultation in accordance with the Act has taken place with all responsible bodies and notice has been given to allow for any representations from interested parties.

8. Legal Services Comments

8.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance referred to in paragraph 7. The chief officer of police for the police area in which the premises are situated, the holder of the premises licence or any other person who made relevant representations in relation to the application for the review have a right of appeal to the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against. (S Rawat)

9. Environmental and Health & Safety Implications

9.1 None

10. Equality, Community Cohesion & Crime Implications

10.1 The Councils Statement of Licensing Policy considers these matters. All decisions made by the Licensing Panel must have regard to this policy and national guidance.

11. Background Papers

11.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref: Records held in Directorate
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12. Appendices

Appendix 1 – Location map
Appendix 2 – Existing premises licence
Appendix 3 – Review Application