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Northamptonshire
Council**


Meeting: Licensing Act 2003 Sub-Committee

Date: Friday 13th August 2021

Time: 2.30 pm

Venue: Committee Room, Swanspool House, Wellingborough, NN8 1BP

To : Councillor Jonathan Ekins (Chair), Councillor Jennie Bone (Vice-Chair) and Councillor Lora Lawman

Agenda			
Item	Subject	Presenting Officer	Page no.
01	Apologies for non-attendance		
02	Members declarations of interest		
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05	Close of meeting		
<p>Adele Wylie, Monitoring Officer North Northamptonshire Council</p>  <p>Proper Officer Thursday 5 August 2021</p>			

This agenda has been published by Democratic Services.

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Public Participation

For further information about this item, please contact Amanda Wilcox on 01933 231 954 Amanda.Wilcox@northnorthants.gov.uk or Philippa Bright on 01933 231 972 Philippa.Bright@northnorthants.gov.uk

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LICENSING ACT 2003 SUB-COMMITTEE 13 August 2021

Report Title	Application to transfer a premises licence and vary the named Designated Premises Supervisor.
Report Author	Iain Smith Assistant Director of Regulatory Services Iain.Smith@northnorthants.gov.uk

List of Appendices

Appendix A – Application Forms
Appendix B – Representation
Appendix C – Decision Notice

1. Purpose of Report

- 1.1 To obtain the sub-committee's decision in respect of an application to transfer the Premises Licence and vary the Designated Premises Supervisor (DPS) for Rogalik, 51 Midland Road, Wellingborough, Northamptonshire, NN8 1HF.

2. Executive Summary

- 2.1 The application to transfer the Premises Licence and vary the named DPS, has attracted a representation against the transfer and variation of the licence. The report sets out the background to the issue and invites the sub-committee to determine the application.

3. Recommendations

- 3.1 The sub-committee is recommended to consider whether to grant the applications as requested.

4. Report Background

- 4.1 Applications have been submitted to transfer the Premises Licence and to vary the DPS for Rogalik, 51 Midland Road, Wellingborough. The full details are included within the application forms included in Appendix A.
- 4.2 Following consultation, a representation was received from the Police against granting the applications. This representation is included within Appendix B. The representation objects on the grounds that the licensing objective, as prescribed by Section 4(2) of the Act, is not likely to be met. The relevant licensing objective is;
- the prevention of crime and disorder

5. Issues and Choices

- 5.1 The representation from the Police details a visit undertaken on 3rd March 2020 when tobacco products were found on the premises for which the required duty had not been paid. A test purchase visit undertaken on 14th April 2020 is also detailed, during which a plain clothed Police Officer purchased a packet of Russian cigarettes. The applicant who has requested to become the licence holder and named DPS was managing the premises at the time of these visits.
- 5.2 The Police submitted an application to review the premises licence in August 2020, as a consequence of these visits. This application was considered by the Licensing Sub-Committee for Borough Council of Wellingborough on 19th October 2020. A copy of the decision notice is included within Appendix C.
- 5.3 The licence holder has submitted an appeal to the magistrates court against this decision. The appeal hearing is still to be heard, so the outcome is currently pending and the premises is trading as normal pending the outcome of the appeal.
- 5.4 It is the opinion of the police that granting the application to transfer the premises licence and vary the DPS to the individual who was managing the premises at the time of the above incidents, would undermine the crime and disorder licensing objective.
- 5.5 Members should be mindful of the guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, which provides guidance on the powers of the licensing authority on the determination of applications.
- 5.6 Members should also take into consideration the councils Statement of Licensing Policy.
- 5.7 Whilst having regard to the information provided by the applicant, the representation and also the Councils Statement of Licensing Policy, the Sub-Committee's decision must be made with a view to promoting the prevention of crime and disorder licensing objective.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 There are no financial implications to the authority in relation to this report.

6.2 Legal

6.2.1 The police may object to the designation of a new DPS, or the transfer of a premises licence where in exceptional circumstances, they believe that the changes would undermine the crime prevention licensing objective. The licensing authority when considering this matter, must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision.

6.2.2 In accordance with the provisions of the Act, if a Licensing Authority rejects an application to transfer a Premises Licence or vary a DPS, the applicant may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

6.3 Risk

6.3.1 None

6.4 Consultation

6.4.1 As prescribed by the Licensing Act 2003, the application was shared with the Police for their consideration.

6.5 Consideration by Scrutiny

6.5.1 None

6.6 Climate Impact

6.6.1 None

6.7 Community Impact

6.7.1 None

7. Background Papers

7.1 Section 182 Licensing Act 2003 Guidance - it is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

7.2 Statement of Licensing Policy - the Council will have regard to the policy when making a decision on applications made under the Act

Appendix A

Application to transfer premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

14/00061/LADPST

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Rogalik
51 Midland Road
Wellingborough
Northants

Post town Wellingborough

Post code NN8 1HF

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1)
Convenience Store - Off Licence

Name of current premises licence holder

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals*

Please tick ☒ yes

yes please complete section (A)

b) a person other than an individual *

i. as a limited company

☐ please complete section (B)

ii. as a partnership

☐ please complete section (B)

iii. as an unincorporated association or

☐ please complete section (B)

- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or yes
- I am making the application pursuant to a
 - statutory function or ☐
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev)

Surname First names

Date of birth I am 18 ☒ Please tick ☒ yes
 Nationality yes
 Current residential address if different from premises

address**Post town**

Wellingborough

Post code**Daytime contact telephone number****E-mail address
(optional)****SECOND INDIVIDUAL APPLICANT (fill in as applicable)****Mr** ☐**Mrs** ☐**Miss** ☐**Ms** ☐**Other title**

(for example, Rev)

Surname**First names****Date of birth****Nationality****Current
residential
address if
different from
premises
address****I am 18 years old or over****Please tick ☒ yes**☐**Post town****Post code****Daytime contact telephone number****E-mail address
(optional)****(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice?

☐

Do you wish the transfer to have immediate effect?

yes

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder

yes

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003) yes

Please tick ☒ yes

I have enclosed the premises licence yes

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee yes
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed yes
- I have enclosed the premises licence or relevant part of it or explanation yes
- I have sent a copy of this application to the chief officer of police today yes
- I have sent a copy of this form to Home Office Immigration Enforcement today yes

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date 09-07-2021

Capacity Agent on behalf of applicant

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity Agent on behalf of applicant

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we 
[full name of premises licence holder(s)]

the premises licence holder of premises licence number 14/00061/LADPST
[insert premises licence number]

relating to

Rogalik, 51 Midland Road, Wellingborough, NN8 1HF
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

14/00061/LADPST
[insert premises licence number]

to


[full name of transferee]

signed
name
(please print) 

dated 09-07-2021

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we Shahram Ali Poori

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

1400061/LADPST

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Rogalik
51 Midland Road
Wellingborough

Post town

Wellingborough

Post code (if known)

NN8 1HF

Telephone number (if any)

■■■■■■■■■■

Description of premises (please read guidance note 1)

Convenience store with Off Licence

Part 2

Full name of proposed designated premises supervisor
Shahram Ali Poori

Nationality [REDACTED]

Place of birth [REDACTED]

Date of birth [REDACTED]

**Personal licence number of proposed designated premises supervisor and
issuing authority of that licence (if any)**

[REDACTED] North Northamptonshire Council

Full name of existing designated premises supervisor (if any)
[REDACTED]

Please tick yes

I would like this application to have immediate effect under
section 38 of the Licensing Act 2003

yes

I have enclosed the premises licence or relevant part of it

yes

(If you have not enclosed the premises licence, or relevant part of it, please give
reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee Y
- I will give a copy of this application to the chief officer of police Y
- I have enclosed the consent form completed by the proposed premises
supervisor Y
- I have enclosed the premises licence, or relevant part of it or explanation Y
- I will give a copy of this form to the existing premises supervisor, if any Y
- I understand that if I do not comply with the above requirements my
application will be rejected y

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature

[Redacted Signature]

Date 09-07-2021

Capacity Agent for applicant

For joint applicants signature of 2nd applicant 2nd applicant's solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity Agent for applicant

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

[Redacted Contact Name and Address]

Post town

[Redacted Post Town]

Post Code

[Redacted Post Code]

Telephone number (if any)

[Redacted Telephone Number]

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

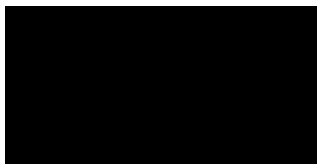
[Redacted E-mail Address]

Consent of Individual to being specified as premises supervisor

Shahram Ali Poori

I

[full name of prospective premises supervisor]



[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Transfer of Convenience store with Off Licence

[type of application]

by

Shahram Ali Poori

[name of applicant]

14/00061/LADPST

relating to a premises licence

[number of existing licence, if any]

for

Rogalik
51 Midland Road
Wellingborough
NN8 1HF

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Shahram Ali Poori

[name of applicant]

concerning the supply of alcohol at

Rogalik
51 Midland Road
Wellingborough
NN8 1HF

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number



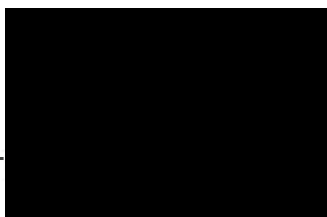
[insert personal licence number, if any]

Personal licence issuing authority

North Northamptonshire CpCouncil

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed



Name (please print) Shahram Ali Poori

09-07-21

Date

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Appendix B

[REDACTED]

From: Bryan David (PC) [REDACTED]

Sent: 19 July 2021 15:12

[REDACTED]

Subject: Premises Licence Transfer and Vary DPS application, Rogalik, 51, Midland Road, Wellingborough, NN8 1HF.

Dear Mr O'Donnell,

I act on behalf of the Chief Officer of Police for Northamptonshire, Mr Adderley. He has delegated responsibility and authorised me to act on his behalf with regard to representations made by Northamptonshire Police to Licensing Authorities across the county of Northamptonshire.

Northamptonshire Police are objecting to the grant of the above mentioned applications under the Licensing Objective of the Prevention of Crime and Disorder, the reasons and rationale are detailed below.

On the 3rd of March 2020, officers from Her Majesties Revenue and Customs (**HMRC**), Northamptonshire County Council Trading Standards Department, and Northamptonshire Police Licensing Department visited the premises as part of an operation centring on the illegal sale of duty not paid tobacco products. During the visit the services of a tobacco detection dog were employed. The owner of the business who identified himself as Mr Poori was present during the visit however the Premises Licence Holder and Designated Premises Supervisor at the time Mr Tanna was not. In Mr Poori's office situated at the rear of the property the tobacco detection dog made an indication at the rear wall in the office, at the same time scratching noises could be heard coming from behind the wall where a wooden panel and cupboard were situated. The wooden panel was lifted to reveal a hidden storage hole/hide that could be accessed via a metal door situated on the outer wall of the property as well as within Mr Poori's office. By this time the compartment area had been cleared, Officers exited the premises and located an alleyway that led to the rear of the premises and seized various tobacco products that had been dropped on the ground when the storage compartment was cleared, no persons were discovered. In addition before leaving the premises an HMRC Officer took the shop keys with them, one of the keys taken fitted the lock of the metal door situated on the outer wall and the keys were the property of Mr Poori.

The items recovered and seized left in the storage area/hide is as follows:
20 **L&M LINK** cigarettes, 20 **PECT** cigarettes.

On the ground in the rear alley,
0.15kg of **AMBERLEAF** hand rolling tobacco,
0.05kg of **GOLDEN VIRGINIA** hand rolling tobacco,
40 **MALBORO WHITE** cigarettes,
40 **MALBORO GOLD** cigarettes, and
40 **PECT** cigarettes.
All the seized items were duty not paid tobacco products.

On the 14th of April 2020 Northamptonshire Police conducted a Test Purchase at the premises, a packet of Russian labelled cigarettes were sold to a plain clothes police officer for £3.50.

On the 18th of June 2020 Northamptonshire Police wrote to the Premises Licence Holder and the Designated Premises Supervisor Mr Tanna detailing the visited in March 2020 and the Test Purchase on the 14th of April 2020. The week commencing the 29th of June 2020 Mr Tanna contacted Northamptonshire Police by phone and spoke with PC 113 Bryan, during this conversation Mr Tanna explained that he had sold the business to Mr Poori and was not the landlord of the property at 51 Midland Road. Mr Tanna explained that he offered to remain the Premises Licence Holder and DPS as Mr Poori did not have a Personal Licence. Mr Tanna went on further to state that he has nothing to do with the business and is not involved in the day to day running of the business.

A Review Hearing of the Premises Licence took place on the 19th of October 2020 after Northamptonshire Police submitted Review papers, Mr Tanna and Mr Poori were present at the hearing and after both sides made their representations the Licensing Sub-committee of the Borough Council of Wellingborough revoked the Premises Licence. The Premises Licence Holder at the time Mr Tanna has appealed this decision to Northamptonshire Magistrates and the case is yet to be heard as of the date of this E-mail.

Northamptonshire Police hold the opinion that to grant the transfer of the Premises Licence and the subsequent vary DPS application would undermine the Licensing Objective of the Prevention of Crime and Disorder and the objective would not be promoted.

I submit for your consideration

Kind Regards

Police Constable 113 David Bryan



Northamptonshire Police
Alcohol Licensing Constable
Wellingborough Police Station
Midland Road
Wellingborough
NN8 1HF

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

In an emergency call **999**
For non emergencies call **101**

www.northants.police.uk



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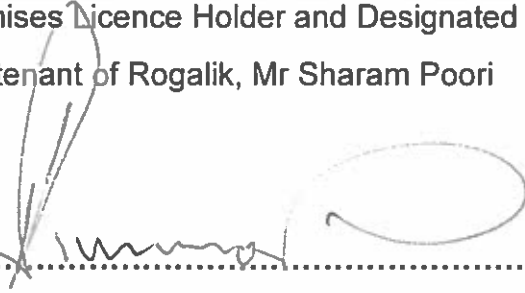
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Appendix C

BOROUGH COUNCIL OF WELLINGBOROUGH
LICENSING SUB-COMMITTEE
REASONS FORM FOR COMMITTEE DECISION

Date	19 th October 2020
Purpose of hearing:	Review of the Premises Licence for Rogalik, 50 Midland Road, Wellingborough that was requested by Northamptonshire Police
Chairman and Members of Sub-Committee:	
Councillor Simmons – Chairman Councillor Maguire Councillor Morrall	
Legal Advisor to Sub-Committee:	
Louise Delavaloire – Litigation Paralegal, District Law	
Decisions (i.e. Grant/Refuse/Revoke) to include any specific additional details:	
The Committee have made the unanimous decision to revoke the Premises Licence.	
Reasons for Decision:	
The Panel took into account: <ul style="list-style-type: none"> • the report of the Environmental Health Manager, • representation from the Licensing Enforcement Officer of Borough Council of Wellingborough • representation from PC David Bryan of Northamptonshire Police • Premises Licence Holder and Designated Premises Supervisor Mr Chandrakant Tanna • The tenant of Rogalik, Mr Sharam Poori 	
Signed (Chair of Sub-Committee)	

Continue overleaf if necessary

The Panel carefully deliberated and had regard to:

- The Licensing Act 2003
- The Statement of Licensing Policy
- S182 Guidance
- Borough Council of Wellingborough's Licensing Policy

The reasons for the review was in relation to the failure to promote the licensing objective in relation to prevention of crime and disorder. The Committee took into consideration their obligation to treat the sale or storage of illegal tobacco as a serious criminal activity.

The number of failures to comply with the conditions of the Premises Licence being lack of age verification policy, no incident log, no authorisation process for the sale of alcohol, lack of employee training in licensing matters, partially operative CCTV system and no first aid box, demonstrated a failure to consider public safety in general.

The Premises License Holder and Designated Premises Supervisor failed to demonstrate he had any reasonable control over or connection to the Premises. He also failed to show a basic knowledge of the licensing objectives and his responsibilities under the Licensing Act.

The Panel had seriously considered the options available to them and received the appropriate legal advice. It was considered not appropriate to merely modify the conditions of the license. A suspension of the license was deemed inappropriate as the Committee was not satisfied that doing so would prompt a change in the operation of the Premises, due to the ongoing lack of management control.

It is for that reason that the Committee, decided unanimously that it is appropriate and proportionate to revoke the Premises Licence.

Signed.....(Chair of Committee)

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