


|   |                         |
|---|-------------------------|
|  |                         |
| <b>Meeting of Licensing Act 2003 Sub-Committee</b>                                | <b>5 September 2024</b> |
| Report from the Director for the Environment, Transport and Planning              |                         |

**Section 52(2) Review of Premises Licence CYC/069000 Slavic Foods, 47A Crichton Avenue, York YO30 6EF**

**Summary**

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of Slavic Foods, 47A Crichton Avenue, York YO30 6EF, premises licence number CYC/069000.
2. Name of applicant: Lesley Cooke, Licensing Manager, for the Licensing Authority at the City of York Council
3. Summary of Review: The application to review the premises licence relates to the following licensing objectives.
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
4. A copy of the application for review is attached at Annex 1, alongside several statements and exhibits. It is summarised as follows:

This premises has been licensed by the City of York Council since August 2021 to supply the sale of alcohol for consumption off the premises.

The current premises licence holder has held the licence since December 2023, however he confirmed to North Yorkshire Police that he took over the operation of the premises in January 2022.

On 4 December 2023 Trading Standards Enforcement Officers from City of York Council, alongside North Yorkshire Police visited the premises following the receipt of intelligence that illicit tobacco and vapes were being sold. During this initial visit 242 illicit tobacco products and 147 illicit vapes were found and seized. During this visit North Yorkshire Police also removed one male from the premises who did not have the right to work in the UK.

On 14 December 2023 Trading Standards Officers, Licensing Enforcement Officers and North Yorkshire Police Officers returned to the premises to carry out a full licensing inspection in accordance with Section 179 of the Licensing Act 2003. During this visit further illicit vapes were seized. The Officers spoke with the only member of staff present who confirmed she did not know the names of the premises licence holder or the Designated Premises Supervisor (DPS). During this visit several licensing breaches were identified.

Following the visit on 14 December 2023 the Licensing Authority received applications to transfer the licence and vary the DPS.

On 22 February 2024 Licensing Officers from the City of York Council and North Yorkshire Police did a further visit to the premises. One member of staff was present, he refused to give his details and was arrested under suspicion of illegal entry to the UK under the Immigration Act 1971. Further breaches of the premises licence were identified during this visit.

The DPS was interviewed over the licensing offences, which she admitted. She received a simple caution for these offences.

On 26 March 2024 a further visit was undertaken at the premises, two further breaches of the premises licence were identified.

An ongoing investigation by Trading Standards is pending in respect of the sale of illicit tobacco and vapes.

5. A copy of the current premises licence and plan is attached at Annex 2. The premises licence currently authorises the following:

| <b>Licensable Activity</b> | <b>Current Days &amp; Hours</b> |
|----------------------------|---------------------------------|
|----------------------------|---------------------------------|

|                                      |                                 |
|--------------------------------------|---------------------------------|
| Supply of alcohol (off the premises) | 08:00 to 23:00 Monday to Sunday |
| Opening Hours                        | 06:00 to 23:00 Monday to Sunday |

## Consultation

6. Consultation was carried out by the Applicant and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder. Notice of the application was displayed in the vicinity of the premises, on the exterior noticeboard at the West Offices and on the Councils website.
7. A further representation was received from North Yorkshire Police; it appears at Annex 3.
8. A map showing the location of the premises is attached at Annex 4.

## Other Relevant Information

9. The premises licence was first granted in August 2021, it was transferred to the current licence holder in December 2023. It was described in the original application as a ground floor shop premises.

## Options

10. By virtue of S52(4) of the Act, the Sub-Committee may in making their decision take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
11. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).

12. Option 2: To exclude a licensable activity from the scope of the licence.
13. Option 3: To remove the Designated Premises Supervisor.
14. Option 4: To suspend the licence for a period not exceeding three months.
15. Option 5: To revoke the licence.

Where the Sub-Committee takes a step mentioned in Option 1 or Option 2, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Otherwise, the modification of conditions or the exclusion of a licensable activity will be permanent.

In deciding which, if any, of these steps to take, the Sub-Committee should direct its mind to the cause or causes of the concerns which the application and 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.

The Sub-Committee may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

## **Analysis**

16. The following could be the result of any decision made by this Sub-Committee:
17. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
18. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.

19. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
20. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
21. Option 5: This decision could be appealed by the premises licence holder.

The decision of the Sub-Committee will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

22. Members are reminded that they may only use their discretion to take remedial action in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

### **Council Priorities**

23. The Licensing Act 2003 has 4 objectives: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
24. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications for review the Council are supporting the licence trade, as well as local residents and businesses. The functions support the Council's Plan commitments to make York a healthier, fairer, more accessible place, where everyone feels valued, creating more regional opportunities to help today's residents and benefit future generations. It supports the particular priority for a fair, thriving, green economy for all.

### **Implications**

25.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A

- **Equalities** – The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions) when setting its Statement of Licensing Policy.
- **Legal** – The decision made by this Sub Committee is subject to appeal rights to the Magistrates Court.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

## **Risk Management**

26. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation, and potential financial penalty.
27. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

## **Recommendations**

28. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.



## Contact Details

|  |  |             |            |
|--|--|-------------|------------|
| <b>Author:</b>                                       | <b>Chief Officer Responsible for the report:</b>                   |             |            |
| Helen Sefton<br>Senior Licensing Officer<br>Ext 1526 | Director of Environment, Transport and Planning<br>James Gilchrist |             |            |
| <b>Report Approved</b>                               | √  | <b>Date</b> | 13.08.2024 |

**Wards Affected: Clifton Ward**

## Annexes

**Annex 1** - Copy of application for review of premises licence, plus appendices

**Annex 2** - Copy of premises licence, including layout plan

**Annex 3** – Representation by North Yorkshire Police

**Annex 4** - Map showing location of premises

**Annex 5** - Legislation and Policy Considerations