


## REPORT TO LICENSING SUB COMMITTEE

08 April 2019

<b>Subject:</b>	Application to REVIEW a Premises Licence known as Tamasha, situated at 36 Cape Hill, Smethwick B66 4PB
<b>Director:</b>	Director – Prevention and Protection – Stuart Lackenby
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s):</b>	Julie Hadley Licensing Officer <a href="mailto:Licensing_team@sandwell.gov.uk">Licensing_team@sandwell.gov.uk</a>

### DECISION RECOMMENDATIONS

**That The Licensing Sub Committee:**

1. Consider an application to review the Premises Licence submitted by SMBC Trading Standards in respect of premises known as Tamasha, situate at 36 Cape Hill, Smethwick B66 4PB.
  
2. Each application must be considered on its merits taking into account the evidence presented at the hearing, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy. The options that can be considered once evidence has been heard are detailed at paragraph 6.

## **1 PURPOSE OF THE REPORT**

- 1.1 To advise members of an application made under section 51 of the Licensing Act 2003 to review a Premises Licence in respect of premises known as Tamasha, situate at 36 Cape Hill, Smethwick B66 4PB.
- 1.2 The Licensing Panel is required to consider this application and take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives.

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.
- 2.2 It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.
- 2.3 Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods, all local partners are focused on what really matters in people's lives and communities.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 Under the Licensing Act 2003, a responsible authority or any other person who lives or works in the vicinity of the premises may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 3.2 No representations were received during the statutory consultation period.
- 3.3 Supporting letters from customers and neighbours of Tamasha shop were submitted on 14<sup>th</sup> March 2019. See Appendix 4.

## **4 THE CURRENT POSITION**

- 4.1 An application was made by SMBC Trading Standards on 14<sup>th</sup> February 2019 for a review of the premises licence.

- 4.2 A copy of the application is attached at Appendix 1.
- 4.3 The location and proximity to neighbouring premises can be seen on the location map provided which is attached at Appendix 3.
- 4.4 The application has been made on the grounds of the prevention of crime and disorder following an inspection of the business premises by SMBC Trading Standards who found illicit tobacco at the premises and also failure to comply with a number of licensing conditions.
- 4.5 SMBC Trading Standards are recommending that the premises licence be revoked.
- 4.6 The licence was granted on 17<sup>th</sup> April 2014
- 4.7 The holder of the premises licence is Bahadoor Moharramzadeh, who has held the licence since 20<sup>th</sup> February 2014. Mr Moharramzadeh is also the Designated Premises Supervisor and has been since 22<sup>nd</sup> April 2015.
- 4.8 The hours permitted for licensable activities are 09:00 – 23:00 every day.
- 4.9 The hours the premises are open to the public are 9:00 – 23:00 every day.
- 4.10 On 22<sup>nd</sup> April 2015 an application made by SMBC Trading Standards to review the premises licence was brought before the licensing sub-committee. The Premises Licence was suspended for 6 weeks, the Designated Premises Supervisor, Mahmoud Refahtalab was removed and conditions on the premises licence modified.
- 4.11 A copy of the premises licence is attached at Appendix 2

## **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 The Licensing Team have displayed a public notice on or near the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority, detailing a closing date for these to be received. Details of the application were also published on the Council's website.

## **6 ALTERNATIVE OPTIONS**

- 6.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:
- 6.2 To modify the conditions of the licence
- 6.3 To exclude a licensable activity from the scope of the licence
- 6.4 To remove the designated premises supervisor

- 6.5 To suspend the licence for a period not exceeding three months
- 6.6 To revoke the licence
- 6.7 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.
- 6.8 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.

## **7 STRATEGIC RESOURCE IMPLICATIONS**

- 7.1 There are no direct strategic resource implications associated with this application.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 Members of the Licensing Sub Committee when making their decision on the application must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The applicant and objectors have the right to appeal the decision made by the Licensing Sub Committee to the Magistrate's Court, so the Committee are asked to give reasons for their decision wherever possible.
- 8.2 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.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.
- 9.2 The operators of this premises are responsible for complying with all relevant legislation.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

- 10.1 Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public on line, in line with data protection protocols.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

- 11.1 The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and applicants have to demonstrate how they will achieve this objective by volunteering measures in the operating schedule submitted with the Licence application.

## **12 SUSTAINABILITY OF PROPOSALS**

- 12.1 In respect of premises licence applications, we do not for see any issues in respect of sustainability of proposals.

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

- 13.1 This is not applicable to applications for premises licences submitted under the Licensing Act 2003.

## **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

- 14.1 The application relates to privately owned property.

## **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 15.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision.

## **16 BACKGROUND PAPERS**

- 16.1 Sandwell Metropolitan Borough Council Licensing Policy  
16.2 Guidance issued under Section 182 of the Licensing Act 2003  
16.3 The Licensing Act 2003 (Hearings) Regulations 2005

## **17 APPENDICES:**

- 17.1 Appendix 1 – Review application  
17.2 Appendix 2 – Premises Licence  
17.3 Appendix 3 – Location Plan  
17.4 Appendix 4 – Supporting letters for premises

**Stuart Lackenby**  
**Director – Prevention and Protection**