

# Report to Licensing Sub Committee

**04 July 2022**

<b>Subject:</b>	Application to review a premises licence known as Top Tak, situated at 74 - 76 Cape Hill, Smethwick, B66 4PB.
<b>Director:</b>	Director – Borough Economy – Alice Davey
<b>Contact Officer:</b>	Balbir Dhugga (Licensing Officer) licensing_team@sandwell.gov.uk

## Recommendations


- 1 Consider an application to review the Premises Licence submitted by Trading Standards department at Sandwell Metropolitan Borough Council under Section 51 of the Licensing Act 2003. In respect of premises known as Top Tak, situated at 74 - 76 Cape Hill, Smethwick, B66 4PB.
2. Each application must be considered on its merits taking into account, the evidence presented at the hearing, and 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 section 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 Top Tak, situated at 74 - 76 Cape Hill, Smethwick, B66 4PB.
- 1.2 The Licensing Sub Committee is required to consider this application and take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives.



## 2 How does this deliver objectives of the Corporate Plan?

	<p><b>A strong and inclusive economy</b> Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>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.</p>
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## 3 Context and Key Issues

- 3.1 Under the Licensing Act 2003, a responsible authority or any other person 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

## 4 CURRENT POSITION

- 4.1 An application was made by Trading Standards at Sandwell Metropolitan Borough Council on 18<sup>th</sup> May 2022 for a review of the premises licence.
- 4.2 The application has been made on the grounds of 'The prevention of crime and disorder'. Trading Standards conducted an inspection on 10 August 2021 and found some illicit alcohol and tobacco concealed at the premises. All seized goods were found to be either counterfeit or duty evaded. It is an offence under Section 144 of the Licensing Act 2003 to keep any goods on a licensed premises that have been imported without payment of duty
- 4.3 A copy of the application is attached at Appendix 1.



- 4.4 The location and proximity to neighbouring premises can be seen on the location map provided which is attached at Appendix 3.
- 4.5 One representation has been received from the Public Health department at Sandwell Metropolitan Borough Council in support of the review application made by Trading Standards. This is attached at Appendix 4.

### **Background on current licence**

- 4.6 The licence was granted 25<sup>th</sup> April 2015.
- 4.7 The Premises licence holder is Mrs Azar Ebrahimi, who has held the licence since 18<sup>th</sup> January 2017. Ms Nastaran Khanoie is the Designated Premises Supervisor since 18<sup>th</sup> January 2017.
- 4.8 The hours permitted for licensable activities are 08:00 – 23:00 Monday to Sunday.
- 4.9 The hours the premises are open to the public are 08:00 – 23:00 Monday to Sunday.
- 4.10 A copy of the premises licence is attached at Appendix 2.
- 4.11 A location map of the premises is attached at Appendix 3.

### **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

The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- 6.1 To modify the conditions of the licence.
- 6.2 To exclude a licensable activity from the scope of the licence.
- 6.3 To remove the designated premises supervisor.
- 6.4 To suspend the licence for a period not exceeding three months.
- 6.7 To revoke the licence.
- 6.8 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.
- 6.9 Conditions may be altered or omitted, or any new condition added.
- 6.10 Members of the Sub Committee should be advised that the applicant, 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 Implications

<p><b>Resources:</b></p>	<p>There are no direct strategic resource implications associated with this review a premises licence application.</p> <p>In respect of a review of a premises licence, we do not foresee any issues in respect of sustainability of proposals.</p>
<p><b>Legal and Governance:</b></p>	<p>Members of the Licensing Sub Committee when making their decision on the review application must</p>



	<p>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 those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.</p> <p>Members of the Sub-Committee should not allow themselves to predetermine the review 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.</p>
<p><b>Risk:</b></p>	<p>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.</p> <p>The Police have not made a representation to this review a premises licence application.</p> <p>Whilst full details of the review 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 online, in line with data protection protocols.</p>
<p><b>Equality:</b></p>	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
<p><b>Health and Wellbeing:</b></p>	<p>This is not applicable to review applications for premises licences submitted under the Licensing Act 2003.</p>



<b>Social Value</b>	This is not applicable to review applications for premises licences submitted under the Licensing Act 2003.
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## 8 Appendices

- Appendix 1 – Review Application
- Appendix 2 – Premises Licence
- Appendix 3 – Location Plan
- Appendix 4 – Representation

## 9 Background Papers

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

