

Gloucester

City Council

Meeting:	Licensing Sub-Committee	
Date:	29 July 2021	
Subject:	Application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 for WAG 3, 38 Bristol Road, Gloucester, GL1 5SD	
Report Of:	Head of Communities	
Wards Affected:	Moreland	
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Appendices:	1. Premises Licence 2. Application for review from Gloucestershire Trading Standards	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 For members to consider an application to review an existing Premises Licence in respect of WAG 3, 38 Bristol Road, Gloucester, GL1 5SD.

2.0 Recommendations

- 2.1 That the Licensing Sub-Committee considers and determines the review application and takes such steps as it considers appropriate for the promotion of the Licensing Objectives.

3.0 Background

- 3.1 WAG 3 currently benefits from a Premises Licence issued under the Licensing Act 2003. A copy of the current licence can be seen attached as **Appendix 1**. The licence outlines the current licensable activities along with the current conditions.
- 3.2 Section 51 of the Licensing Act 2003 states that where a Premises Licence has effect, 'Other Persons' or a 'Responsible Authority' may apply to the relevant Licensing Authority for a review of that licence.

3.3 In respect of an application from a Responsible Authority, the Licensing Authority may only reject the application if the grounds are not relevant to one or more of the Licensing Objectives.

4.0 The Application

4.1 On 19 May 2021, the Licensing Authority received an application from Gloucestershire County Council Trading Standards Service to review an existing Premises Licence at WAG 3, 38 Bristol Road, Gloucester, GL1 5SD. A copy of the review application plus supporting documentation submitted by Trading Standards is attached as **Appendix 2**.

4.2 It can be confirmed that the review application has been served on all Responsible Authorities. In addition, the application was advertised on Gloucester City Council's website and a Public Notice of the review was displayed at the premises for a period of 28 consecutive days.

4.3 The review application states that the following Licensing Objectives have been undermined:

- The Prevention of Crime and Disorder

4.4 The review application has been completed by Mr Rob Cardew, a senior trading standards officer, on behalf of Gloucestershire County Council Trading Standards Service and details a number of issues which have led to the application to review being submitted.

4.5 The issues identified which impact on the prevention of crime and disorder are:

Test purchases revealing the sale of illegal tobacco products, CCTV showing the sale of illegal tobacco products and

Failing to produce CCTV footage within a reasonable time which is a breach of a condition on the premises licence.

4.6 Full details of the issues identified and actions taken are detailed in the review application at **appendix 2**.

4.7 Asif Jabarkhil is the premises licence holder and the designated premises supervisor and details of this review have been delivered to him personally by Mr Cardew.

5.0 Representations

5.1 None of the other Responsible Authorities responded to the review application.

6.0 Financial Implications

6.1 There are no direct financial implications attached to the recommendations in this report. However, Members are advised that Mr Jabarkhil or the person making the application to review the Premises Licence has a right of appeal against any decision made by the Licensing Sub-Committee. At any such appeal costs may be awarded against the Council on a successful appeal if the Council has not acted reasonably.

7.0 Legal Implications

7.1 The Sub-Committee is obliged to determine this application with a view to promoting the four Licensing Objectives which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from harm

7.2 In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance (Section 182, Chapter 11) and the Council's own Licensing Policy Statement.

7.3 The Sub-Committee must also have regard to the contents of the application and the representations made both in support of, and against, that application and give appropriate consideration to all of the evidence presented.

7.4 The Sub-Committee must consider whether or not it is appropriate to take further steps to promote the Licensing Objectives. If it considers that some form of action is appropriate then it may take such of the following steps as it considers necessary for the promotion of the Licensing Objectives:

- (a) take no action;
- (b) issue an informal warning to the licence holder and / or recommend improvement within a particular period of time;
- (c) to modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- (d) to exclude a Licensable Activity from the scope of the licence;
- (e) to remove the Designated Premises Supervisor;
- (f) to suspend the licence for a period not exceeding three months; or
- (g) to revoke the licence

7.5 In deciding what, if any, steps to take the Sub-Committee should, so far as possible, seek to establish the cause or causes of the concerns that the representations identify and should try to ensure that any remedial action taken is directed at these causes and is no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

7.6 Where an application for a review of a Premises Licence is decided under Section 52 of the Licensing Act 2003, an appeal may be made against that decision by:

- (a) the applicant for the review,
- (b) the holder of the Premises Licence.

- 7.7 These parties may appeal against the decision, to the Magistrates Court within 21 days of being notified of the decision.
- 7.8 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal or until the disposal of the appeal.

(One Legal have been consulted in the preparation this report.)

8.0 Risk & Opportunity Management Implications

- 8.1 There is a right of appeal to the Magistrates Court for both the applicant and the Responsible Authority. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

9.0 People Impact Assessment (PIA):

- 9.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 9.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

10.0 Other Corporate Implications

Community Safety

- 10.1 None

Sustainability

- 10.2 None

Staffing & Trade Union

- 10.3 None

Background Documents: Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005
Gloucester City Council Licensing Policy Statement
Home Secretary (Home Office) Guidance issued under section 182