

WILTSHIRE COUNCIL

SOUTHERN AREA LICENSING SUB COMMITTEE

11 March 2015

Application for a Review of a Premises Licence: The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL

1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL made by Yvonne Bennett, Trading Standards Team Leader, Wiltshire Council.

2. Background Information

- 2.1 An application for a review of a Premises Licence in respect of The Polish Shop, 62 Winchester Street, Salisbury, SP1 1HL made by Yvonne Bennett for which no other relevant representations have been received at this time.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers appropriate for the promotion of the licensing objectives.

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- i) To modify the conditions of the licence.
- ii) To exclude a licensable activity from the scope of the licence.
- iii) To remove the designated premises supervisor.
- iv) To suspend the licence for a period not exceeding three months.
- v) To revoke the licence.
- vi) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act states that:

“Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the

licence financially and would only be expected to be pursued as appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives”

- 2.5 On 28 November 2013 an application for a new premises licence was received and accepted as a valid application. The Premises Licence application is attached as **Appendix 1**. This was under the name The Polish Shop but it is also known as Gosi. The Licence was granted 27th December 2013.
- 2.6 The current layout of the premises is attached as **Appendix 2**.
- 2.7 This is the first Premises licence held at the Premises since the inception of the Licensing Act 2003, current premises licence is attached as **Appendix 3** with the current conditions set out in **Appendix 3a**.
- 2.8 On 4 December 2013 the Premises was visited and advice was given on ensuring English labelling was on food products. **Appendix 4**.
- 2.9 As a result of intelligence received that illegal tobacco and alcohol products were being sold at the Polish Shop a visit was made to the Premises. This was on 15 July 2014 when a significant quantity of cigarettes and hand rolled tobacco were found on the premises by Trading Standards Officers. The products were labelled in various languages and were found to be illegal because the packaging did not bear the appropriate health warnings and failed to carry a UK duty paid fiscal mark. Statements of Trading Standards Officers are attached with regards to the illegal tobaccos **Appendix 5, 5a, and 5b**. Photographs are attached as **Appendix 6,6a,6b,6c,6d,6e,6f,6g,6h,6i,6j**.
- 2.10 When spoken to, the Premises Licence Holder and Designated Premises Supervisor, Mrs Malgorzata Gumula claimed that the illegal products were for personal use and were not in her possession for supply. However they were found in the shop premises, underneath the till area and in a store room. Some were also found in her vehicle. The shop also appeared to be under the control of inexperienced staff.
- 2.11 At the beginning of October 2014 Trading Standards received a complaint alleging that alcohol was being sold at the Polish Shop to persons under the age of 18. As a result of this a Test purchase operation was set up by Trading Standards using a 16 year old volunteer. A test purchase attempt by the volunteer resulted in a sale of alcohol on 30 October 2014 and a purchase of cigarettes. The person who sold the tobacco and alcohol to the 16 year old spoke very little English and had insufficient retail experience and training to be left alone on a premises selling alcohol and tobacco products. **Appendix 7 & 7a** letter to Mrs Gumula notifying her in both English and Polish of the intention of Trading Standards to undertake a Test purchase exercise. Statements from Trading Standards Officers are attached with regards to the Test Purchase **Appendix 8**, Photographs of items sold and the Sales assistant are **Appendix 9, 9a 9b**.

- 2.12 Mrs Malgorzeta Gumula supplied a letter dated 20 October 2014 stating that Aleksandra Bonus was aware of Challenge 25 policy. **Appendix 10.**
- 2.13 On 4 February 2015 an application for a review of the existing premises licence was received **Appendix 11** and accepted as a valid application. During consultation for this application no other relevant representation was received.
- 2.14 The premise operates as a retail outlet in the City Centre of Salisbury. The Location of the Premises is attached as **Appendix 12.** A more detailed position of the Premises is attached as **Appendix 12a.**

3. Consultation and Representations

3.1 The application process requires a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, Bourne Hill, Salisbury, SP1 3UZ. During the consultation period no other relevant representations were received.

3.2 Responsible Authorities

- No Responsible Authority has made a representation in connection with this application.

3.3 Interested Parties

- No interested parties made a relevant representation.

3.4 A summary of the representations made is detailed in the table below:

Representation	Licensing Objective	Accepted
None		

4. Legal Implications

4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

4.2 The Applicant and all Responsible Authorities and Interested Parties who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those Responsible Authorities and Interested Parties who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

- 5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

6. Right of Appeal

- 6.1 It should be noted that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or person/s who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 7.3 The Premises Licence Holder and all those who have made a representation have been informed of the date, time and location of the hearing and their right to attend and be represented.

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Ian Garrod, Public Protection Officer (Licensing)

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Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1. Licence Application**
- 2. Current Layout of Premises**
- 3. Current Premises Licence**
- 3a Current Conditions**
- 4 Form giving details of labelling advice**
- 5 Statement from Robin Green – dated 24/09/2014**
- 5a Statement from Emma Carroll – dated 15/01/2015**
- 5b Statement from Robin Green – dated 15/01/2015**
- 6 Photograph Cigarettes and tobaccos found**

- 6a** Photograph of front Russian cigarette box
- 6b** Photograph Side view of Russian cigarette box
- 6c** Photograph of front Golden Gate cigarette box
- 6d** Photograph of side view Golden Gate cigarette box
- 6e** Photograph of other side of Golden Gate cigarette box
- 6f** Photograph of front of LD cigarette box
- 6g** Photograph of side view LD cigarette box
- 6h** Photograph of Front view Monte Carlo Cigarette Box
- 6i** Photograph of front view NZ Black Super Slims
- 6j** Photograph of front view NZ Gold Super Slims
- 7** Letter to Mrs Gumula in English
- 7a** Letter to Mrs Gumula in Polish
- 8** Statement from Robin Green – dated 10/11/2014
- 9** Photograph of items sold Desperado Beer
- 9a** Photographs of item sold Marlborough Cigarettes
- 9b** Photograph of sales assistant
- 10** Letter from Mrs Malgortzata Gumula authorising sale of Alcohol & Tobacco products
- 11** Review Application
- 12** Premises location
- 12a** More detailed position of Premises