



DECISION NOTICE

Date	10 th March 2017 (Hearing adjourned from 3 rd March 2017)
Applicant	Lancashire Constabulary
Premises and Licence Holder	Harvey's, 81 Poulton Street, Kirkham Mr Kasim Ali Ahmed
Reason for Hearing	The Licensing Authority has received an application for the review of the premises licence at Harvey's, 81 Poulton Street, Kirkham. The Licensing Authority must therefore hold a hearing to consider the application.
Parties in Attendance	<p>Panel:</p> <p>Councillor Angela Jacques - Convenor, Councillor Barbara Nash, Councillor Alan Clayton.</p> <p>For the Applicant:</p> <p>Police Licensing Sergeant Helen Parkinson PC Dave Kerfoot</p> <p>For the Premises Licence Holder:</p> <p>Kasim Ali Ahmed Ghafar Khan representing Mr Ahmed</p> <p>Interested Parties:</p> <p>Councillor Keith Beckett on behalf of Kirkham Town Council</p>

The licensing authority has received an application for the review of the premises licence at Harvey's, 81 Poulton Street, Kirkham. The Licensing Authority must therefore hold a hearing to consider the application.

The premises operate as a takeaway and are currently licensed to provide late night refreshment between 2300 and 0100 Monday to Sunday. Our decision today can only affect that element of its operations. Its operation as a takeaway outside those hours is not a licensable activity under the Licensing Act.

In considering an application for review, the panel must consider whether any of the steps set out in section 52(4) of the Licensing Act 2003 are appropriate for the promotion of the licensing objectives, and take such steps as it does consider are appropriate.

The review application was made by Lancashire Constabulary, (who I will refer to as 'the police') and was said by them to relate to the following three of the licensing objectives:

- The prevention of crime and disorder;
- The prevention of public nuisance; and
- The protection of children from harm.

The police contended that the step which was appropriate for the promotion of the licensing objectives was to revoke the licence. Kirkham Town Council, as they were entitled to do, also made representations in support of the revocation of the licence.

The panel heard from Sergeant Helen Parkinson and PC Kerfoot on behalf of Lancashire Constabulary and from Councillor Keith Beckett on behalf of Kirkham Town Council. The panel also heard representations from Mr Ghafar Khan on behalf of the licence holder, Mr Ahmed, and from Mr Karim Ahmed himself. We thank all those concerned for their attendance and points of view.

The case for the police, consisted of the submissions of Sergeant Parkinson and written material such as statements and police logs of incidents. There was also a limited amount of first-hand evidence from PC Kerfoot and explanatory material from both police representatives. Much of the material we read and heard in the police's case was hearsay, sometimes second or third hand hearsay. We felt that we could give this material significant weight, as none of the matters set out in the witness statements was disputed to a significant degree on behalf of Mr Ahmed. On the other hand, we did not regard some of the matters introduced by the police as being directly material to the issue in hand, and disregarded those matters. This applied to the allegation that Mr Ahmed had breached the terms of his bail and the investigation into an alleged fraud that had nothing to do with the premises. We also found the traffic offences mentioned to be of limited assistance to us. So far as the food safety matters are concerned, they are a matter of concern, but are not directly relevant to licensing. Their relevance lies in the light they shed on the ability or willingness of the management of the premises to work with the authorities to address problems in a timely and constructive way.

The matters that concerned us most related to the violent incidents that had been associated with the premises, the presence of controlled drugs there, and the unusual presence of minors on the premises and in delivery vehicles.

In relation to the violent incidents, we found as facts that they took place in the way described by the police. A late night takeaway will often attract customers who have been drinking and might be confrontational or even violent. For that reason, it is imperative that staff should be temperamentally suited and properly trained to defuse any potential incidents. On the evidence that we heard, and accepted, this was not the case at Harvey's. Staff reacted inappropriately and risked exacerbating incidents by their actions.

We accepted the police's evidence as to the presence of cocaine, a controlled drug, at the premises. We do not accept that it had been planted by the police or left inadvertently by a previous owner. We also find that the quantity found was such as to suggest that the cocaine was there for the purposes of supply.

We accept the evidence of the police that the high numbers of young people at or about the premises was unusual in comparison with other takeaways, particularly late at night. This concern was increased by the incident in the police's evidence of four young people being found in a delivery vehicle, without a realistic explanation. We are unconvinced by the explanations offered by Mr Ahmed. The presence of drugs on the premises and the high number of young people frequenting them suggest to us that it is necessary to take action on the review for the promotion of the three engaged licensing objectives. Although of limited weight, the reported concerns of the school Pastoral Care officer also indicated a problem in this regard

We therefore considered whether some action short of the revocation urged by the police was appropriate. We concluded that any other action would not be appropriate. The way in which violent incidents in the premises had been managed, or not managed, the reluctance of the management of the premises to provide the police with CCTV images of such incidents, and, to a lesser extent, the fact that formal enforcement action had been needed in relation to food safety at the premises, satisfied us that there would be little prospect that adding to or varying the conditions of the licence would result in the licensing concerns regarding the premises being resolved.

Taking into account all the information put before us, the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003, in particular Chapter 11.27, we have therefore concluded that the licence must be revoked

That is our decision and we thank you for your assistance.