

TITLE: Application for the review of a premises – Licensing Act 2003

Committee: Licensing (Statutory) Sub Committee

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Author: Senior Licensing Officer

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Contact Officer:

Stewart Broome, Senior Licensing Officer

Stewart.broome@eastcamb.gov.uk, 01353 616477, Room SF208 The Grange, Ely

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To determine an application for the review of a premises licence held by ARUN Capital Limited in respect of Londis, 31 Carter Street, Fordham, Ely, Cambs, CB7 5NG.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report and all of the evidence provided during the hearing, and determine the application in accordance with the options contained in paragraph 4.4 of this report.

3.0 BACKGROUND

3.1 Premises History

The property is a convenience store attached to and forming part of the Fordham Petrol Service Station offering. The site was initially granted a premises licence on the 29th September 2005, and this licence was transferred to ARUN Capital Limited on 25th January 2021. This licence is attached as **Appendix 1** to this report.

3.2 Details of the application

On 27th September 2023, Home Office Immigration Enforcement made an application to review the premises licence held by ARUN Capital Limited under the “prevention of crime and disorder” licensing objective. A copy of the review application and the supporting evidence is attached as **Appendix 2** to this report.

3.3 Representations from Responsible Authorities

In submitting the review application in its role as a responsible authority under the Licensing Act 2003, the Home Office is required to send a copy of the

application pack to the licence holder and all other responsible authorities. Officers can confirm that this occurred, and no comments have been received from any of the responsible authorities consulted.

3.4 Representations from “Other Persons”

The process requires the Licensing Authority to advertise the review application and provide a 28-day consultation period, in which “other persons” may submit a comment supporting the licence holder or the review applicant. Officers can confirm that this requirement was observed, and as a result one comment was received supporting the licence holder. This comment is attached to this report as **Appendix 3**.

3.5 Location plan

A location map is attached as **Appendix 4** showing the general location of the Londis premises.

4.0 **DETERMINATION OF APPLICATION**

4.1 Members are obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

In making their decision Members are also obliged to have regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Council’s Statement of Licensing Policy. Should Members depart from either they must specify their reasons for doing so. Members must also take into account the information contained within this report, and the evidence submitted, both written (if submission of such information is agreed by all parties at the hearing) and orally during the hearing.

4.2 Relevant Statutory Guidance considerations (**Appendix 5**):

The Licensing Objectives	Section 2
Reviews	Section 11

4.3 Relevant Local Policy considerations (**Appendix 6**):

Representations	Section 1.51 to 1.55
Review of Licences	Section 1.101 to 1.106
Licensing Objectives	Section 3
Prevention of Crime and Disorder	Section 4

4.4 Members can determine the review application as follows:

- a) reject the application
- b) modify the conditions of the licence*
- c) exclude a licensable activity from the scope of the licence
- d) remove the designated premises supervisor
- e) suspend the licence for a period not exceeding three months
- f) revoke the licence

* and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Step b) and c) may be taken on a permanent basis, or for a temporary period not exceeding 3 months.

4.5 Members are asked to note that they may not take action under a) to f) above merely because they consider it desirable to do so. It must actually be **appropriate** to do so in order to promote the licensing objectives, and any such step must relate to the evidence presented. If Conditions are considered they must be focused on matters which are within the control of applicant, i.e. the premises and its vicinity.

Regulation 19 of the Hearings Regulations 2005 requires authorities to disregard any information given by a party or person that is “not relevant” to their application or representation, and is not relevant to the licensing objectives.

4.6 In determining the review application, Members must provide the reasons for their decisions, and consider their responsibilities under the Human Rights Act 1998.

4.7 Any decision taken must be **appropriate and proportionate** to the objective being pursued. In particular the following should be taken into consideration:

Article 6 – the right to a fair hearing

Article 8 – respect for private and family life

Article 1, First protocol – peaceful enjoyment of possessions (which can include the possession of a licence)

Article 14 – the right to freedom from discrimination.

5.0 **FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT**

5.1 The cost of convening a Licensing (Statutory) Sub-Committee to determine a review application is covered by the statutory fees paid by licence applicants.

5.2 The applicant, licence holder and any other party to the hearing can appeal the decision made by Members to the Magistrates’ Court. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision. The decision can be advised up to 5 working days from the date of the hearing.

5.3 Equality Impact Assessment (EIA) is not required, as this does not relate to a service provided by the Council or a decision on a change of policy.

6.0 APPENDICES

- 6.1 Appendix 1 – Existing Licence
- Appendix 2 – Application Form & Supporting Documents
- Appendix 3 – Representation - Other Persons
- Appendix 4 – Location plan
- Appendix 5 – S182 Statutory Guidance extracts
- Appendix 6 – Local Policy extracts

Background Documents:

Licensing Act 2003

Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, August 2023

ECDC Statement of Licensing Policy 2021