



Report of	Meeting	Date
Director of Planning and Development	Licensing Panel	Tuesday, 25 July 2023

## Premises Licence Review

Is this report confidential?	No
------------------------------	----

Is this decision key?	No
-----------------------	----

### Purpose of the Report

- To provide an overview of the application and inform Members of the relevant parts of statute and guidance relating to the review application.

### Recommendations

Members are requested to;

- Note the contents of the report; and
- Conduct the hearing in accordance with the hearing procedure and;
- Determine what steps are appropriate to promote the Licensing objectives.

### Reasons for recommendations

- At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

### Corporate priorities

- The report relates to the following corporate priorities: (Please bold one)

<b>An exemplary council</b>	Thriving communities
<b>A fair local economy that works for everyone</b>	Good homes, green spaces, healthy places

## Background to the report

6. Historically School Lane Super Saver LTD is a small retail store that stocks a range of everyday items such as coffee, groceries, snacks, confectionery, tobacco products, lottery tickets, toiletries, newspapers and is licensed to sell alcoholic drinks.
7. In September 2021 Mr Nuwan Bamunu-Mudiyanselage applied to transfer the Premises Licence into his name with consent from the previous Licence Holder. He also applied to become the Designated Premises Supervisor at the same time.
8. A routine joint enforcement exercise to purchase a knife between Trading Standards and Lancashire Police was carried out on 19<sup>th</sup> May 2023. The premises failed the test purchase and sold a knife to a child, which is a criminal offence under Section 141a of the Criminal Justice Act 1988.
9. On the 2<sup>nd</sup> June 2023, the premises were subject to another test purchase, this time for underage sales of alcohol by Trading Standards and Lancashire Police. The premises failed and sold alcohol to two children, which is a criminal offence under Section 146 of the Licensing Act 2003.
10. A further visit on the 7<sup>th</sup> June 2023 this time including Lancashire Police and the Licensing Authority, showed evidence of non-compliance of the operating schedule. The Licence Holder Mr Bamunu-Mudiyanselage could not locate a refusal register or provide proof of staff training.

## Representations from Responsible Authorities

11. Subsequently a review application was received from Lancashire Constabulary regarding their failure to uphold the Licensing Objectives of;
  - **The prevention of crime & disorder**
  - **The protection of children from harm**
14. The grounds to the review can be found in more detail within the review application, attached to this report as Background Document 1, Background Document 2 & Background Document 3.
15. Footage taken by The Police Evidence Gathers has been provided by the police and can be accessed by following the link [https://youtu.be/PL\\_DamkIYDQ](https://youtu.be/PL_DamkIYDQ), <https://youtu.be/QoV1ykdh0oU>, <https://youtu.be/lxBagqgcO54>.

Background Document 4 - Bodycam footage from Lancashire Constabulary dated 2nd June 2023

Background Document 5 - Bodycam footage from Lancashire Constabulary dated 7th June 2023 Part 1

Background Document 6 - Bodycam footage from Lancashire Constabulary dated 7th June 2023 Part 2

16. Additionally, a supporting representation has been received by an officer of Trading Standards as a responsible authority. This can be found attached as appendix 1.  
  
Following this, a third representation to review the Licence has been submitted by the Licensing Manager, Chris Ward on behalf of the Licensing Authority of as one of the responsible authorities.
17. Mr Ward details in his representation that the premises have failed to uphold the Licensing Objectives of;
  - **The prevention of crime & disorder**
  - **The protection of children from harm**
18. Mr Ward also has concerns about the poor management of the premises and breaches of their premises licence, including;
  - Lack of understanding to demonstrate use of the CCTV
  - A clear lack of regard to follow an age verification policy, with no evidence of a current refusals register.
  - No proof that staff had been trained on the latest age verification policy, challenge 25.
19. A detailed representation form submitted by Mr Ward can be found attached to this report as appendix 2.

### **Representations from Members of the Public**

20. Five representations were received from members of the public in support of the Licensee Mr Bamunu-Mudiyanselage.
21. These representations summarised that the Licence Holder was a responsible, pleasing, and welcoming individual.
22. All five representations can be found attached as appendix 3, appendix 4, appendix 5, appendix 6 & appendix 7

### **Decision to be made by The Licensing Panel**

23. The Panel are asked to consider the seriousness of the issues disclosed and determine this application by taking account of SRBC's Licensing policy and Secretary of State Guidance (section 182 of the Licensing Act 2003).
24. Determining the review application under Section 52 of the Licensing Act 2003 the committee have the following options;
  - make no changes to the premises licence
  - to modify the conditions of the licence;
  - exclude a licensable activity from the scope of the licence;
  - remove the designated premises supervisor;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence;
25. Numerous paragraphs of the Section 182 Guidance are worthy of mention;

11.19 - Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 - In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.23 - 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 an appropriate means of promoting the licensing objectives or preventing illegal working. 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 and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.27 - There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs

- *for the organisation of racist activity or the promotion of racist attacks;*
- *for employing a person who is disqualified from that work by reason of their immigration status*
- *in the UK;*
- *for unlawful gambling; and*
- *for the sale or storage of smuggled tobacco and alcohol.*

## **Equality and diversity**

12. South Ribble Borough Council is responsible for the licensing of Premises who sell alcohol within the Borough, under the Licensing Act 2003. This policy applies to all licence holders regardless of gender, age, disability, religious belief, race or ethnic minority or sexual orientation. No overall impacts have been identified across the equality strands within this report

## **Risk**

13. Reputation of the Council, if any party feels aggrieved with the decision taking by the panel this can be appealed to the magistrate's court within 28 days

## **Comments of the Monitoring Officer**

14. The Review of the premises has been instigated by Lancashire Constabulary by virtue of s51 Licensing Act 2003. Relevant representation have been provided by other Responsible Authorities and a hearing must be held to determine the application for review. The options which the panel may decide to action are set out in the body of the report. A decision of the panel can be appealed by any party to a Magistrates Court within 21 days of the decision.

## **Background documents**

Background Document 1 – Review application from Lancashire Constabulary

Background Document 2 – Representation Part 1 from Lancashire Constabulary

Background Document 3 – Representation Part 2 from Lancashire Constabulary

Background Document 4 - Bodycam footage from Lancashire Constabulary dated 2<sup>nd</sup> June 2023

Background Document 5 - Bodycam footage from Lancashire Constabulary dated 7<sup>th</sup> June 2023 Part 1

Background Document 6 - Bodycam footage from Lancashire Constabulary dated 7<sup>th</sup> June 2023 Part 2

## **Appendices**

Appendix 1 – Supporting representing from Trading Standards

Appendix 2 – Supporting representing from Licensing Manager, Chris Ward

Appendix 3 – Representation from a member of the public objecting to the review

Appendix 4 – Representation from a member of the public objecting to the review

Appendix 5 – Representation from a member of the public objecting to the review

Appendix 6 – Representation from a member of the public objecting to the review

Appendix 7 - Representation from a member of the public objecting to the review

Report Author:	Email:	Telephone:	Date:
StephanieNewby (Licensing Officer)	stephanie.newby@southribble. gov.uk	01772 625337	7 <sup>th</sup> July 2023