

REPORT TO	DATE OF MEETING
LICENSING PANEL	24 APRIL 2014

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SUBJECT	PORTFOLIO	AUTHOR	ITEM
REVIEW OF PREMISES LICENCE – SUMPTER HORSE 235 LEYLAND ROAD PEMWORTHAM PR1 9SY	REGENERATION, LEISURE AND HEALTHY COMMUNITIES	KAY LOVELADY	4

SUMMARY AND LINK TO CORPORATE PRIORITIES

An application has been received from Lancashire Constabulary for a Review of the Premises Licence at the Sumpter Horse, 235 Leyland Road, Penwortham, PR1 9SY.

The Police state that the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS), Peter McDonnell has been obstructive to Police Officers when conducting enquiries into incidents that have occurred either at or in connection with the premises. In addition, when the Police have attempted to investigate crimes they have found that customers and staff have not been willing to provide statements through fear of reprisals from those involved and incidents taking place in the premises are not being properly recorded or dealt with. This combined with the lack of working CCTV system have raised doubts with the Police as to the ability of the PLH to run the premises in line with the Licensing Act 2003 and four licensing objectives.

The Police believe that that the licensing objectives of preventing crime and the protection of children from harm are being undermined. As attempts to redress the balance through mutual agreement have failed the Police state that they have been left with no other alternative but to bring a Review.

The application could have an impact on several of the Council's Corporate Priorities. It should be borne in mind however, that the application must be determined in accordance with the Licensing Act 2003, Council's Licensing Policy Statement and the statutory guidance issued under Section 182 of the Licensing Act 2003.

RECOMMENDATIONS

The Licensing Panel conduct the hearing in accordance with the hearing procedure and decide accordingly.

DETAILS AND REASONING

Attached is a copy of the Application form detailing the grounds that the Police have for concern.

The application form and statements give examples of the aforementioned crime and disorder detailing concerns regarding the running of the premises.

Although the premises licence does not currently require the premises to have CCTV, a system is in place. Unfortunately the Police have discovered when investigating incidents that the CCTV system has either not been working or the PLH has been unable to access the information or work the system. Given the lack of co-operation from the customers and staff, the lack of CCTV has seriously hampered the police's ability to investigate the crimes and bring offenders to justice.

Although the PLH has managed the premises for some years there has been an increase in the number and seriousness of incidents in the last 2 years but more particularly in the last 12 months with evidence that the premises is not being managed properly. There have been reports of sales of alcohol to persons who are underage for example the Police state that at the incident on the 16th January 2014 the offender was found to be drunk and confirmed that he had been drinking within the premises. When questioned the PLH stated that identity checks had been undertaken prior to the sale of alcohol but without an incident book or other written record there was no corroboratory evidence. The Police believe that if CCTV footage had been available it would have resolved the issue either way. The Police have advised the PLH that CCTV can be as much a way of protecting staff from false accusations and showing the premises is being run properly as it is to bring an offender to justice.

The Police also refer to an incident on the 8th July 2013 where the PLH admitted to operating outside the permitted hours to which he accepted a Police Caution.

The Police entered into discussions with Mr McDonnell highlighting the issues and suggesting solutions but have been met with resistance. This combined with the lack of working CCTV system and reluctance of witness co-operation due to intimidation have raised doubts with the Police as to the ability of the PLH to run the premises in line with the Licensing Act 2003 and four licensing objectives.

The Police believe that that the licensing objectives of preventing crime and disorder and the protection of children from harm are being undermined. As attempts to redress the balance through mutual agreement have failed the Police state that they have been left with no other alternative but to bring a Review. The Police believe appropriate and proportionate steps to redress the balance are that the panel remove Mr McDonnell as DPS and a fresh DPS is put in place to manage the premises. In addition, they have asked that the panel place certain conditions on the licence regarding the operation of a CCTV system, an underage policy, the maintaining of an incident book are imposed. A full list of the proposed conditions can be seen at Appendix 1 of the Application for Review.

The parties have been in further discussions following service of the Review papers and the police have instructed the Architectural Liaison Officer to prepare a report regarding the installation of CCTV (attached). The panel will note that the PLH has agreed to most of the conditions requested by the police i.e:

1. The DPS will ensure that the premises maintains an incident book which will contain a record of all incidents relating to the premises, it's staff and customers including the time, date, nature of each incident and the outcome to the satisfaction of Lancashire Constabulary and the Local Authority. This record will be available on request of any responsible authority.
2. The Premises will operate a policy that prevents the sale of alcohol to persons under 18 to the satisfaction of the Police and Local Authority. This policy shall state that any person who does not appear to be at least 21 years of age will not be served unless they can produce a recognised proof of age card accredited under the Proof of Age Standards Scheme(PASS) or photo driving licence (I think passport should also be put in here as well).
3. Notices will be displayed where they can be clearly seen and read in the premises indicating that the premises operates a Challenge policy in relation to the sale of alcohol
4. All staff will be subject to ongoing training in relation to age related sales. This training will be recorded and made available on request to a responsible authority.

The only matters outstanding (unless the panel feel it appropriate to deal with other issues) are the installation of a suitable CCTV system and the removal of the DPS.

Representations from Responsible Authorities

There was one representation from the Licensing Authority in support of the Review Application. The representation refers a noise complaint witnessed on the 7th July 2013 when the PLH was also operating outside permitted hours referred to above. It confirms that since the caution there have been no further incidents in respect of noise complaints.

Details of a joint working visit by the Police and Licensing Authority on the 7th February 2014 are outlined particularly in respect of finding a mutually acceptable way forward to redress the licensing objectives. The reporting officer states that there was evidence the PLH did not know how to operate the CCTV system and that he had become defensive when questioned. Despite being given advice on how to resolve the issues the report states that the PLH have

Representations from "Other Persons"

There were three representations from people who support the PLH. They state that the premises and management are well regarded and that the proposals by the police are too much and may force the premises out of business. They also claim that if the premises closed it would result in the loss of a community asset.

One representation confirms that they have witnessed age checks being undertaken by the PLH and his staff and that people have been refused sales. In addition, unruly customers have been asked to leave the premises. The representation states that although incidents have increased recently they have witnessed the PLH co-operating with the Police and dealing with the issues.

There is also mention to the previous good record of the premises.

** Please note one of the representations was damaged in the post and a line of the correspondence cannot be read.

Licensing Act 2003

The Council must carry out its licensing functions with the intention of promoting the licensing objectives.

The licensing objectives are:-

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance; and
- d) the protection of children from harm.

The Council must also have regard to:

1. Its own Policy Statement;
2. Secretary of State guidance (Section 182 of the Licensing Act 2003).

The Legislation

Under Section 52 Licensing Act 2003 the Authority must have regard to the application and any relevant representations and take such steps ...(as are outlined below)... if any, as it considers necessary for the promotion of the licensing objectives.

The steps are:-

- a. to modify the conditions on the licence
- b. to exclude a licensable activity from the scope of the licence
- c. to remove the designated premises supervisor

- d. to suspend the licence for a period not exceeding 3 months
- e. to revoke the licence.

Obviously the panel can also choose to do nothing for example if the application is frivolous, vexatious or repetitive and the panel must ensure that any action they take is proportionate to the four licensing objectives.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

FINANCIAL	There are no financial implications
LEGAL	The Licensing Authority are under a statutory duty to facilitate the Review Hearing. Any party to the proceedings have the right to appeal the decision to the Magistrates Court
RISK	The full risk assessment forms part of the background papers to this report. The main points for consideration are summarised here:-
THE IMPACT ON EQUALITY	There is no impact on equality. No one is barred on equality reasons from either making an application or a representation either for or against an application

OTHER (see below)			
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

Risk Assessment