

REPORT TO	ON
LICENSING PANEL	1 MARCH 2018

September 2017



TITLE	REPORT OF
APPLICATION FOR REVIEW OF THE PREMISES LICENCE RELATING TO THE RAILWAY PUBLIC HOUSE, LEYLAND, IN ACCORDANCE WITH THE LICENSING ACT 2003	PETER HAYWOOD

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

An application has been received from Lancashire Constabulary to review the premises licence of The Railway, 1 Preston Road, Leyland PR25 4NT on the grounds that:

- a) the licensing objectives relating to (i) the Prevention of Crime and Disorder and (ii) the Protection of Children from Harm are not being promoted at this premises; and
- b) there are concerns about the poor management of the licensed premises.

Lancashire Constabulary has sought this review requesting that the Licensing Panel determine whether the premises licence should remain in existence at this venue.

2. RECOMMENDATIONS

The Panel is requested to conduct the hearing in accordance with the Council's hearing procedure and determine what further action (if any) should be taken.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe	X	Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	

4. BACKGROUND TO THE REPORT

4.1 The Railway public house is situated at 1 Preston Road, Leyland PR25 4NT. Premises licence PREMA0103 applies to the premises. The holder of the premises licence is Punch Taverns Limited; the company has held the licence since it was transferred to it in October 2016.

4.2 The premises is a popular venue in terms of the night-time economy, being licensed for live music, late night refreshment and the serving of alcohol until 02.30 on Friday and Saturday nights.

- 4.3 A location map and image of the premises are attached as Appendices 1 and 2 respectively.
- 4.4 According to Council records, the premises has been licensed since at least 2006 (but a licence has probably been held for a considerably longer period).
- 4.5 The current Designated Premises Supervisor (DPS) is Daniel Alderson, who has held this post since August 2017. Previously, the DPS was recorded as Lee Carruthers who held the post from November 2016.

5. APPLICATION FOR REVIEW

- 5.1 On 10 January 2018, an application for a review of the above premises licence was submitted by Police Sergeant Julie Stewart, a Licensing Officer for Lancashire Constabulary. The application was submitted to the Council's Licensing section as well as all responsible Authorities.
- 5.2 The application was advertised from 11 January 2018 until 8 February 2018 on the Council's website. On 11 February notices were also placed at the licensed premises, being positioned on the front door; two front bay windows; lamp post; and outside sign. This is confirmed by photographs attached as Appendices 3a-c. A copy of the notice is attached as Appendix 4.
- 5.3 The application was served by Lancashire Constabulary on Punch Taverns by recorded post on 10 January 2018, as well as on Daniel Alderson, Lee Carruthers and the area manager of Punch Taverns (Tony Riley) by email on the same day. Lancashire Constabulary also sent a copy to the other responsible authorities by email on 10 January.

6. CHRONOLOGY OF EVENTS

- 6.1 A copy of the application for the review of the premises licence is attached as Appendix 5. The application form and attached documentation give examples of how the licensing objectives for the Prevention of Crime and Disorder and the Protection of Children from Harm may have been breached. It also details the applicant's concerns regarding the overall running and management of the premises.
- 6.2 A summary of the relevant chronology of events featuring in the review application is set out below:

Date	Event
23 December 2016	Male assaulted on premises. In a separate incident, Police called to premises to maintain order
25 December 2016	Allegation of assault on male by 3 men who had been drinking in the premises
1 January 2017	Violent incident of a domestic nature within the premises
3 January 2017	Report of assault by door staff arising from the domestic incident above
22 January 2017	Female customer reported theft of handbag from premises the previous night
28 January 2017	Report of assault on female by door staff. In a separate incident, Police called to remove group of males from the premises
6 March 2017	Daniel Alderson becomes DPS of The Angel in Preston
12 March 2017	Police called to premises to deal with disorder from 2 groups of males
13 March 2017	Female complains that her drink may have been spiked on the premises on 11 March
17 March 2017	Intelligence received that premises used for underage drinking

24 March 2017	3 17 year old youths found in beer garden of premises
8 April 2017	Female customer alleged being "glassed" by a known offender when inside the premises. In a separate incident, Police called to deal with a "large fight" and the subsequent dispersal of up to 100 customers.
9 April 2017	Allegation received that a customer had left the premises to drive a vehicle whilst under the influence of alcohol. In a separate incident, Police called to deal with a drunken female outside the premises and a male who was pepper sprayed on two occasions / arrested / given a fixed penalty notice for being drunk and disorderly .
15 April 2017	Allegation of sexual assault on female
16 April 2017	Allegation of intimidating behaviour towards door staff
17 April 2017	Allegation of argument / premises open later than licensed hours
20 April 2017	When visiting the premises, Police informed that DPS rarely present
21 April 2017	Recent history of problems at the premises discussed with DPS and later Daniel Alderson, who said he was managing the premises whilst also the DPS at The Angel in Preston. Corrective measures agreed
22 April 2017	Allegation from female that she had been involved in an altercation with another female inside the premises resulting in injury and damage to property. Door staff involved
24 April 2017	Further discussions with DPS and Daniel Alderson regarding complaints and warning that a review may be instigated
29 April 2017	Police intervened to prevent a drunk customer from driving home
1 May 2017	Ambulance attended to deal with a male suspected of being drunk and taking drugs
20 May 2017	Police attended and dealt with a drunk female having an argument with another
21 May 2017	Male reported being assaulted at the premises
1 June 2017	Police Licensing team attend premises
17 June 2017	"Highly intoxicated" female reported an assault which occurred within the premises
24 June 2017	Police attend premises following report of a fight outside the premises. DPS said to be absent. Male suffered injury when attempting to evade door staff who had previously ejected him
27 June 2017	Intelligence received of drug dealing by door staff at the premises
17 July 2017	Report of a young man suffering serious injury from being glassed outside the premises. CCTV inoperative
20 July 2017	Police attempt to contact premises licence holder as matter of urgency. Police informed that CCTV had not been working for a month despite an approach to the licence holder.
24 July 2017	DPS confirms that Daniel Alderson running the premises. DPS advised to remove himself as DPS if so. Police informed that CCTV camera had been fixed and more door staff would be put on
30 July 2017	Male assaulted outside the premises
1 August 2017	Increase in incidents discussed with Daniel Alderson
2 August 2017	Daniel Alderson becomes DPS
3 August 2017	DPS away but had left a person in charge with no personal licence
6 August 2017	Alleged assault on male leaving the premises
12 August 2017	Police support requested when male refused to leave premises and no door staff present
23 August 2017	Complaint of dog being attacked by another dog outside the premises when owner of the dog which attacked was drunk
28 August 2017	Police called to assist with dispersal of customers

3 September 2017	Report of assault on male
10 September 2017	Male customer arrested / given fixed penalty notice for being drunk and disorderly at premises
17 September 2017	Report of damage to mirrors / ejection of female customers / injuries to male
30 September 2017	Assault on male customer inside the premises
4 October 2017	Intelligence that premises smelled of cannabis
15 October 2017	Anonymous information that drugs being sold on premises
4 November 2017	Report of 20 persons fighting in premises
15 November 2017	Alleged assault by member of door staff
29 November 2017	Report of assault in beer garden of premises
25 November 2017	Anonymous report of drug dealing on premises
27 November 2017	Concern over an event being held on the premises which would require a Temporary Events Notice when none obtained
22 December 2017	Parent found his 16 year old daughter on premises in a drunken state, having been served vodka unchallenged by several bar staff over the evening
24 December 2017	Report of fight / glassing on premises
25 December 2017	Police assisted with dispersal of 100 customers on premises
5 January 2018	Report of theft on premises
6 January 2018	Report of fight outside premises
6 January 2018	Report of female customers having drinks spiked

6.3 A brief analysis of the information submitted indicates that, over a period of 13 months between late December 2016 and early January 2018, there were:

- 21 alleged incidents of a violent nature;
- 4 allegations of drug dealing on the premises;
- 3 incidents involving young people on the premises; and
- 2 complaints of drinks being spiked on the premises.

7. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

7.1 None have been received.

8. REPRESENTATIONS FROM OTHER PERSONS

8.1 None have been received.

9. LICENSING ACT 2003 AND OTHER KEY GUIDANCE

9.1 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.

9.2 The Council must also have regard to the following:

9.2.1 South Ribble Borough Council's current Licensing Policy:

Prevention of Crime & Disorder

10.1 *Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment, can be a source of crime and disorder problems.*

10.2 *The licensing authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business.*

10.4 *In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.*

10.6 *Generally speaking, when considering the likely impact on crime and disorder of licence application, the licensing authority will give particular consideration to the following:-*

- a. the training given to staff in crime prevention measures;*
- b. the capability of the person in charge to ensure effective and responsible management of the premises;*
- c. physical security features e.g. where alcohol is stored,;*
- d. applicants should consider, wherever possible, the installation of a CCTV system which is operated in accordance with the Information Commissioners Office current codes of practice. If installed, applicants are encouraged to keep all recordable images for a minimum of 28 days in line with guidance received from Lancashire Constabulary;*
- e. weapon detection and search facilities;*
- f. procedures for risk assessing promotions and events such as "happy hours" for the potential to cause crime and disorder, and the plans to minimise such risks;*
- g. the adoption of best practice guidance in relation to safer clubbing;*
- h. measures to prevent the use or supply of illegal drugs including search and entry policies;*
- i. the employment of licensed door supervisors in appropriate circumstances – such supervisors to be registered with the Security Industry Authority;*
- j. where licensed door supervisors are employed such supervisors should be equipped with 'clickers' for checking the numbers entering the premises; also an appropriate number of supervisors should be so employed*
- k. participation in pub watch scheme or any other appropriate scheme;*
- l. measures to be taken for the prevention of violence or disorder;*
- m. any agreed protocols with the police and other organisations and a commitment to co-operate and provide such evidence as the police may require;*
- n. the presence – or otherwise – of sufficient transport facilities to ensure that customers can leave the premises safely and swiftly.*

14. Protection of Children from Harm

14.1 *The policy does not seek to prevent the access of children to licensed premises.*

Access is at the discretion of the licensee and is neither encouraged nor discouraged by the policy. Conditions relating to access of children will only be imposed where they are necessary to promote the licensing objective of the “protection of children from harm.”

14.2 *Premises that may require conditions relating to access by children may include the following:*

- *Where there have been convictions for under-age drinking or where there is evidence of under-age drinking;*
- *Where there is evidence of drug taking or drug dealing;*
- *Where a strong element of gambling takes place on the premises;*
- *Where entertainment of an ‘adult’ or ‘sexual’ nature takes place.*

14.3 *On occasions it may be necessary to impose a condition on a premises licence banning entry to those premises by children under the age of 18 years. Options other than a complete ban will include the following:*

- *Limiting the hours when children will be permitted in the premises;*
- *Stating a minimum age (below 18);*
- *Limiting or prohibiting access when certain activities are taking place;*
- *Permitting access only when accompanied by an adult;*
- *Limiting of access to certain parts of the premises when particular licensable activities are taking place;*
- *Provision of suitable signage;*
- *All premises selling/supplying alcohol are encouraged to operate a Challenge 21, Challenge 25 or similar Policy.*
- *Such other condition or restriction as may be necessary to achieve the licensing objectives. It shall be noted that there is no presumption in favour of adult entertainment unless specifically authorised.*

14.4 *A complete ban on children entering licensed premises is rarely likely to be necessary.*

14.5 *Nothing in this policy makes it a requirement that children must be admitted to any premises. Licensees are not to provide alcohol to children, except as provided by the Act. The licensing authority expects applicants to be able to demonstrate that they have in place satisfactory arrangements to prevent sales of alcohol to children. The licensing authority recommends that the following documents should be used as evidence of age:-*

- *Photographic Identity card bearing the PASS hologram*
- *Photocard driving licence issued in the European Union*

- *Passport*

14.6 *The licensing authority will expect the operating schedule to identify suitable measures to protect children from harm and must therefore demonstrate that those factors, which impact on harm to children, have been considered. In addition the licensing authority will expect the operating schedule to demonstrate what measures are in place to ensure adequate staff training on the licensing laws relating to children in licensed premises.*

14.7 *The licensing authority will also expect the licensee to demonstrate how they intend to provide for the supervision of children as customers and as performers providing regulated entertainment. Licence holders will be expected to demonstrate that consideration has been given to the welfare of children as performers. As a minimum requirement the licensing authority will require an adult to be nominated to be responsible for such child performers.*

Licence Reviews

35.1 *At any stage following the grant of a premises licence, a responsible authority, such as the Police or Fire Authority, or another person, such as a resident living in the vicinity of the premises, may ask the licensing authority to review the licence. This must be due to a matter arising at the premises in connection with any of the four licensing objectives. In addition, a review of the licence will follow any action by the police to close down the premises for up to 24 hours.*

35.2 *In every case the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.*

35.3 *Where the request originates with either a responsible authority or another person the licensing authority may reject any ground for review if such a ground is not relevant to one or more of the licensing objectives. Where the request originates from another person the licensing authority may reject any grounds for review if the licensing authority considers such ground to be frivolous, vexatious or repetitious.*

9.2.2 Secretary of State guidance (Section 182 of the Licensing Act 2003):

The following passages and paragraphs of the statutory guidance issued by the Secretary of State are relevant to this application:

2.5 *...The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder...*

4.19 *...The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly...*

Reviews arising in connection with crime

11.24 *A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities*

do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

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 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;*
- for unlawful gambling; and*
- for the sale or storage of smuggled tobacco and alcohol.*

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

10. POSSIBLE STEPS TO BE TAKEN

10.1 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

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.

10.2 If the Panel takes a step mentioned in a or b of paragraph 10.1 above, it can specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.

10.3 The Panel may also choose to take no action, for example if the application is frivolous, vexatious or repetitive. The Panel must ensure that any action they take is proportionate to the four licensing objectives.

11. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

11.1 Comments of the Statutory Finance Officer

There are no financial implications arising as a result of the recommendations in this report

11.2 Comments of the Monitoring Officer

The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Licensing Panel is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives.

It should be noted that clear reasons must be given for the decision and any additional or modified conditions should be practical and enforceable.

In addition to determining the application in accordance with the legislation, Members must have regard to the rules of natural justice (i.e. ensuring a fair and unbiased hearing etc); provisions of the Human Rights Act 1998 and considerations in section 17 of the Crime and Disorder Act 1998.

In respect of provisions of The Human Rights Act 1998, the Panel should take in to account particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).

The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which states:

‘without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.’

The applicant for the review, the premises licence holder and any person who made relevant representations would have the right of appeal to a magistrates’ court within 21 days from notification of the decision, on one of the grounds provided in schedule 5 to the Licensing Act 2003.

The decision made by the Panel will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

Other implications:	
▶ Risk	The full risk assessment forms part of the background papers to this report. The main points for consideration are summarised. Also refer to the legal risks identified above.
▶ Equality & Diversity	None
▶ HR & Organisational Development	None
▶ Property & Asset Management	None
▶ ICT / Technology	None

12. BACKGROUND DOCUMENTS (or there are no background papers to this report)

- Appendix 1 – location map
- Appendix 2 – photo of premises
- Appendix 3a-c – photographs of notices in situ on premises
- Appendix 4 – copy of notice
- Appendix 5 – copy of application for review of the premises licence

SMT Member’s Name: Peter Haywood
 Job Title: Revenues Manager

Report Author:	Telephone:	Date:
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