

REPORT TO	ON
Licensing Sub Committee Panel	12 February 2019



TITLE	REPORT OF
Review of Premises Licence:- Harleys Convenience Store	Interim Monitoring Officer/Assistand Director of Legal Services

Is this report confidential?	No
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1. 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.

2 CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	x
Place	x

Projects relating to People in the Corporate Plan:

People	
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3. RECOMMENDATIONS

Members are requested to:

- 3.1 note the content of the report; and conduct the hearing in accordance with the hearing procedure and,
- 3.2 determine what steps are appropriate to promote the Licensing objectives.

4. BACKGROUND TO THE REPORT

4.1 On the 15th April 2018 an underage test purchaser was sold a quantity of alcohol, the seller on this occasion was the Premises Licence holder and Designated Premises Supervisor Jacqueline Bramley.

4.2 On the 1st May 2018 the premises was visited by Licensing Officers and deficiencies were noted with the age related training documentation that should have been in place and the poor standard of the refusal register, written advice was given along with a sample training package.

Attached to the premises license are the following conditions;

SALE OF ALCOHOL

1. *The Premises licence holder shall ensure that no supply of alcohol is made under the premises licence-*
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence; or*
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended (section 19 of the Licensing Act 2003).*
2. *The Premises licence holder shall ensure that every supply of alcohol under the premises licence must be made or authorized by a person who holds a personal licence (section 19 of the Licensing Act 2003).*
3. *(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.*
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. *Staff training shall occur at six monthly intervals and shall be recorded and updated accordingly. It shall cover street drinking, ID procedure, proxy sales, licensing hours and other relevant matters regarding the Licensing Act 2003 and the licensing objectives.*
2. *A copy of the staff training shall be made available to any Responsible Authority upon request.*
3. *The premises shall have CCTV coverage, and notices shall be displayed advising customers of this.*
4. *Persons who appear to be under the age of 25 attempting to purchase alcohol shall be required to provide ID. Acceptable ID shall be; Passport, Photocard Driving Licence and PASS accredited cards.*

5. *Liaison with the local Police shall occur as and when required.*
6. *A refusals register for those attempting to purchase alcohol shall be kept.*
- 4.3 On the 25th October 2018 the premises was subject to a further test purchase and failed. There were numerous aggravating factors with this particular test, the first was the age of the volunteer, she was at the younger end of the scale in that she was only 14 at the time of the test. Further aggravating factor included the number of premises that were tested on the evening totaled 11 and Harley was the only one to fail and the final issue was there was no documented staff training in place for the seller Chris Scott, the son of the Licence holder.
- 4.4 Following the failure a request for CCTV footage was made to cover the time period just before and after the sale, examination of the footage revealed numerous suspicious and furtive transactions, large amounts of cash seemed to change hands between various customers and Chris Scott. Chris Scott appeared to produce something for the cash he was given but the item or product was concealed from the CCTV, the transactions were slick, guarded and raised suspicion as to what was actually being supplied. Due to the short amount of footage that was produced the concern was heightened as there were at least 3 or 4 transactions within a 30 minute time period that looked suspicious.
- 4.5 On the 6th November 2018 Jacqueline Bramley was interviewed in accordance with the Police and Criminal Evidence Act 1984, during the interview she accepted that there was no training in place for Chris Scott and when confronted with a picture of the volunteer who was used on the 25th October she agreed that she looked well under 18 and would have expected any of her staff to put in a challenge.
- 4.6 Discussions after the interview centered on Chris Scott and the concerns held by both the Licensing Authority and the Police. Mrs Bramley disclosed that she had suffered serious health problem since May 2018 which had prevented her from running the business, she confirmed that she had limited choice but to allow Chris to run the shop or the business may fail.
- 4.7 On the 12th December 2019 the police visited the premises and again found deficiencies with the staff training documentation, again a staff member was selling alcohol with the pre requisite training package being completed or available for inspection.
- 4.8 Following this latest report the Licensing Authority applied to review the Premises Licence.

The Licensing Authority served the review on the 18th December 2018 which was duly served on all the Responsible Authorities and a hand delivered copy was served at the Premises Licence Holders address. A copy of the Review Application and supporting documents are attached to this report as Appendix A

5 REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

- 5.1 The Lancashire Constabulary have submitted a written representation attached as Appendix B.

6. DECISION TO BE MADE BY THE LICENSING ACT PANEL

Determination of an application under Section 52 of the Licensing Act 2003

6.1 Numerous paragraphs of the Section 182 Guidance are worthy of mention;

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

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.

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 Panel are asked to consider the seriousness of the issues disclosed and deal with this application by taking account of;

1. Its own policy; and
2. Secretary of State Guidance (section 182 of the Licensing Act 2003).

8. FINANCIAL IMPLICATIONS

See comments of Statutory Finance Officer below.

9. LEGAL IMPLICATIONS

The Licensing Authority are under a statutory duty to facilitate the Review Hearing. When determining this hearing the Council must comply with the rules of natural justice.

Any party to the proceedings have the right to appeal the decision to the Magistrates Court.

10. COMMENTS OF THE STATUTORY FINANCE OFFICER

There are no financial implications at this stage as the report is to consider the licence review application.

11. COMMENTS OF THE MONITORING OFFICER

The panel must carry out its functions with the intention of promoting the licensing objectives and any action taken should be necessary and proportionate in the circumstances.

12. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	None
▶ Equality & Diversity	

13. APPENDICES

Appendix A - Review Application and associated documents.

Appendix B – Lancashire Constabulary Representation

Report Author:	Telephone:	Date:

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