

Report of	Meeting	Date
Corporate Director of Neighbourhoods	Licensing Act 2003 Sub Committee	17/09/09

## **REVIEW OF PREMISES LICENCE UNDER SECTION 53C OF THE LICENSING ACT 2003 FOR THE CLAYTON BROOK, GREAT GREENS LANE, BAMBER BRIDGE, CHORLEY, PR5 8HL. FOLLOWING A SUMMARY REVIEW HELD UNDER SECTION 53A OF THE LICENSING ACT 2003.**

### **PURPOSE OF REPORT**

1. To enable Members to review the Premises License for the Clayton Brook, Great Greens Lane, Bamber Bridge, Chorley, PR5 8HL, in light of an application made under Section 53A of the licensing Act 2003 for a Summary Review of the Premises Licence, the interim steps applied at that hearing and any representations made by Responsible Authorities, Interested Parties and the Premises Licence Holder (Trust Inns).

### **RECOMMENDATION(S)**

2. Members are recommended to consider the details contained in the report and any representations made by the Responsible Authorities, Interested Parties and the Premises Licence Holder and determine the application in accordance with Section 53C (3) of the Licensing Act 2003.

### **EXECUTIVE SUMMARY OF REPORT**

#### **Background**

3. The premises known as the Clayton Brook public house is a community pub and is situated centrally in the Clayton Brook Housing Estate, to the north of Chorley Town Centre.
4. The Premises Licence Holder applied in August 2005 in accordance with the provisions at that time to convert and vary its Justices Licence to a premises licence, representations were received from Lancashire Constabulary towards that application, the matter was concluded through mediation, and this resulted in a reduction in the operating hours for the sale by retail of alcohol and regulated entertainment. The current Premises Licence is attached as Appendix 1 (page 15-22) for Members information.
5. A further three applications have been made on behalf of the Premises Licence Holder, Trust Inns, to the Council to vary the Designated Premises Supervisor (DPS) for the Premises Licence, the applications were submitted on:
  - 16/08/2006
  - 18/12/2006
  - and on the 16/03/2007 to Mr Mark Taylor, who is the present DPS



## **The Violent Crime Reduction Act 2006,**

6. Introduced new provisions into the Licensing Act 2003 by permitting the Licensing Authority to consider taking 'interim steps' where an application to review a licence was made in accordance with Section 53A of the Licensing Act 2003 (a section added by the Violent Crime Reduction Act 2006). An application under Section 53A must include a 'Certificate' from a Senior Police Officer which confirms that, in the opinion of the Senior Police Officer, the premises in question are associated with serious crime, serious disorder or both.
7. Section 53A enables the Licensing Authority to deal with the matter quickly and an application made under the provisions of the section must be brought to a hearing of the Licensing Authority within 48 hours.

## **The Summary Review Application.**

8. On Monday 24 August 2009, the Council's Licensing Section received an application and a certificate served by the Chief Officer of the Police in accordance with Section 53A(1)(b) of the Licensing Act 2003, as amended by the Violent Crime Reduction Act 2006 for a Summary Review of the Premises Licence for the Clayton Brook Premises.
9. The application was made on the grounds that the premises were associated with serious crime and disorder, and was made by an officer of the Police of superintendent or above.
10. The Application and Certificate served under Section 53 A is attached as Appendix 2 (page 23-26).
11. On Tuesday 25 August 2009, the Council's Licensing Sub-Committee convened in accordance with the requirements of Section 53A and 53B of the Licensing Act 2003 pending the determination of the full review of the licence.
12. The Sub-Committee considered representations from Lancashire Constabulary and representatives of Trust Inns. The Sub-Committee resolved to suspend the Premises Licence for a period no longer than 28 days as an interim measure pending the full review of the licence. The decision notice giving that decision is attached as Appendix 3 (page 27-28).

## **Representations**

13. Following the Summary Review, the Council has complied with the legislative process and the Council's Public Protection Officer displayed the required notices on the premises and advertised the application on the Council's web site and notice has been properly served on all the Responsible Authorities of the application to review the premises licence within the prescribed time scales.
14. Relevant representations have been received from the following authorities:
  - Lancashire Police, as attached at Appendix 4 (page 29-32).
  - The Council's Environmental Health Department (Health & Safety), as attached at Appendix 5 (page 33-38).
  - Lancashire Fire and Rescue Services have raised representations pursuant to the Licensing Act 2003 in regard to this matter, insofar as they have at the time of writing this report been unable to gain access to the premises to undertake any inspection. It is understood that arrangements have been made with Trust Inns for an inspection of the premises week commencing 7 September 2009 and a report will follow where appropriate. The representation is attached at Appendix 6 (page 39-40).

15. The representations received relate to the following Licensing Objectives:
  - The Prevention of Crime and Disorder;
  - Public Safety; and
  - The Prevention of Public Nuisance.
16. The Responsible Authorities and Trust Inns have been given notice of this hearing.
17. There have been no representations received from interested parties.

### **The Full Review Hearing**

18. Section 53 C of the Licensing Act 2003 requires the licensing Authority to hold a review hearing to consider the review application and any other relevant representations.
19. The Sub-Committee is to take such steps as it considers necessary to secure the promotion of the four licensing objectives.
20. Sub-Committee is to ensure that any 'interim steps' (detailed in appendix 3) which were put in place pending the determination of this review, cease (except where those steps are continued as a result of the decision of the full review hearing)
21. Section 53 C (3) Licensing Act 2003, states:

The steps which the Sub-Committee should consider taking (if any) are:

  - (a) The modification of the conditions of the premises licence;
  - (b) The exclusion of the sale of alcohol by retail from the scope of the licence;
  - (c) The removal of the Designated Premises Supervisor from the licence;
  - (d) The suspension of the licence for a period not exceeding three months, or
  - (e) The revocation of the licence
22. The Sub-Committee may decide to take no action against the Premises Licence.
  - (i) For the purposes of paragraph 4(a) above the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
  - (ii) Members are reminded that the Licensing Act requires that certain conditions should be included on premises licenses and cannot be modified.
  - (iii) Where the Sub-Committee takes a step included in paragraph 4(a) or 4(b) above it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
  - (iv) The decision of the Sub-Committee does not have effect until the end of the period during which an appeal against it can be lodged or, where an appeal is lodged, until it has been disposed of.
23. Where a Application and Certificate is given under section 53 A, *from the Chief Officer of Police* the authority must – (a) hold a hearing within 48 hours to consider it and where necessary impose any interim measures as it sees fit giving its reasons for doing so, and (b) hold a full review of the premises licence within 28 days within receipt of the Chief Officers Application.

24. Section 4 of Licensing Act 2003 provides that a licensing authority must have regard to its Statement of Licensing Policy and also the guidance issued by the Secretary of State under Section 182 of the Act.
25. As Members will be aware, the licensing objectives are as follows:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
26. The report has Human Rights Act Implications.
27. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and family life;
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.
28. The Sub-Committee must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## CORPORATE PRIORITIES

29. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	X
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	

## IMPLICATIONS OF REPORT

30. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	No significant implications in this area	

## COMMENTS OF THE CORPORATE DIRECTOR OF GOVERNANCE

31. Pursuant to section 53C (3), the Sub-Committee must take such steps as it considers necessary for the promotion of the licensing objectives.

32. Notification of determination under section 53C (10) must state the licensing authority's reasons for the decision.
33. An appeal may be made within 21 days of the licence holder being notified of the licensing authorities decision to a Magistrates' Court. An appeal may be made by the premises licence holder, the Chief Officer of police and/or any other person who made relevant representation.

#### **COMMENTS OF THE CORPORATE DIRECTOR OF NEIGHBOURHOODS**

24. Comments are contained within the Report.

ISHBEL MURRAY  
CORPORATE DIRECTOR OF NEIGHBOURHOODS

Background papers to this report.

Violent Crime and Reduction ACT 2006 CH 3(21&22)

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Stephen Culleton	5665	8 Sept 2009	