

Report of	Meeting	Date
Director of Customer and Digital	Licensing Act 2003 Sub Committee	13 th October 2020

Confidential report	Yes	No
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HEARING TO CONSIDER APPLICATION FOR SUMMARY REVIEW AND ANY RELEVANT REPRESENTATIONS

Premises:	Bretherton Arms 252 Eaves Lane Chorley	Ward:	Chorley East
Premises Licence Holder:	Star Pubs and Bars Limited		
Designated Premises Supervisor:	Ms Nicola Steele		

REASON FOR REFERRAL

- To advise members that an application for summary review of a premises licence has been received.
- To request that members determine what steps (if any) are appropriate for the promotion of the licensing objectives.
- To request that members review the interim steps taken on 25th September 2020 and determine whether they remain appropriate for the promotion of the licensing objectives.

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy homes and communities	X	An ambitious council that does more to meet the needs of residents and the local area	

LICENSING OBJECTIVES

- Members are reminded of the Licensing Objectives, as follows:
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm

6. Members are reminded that the duty of the licensing authority is to take steps necessary to promote the licensing objectives in the interests of the wider community and not those of the individual licence holder.

LEGAL CONSIDERATIONS

7. Members must have regard to the following:
- The Guidance issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy effective from 2016.
 - The Licensing Act 2003.

INTRODUCTION

8. Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder or both. The summary review process allows for interim steps to be quickly taken and a "fast-track" licence review to be carried out
9. On application for a summary review, the Authority must determine, within 48 hours, whether it is necessary to take interim steps. Following this, the licence holder may make representations against these interim steps and, within 48 hours of receipt of these representations, the Authority must hold a hearing to consider whether to modify or withdraw the interim steps.
10. Further, the application and certificate are sent to the Responsible Authorities and a notice published at the premises and the principal offices of the Council, beginning the 10-working day consultation period. The application is also advertised on the Council's website.
11. Section 53C of the Licensing Act 2003, requires that the licensing authority hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.
12. At the review under Section 53C, the authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives to remain in place, or if they should be modified or withdrawn.

CURRENT PREMISES LICENCE

13. A copy of the premises licence is appended at [Appendix 1](#). This licence has not yet been amended to reflect the change in premises licence holder referred to in paragraph 14.
14. At the time the application for review was made, the premises licence holder was Mr Nicholas Yates. Following an application to transfer the licence on 1st October 2020, the premises licence holder is now Star Pubs and Bars Limited.
15. The designated premises supervisor is Ms Nicola Steele, who has held the position since 25th September 2020 and who was specified following the decision of the Committee to remove the previous DPS, Graham Moss.
16. The licence currently authorises the following licensable activities:

Licensable Activity	Days	Permitted Hours
Performance of Live Music	Wednesday Friday- Saturday Sunday	19:00-23:30 19:00-00:00 19:00-23:00
Playing of Recorded Music	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30

Performance of Dance	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30
Other entertainment	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30
Late Night Refreshment	Monday-Thursday	23:00-23:30
Sale by retail of Alcohol	Monday- Thursday Friday- Saturday Sunday	11:00-00:00 11:00-01:00 12:00-00:00

THE APPLICATION

17. On 16th September 2020, an application was made by Lancashire Police under Section 53A of the Licensing Act 2003 for a Summary Review of the Premises Licence for Bretherton Arms, 252 Eaves Lane, Chorley, in the Chorley East ward of Chorley. A location map of the premises is appended at [Appendix 2](#).
18. A copy of the application and certificate is appended at [Appendix 3](#). The grounds for the review are that, in the opinion of a senior police officer, the premises is associated with serious crime.

INTERIM STEPS PENDING THE REVIEW

19. On 18th September 2020, a hearing was held to consider whether to take interim steps. The decision was made to suspend the premises licence with immediate effect.
20. At 06:53hrs on 24th September 2020, the premises licence holder made representations against this interim step. A copy of this representation is appended at [Appendix 4](#). Section 53B of the Licensing Act 2003 requires that the Authority hold a hearing within 48 hours of receiving such a representation to consider whether the interim steps are appropriate for the promotion of the licensing objectives.
21. On 25th September 2020, a hearing was held and the Committee decided to modify the interim steps taken. A copy of the decision notice is appended at [Appendix 5](#). At the time of writing the report, these interim steps remain in place. The Act provides that, once an authority has decided to modify the steps, the premises licence holder may only make further representations against those steps if there has been a material change in circumstances.
22. On the date of the review hearing, the licensing authority is required to review any interim steps that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

RELEVANT REPRESENTATIONS

23. Representations may be made by any person or responsible authority during the consultation period. To be 'relevant' and, therefore, able to be taken into account in determining the application, they must be relevant to one or more of the licensing objectives. Where representations are made by persons who are not a responsible authority, they must not be frivolous or vexatious.
24. On 24th September 2020, representation was received from Andrew Cochrane of Flint Bishop solicitors, on behalf of Star Pubs & Bars Limited. A copy of the representation is appended at [Appendix 6a](#). Clarification regarding this representation was subsequently received on 25th September 2020 and a copy of this email is appended at [Appendix 6b](#).

25. On 30th September 2020, a representation was received from Paul Lee, an Environmental Health officer, relating to the Prevention of Public Nuisance and Prevention of Crime and Disorder objectives. A copy of the representation is appended at [Appendix 7](#).

IMPLICATIONS OF REPORT

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

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

27. No comments

COMMENTS OF THE MONITORING OFFICER

28. The premises licence holder may appeal to the magistrates' court against any of the adverse steps referred to in paragraph 32 below. The police and also any person who has made relevant representations may also appeal against the decision.

Members must consider the Human Rights Act 1998, in particular the right to a fair trial and protection of property.

Paragraph 2.7 of the national guidance issued by the Home Office states that the licensing objective of public safety concerns the safety of people using the premises rather than public health which is addressed in other legislation. Lack of social distancing and breaches of the coronavirus regulations at the premises do not therefore engage the public safety objective.

Social distancing in the narrow sense of maintaining a specified distance from another person is guidance rather than a legal requirement. The CCTV footage from 13 September 2020 does not disclose any offences under the coronavirus restrictions which would engage the prevention of crime and disorder objective.

CONCLUSIONS

29. A licensing authority must carry out its functions under the Act with a view to promoting the licensing objectives.
30. In considering the matter, the Panel should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's Statement of Licensing Policy.
31. The Committee must:
- Take such steps (if any) as mentioned in paragraph 32 as are appropriate for the promotion of the licensing objectives, taking into account any change in circumstance since any interim steps were imposed, any relevant representations, and
 - Review the interim steps taken and determine whether they remain appropriate for the promotion of the licensing objectives.
32. Those steps are:
- Modify the conditions of the premises licence,
 - Exclude a licensable activity from the scope of the licence,
 - Remove the designated premises supervisor from the licence,
 - Suspend the licence for a period not exceeding three months, or
 - Revoke the licence

33. The conditions of the licence, with the exception of the mandatory conditions in Annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities are authorised to be carried on.
34. It is important that a licensing authority give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could, in itself, give rise to grounds for an appeal.

Review of the Interim Steps

35. The Committee's determination of the review does not have effect until the end of the 21-day period during which an appeal might be lodged or until the disposal of any appeal which is lodged.
36. To ensure that there are appropriate safeguards in place at all times, the licensing authority is required to review any interim steps which have been taken that are in place at the hearing. This is to be done immediately after the determination of the review under Section 53C. In reaching its decision, members must consider whether the interim steps are appropriate for the promotion of the licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken.
37. If the Committee is minded to modify the steps taken, it may:
 - Modify the conditions of the premises licence
 - Exclude the sale of alcohol by retail from the scope of the licence
 - Remove the designated premises supervisor
 - Suspend the premises licence.

Conditions are modified if any of them are altered or omitted or any new condition is added or the times during which alcohol is permitted to be sold is restricted.

Asim Khan
DIRECTOR OF CUSTOMER AND DIGITAL

APPENDICES

Appendix	Description
Appendix 1	Copy of current Premises Licence
Appendix 2	Location Map
Appendix 3	Application and Certificate for Summary Review
Appendix 4	Representation against Interim Step
Appendix 5	Decision notice following hearing to consider representations against interim step
Appendix 6	Relevant Representation- Star Pubs and Bars Ltd
Appendix 7	Relevant Representation- Paul Lee, Environmental Health

BACKGROUND PAPERS

Document	Date	Place of Inspection
The Council's Statement of Licensing Policy	2016 - 2021	The Council's Statement of Licensing Policy
Secretary of State Section 182 Guidance	April 2018	Secretary of State Section 182 Guidance

Report Author	Ext	Date
Nathan Howson	5665	1 st October 2020