

Report of	Meeting	Date
Director of People and Places	Licensing Act 2003 Sub-Committee	20 October 2010

APPLICATION FOR A REVIEW OF A LICENCE IN RESPECT OF T & S CONVENIENCE STORE 76 – 78 MARKET STREET CHORLEY PR7 2SS MADE UNDER SECTION 52 OF THE LICENSING ACT 2003

PURPOSE OF REPORT

1. For Members to determine an application for a review of a licence in respect of the premises known as T & S Convenience Store 76 – 78 Market Street Chorley PR7 2SS

RECOMMENDATION(S)

2. Members are asked to consider the details contained in the report and any representations made by the applicant and/or his representative Lancashire Constabulary and Lancashire County Council Trading Standards Service.

EXECUTIVE SUMMARY OF REPORT

3. The Licensing Authority has received an application served under the Licensing Act 2003 Section 51 by Lancashire Constabulary to review the premises licence for T & S Convenience Store 76 – 78 Market Street Chorley PR7 2SS. The hearing is convened under Section 52 of the Licensing Act 2003.
4. In accordance with section 51(3) of the Act, the relevant notices detailing the aforementioned grounds for review were displayed on the premises giving interested parties the right to make representations regarding the application for review and be available to view in full at the Council Offices. The premises licence holder has also received a copy of the review application.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

5. Not applicable.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

6. Not applicable.

CORPORATE PRIORITIES

7. 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	

BACKGROUND

8. On 26 August 2010 an application for a review of the premises licence was received from Lancashire Constabulary acting as a responsible authority. Lancashire County Council Trading Standards Services acting as a responsible authority have also made representations.
9. A brief outline of the grounds for that review are as follows and made under the headings of 'The prevention of Crime and Disorder' and 'The Protection of Children From Harm'.
10. The grounds for the review are that these premises have come to police attention as a result of incidents associated with staff at the premises and the sale of alcohol to town centre drunks who then cause problems for other businesses and shoppers in the town centre. There have been a number of test purchase failures at the premises which would indicate that young persons can access alcohol and cigarettes at these premises. The premises licence holder is Mehboob Patel who is the DPS for these premises. He is also listed as DPS at another premises in Blackburn which is in itself under police scrutiny in respect of failed test purchases. It is clear he is unable to effectively manage both premises. Despite Police and Local Authority intervention the advice given by the authorities does not seem to be acted on and there continues to be activity at the premises which undermines the licensing objectives. The police now have no confidence in the premises licence holders and as such would ask for revocation of the licence. A copy of the request for a review of the premises licence is attached to this report at Appendix (a).
11. A witness statement from Police Sergeant Anthony John Bushell detailing the incidents at the premises is attached to this report at Appendix (b).
12. A witness statement from Community Support Officer Fern Elizabeth Jones detailing an incident outside the premises on Saturday 31 July 2010 is attached to this report at Appendix (c) Town Centre CCTV footage identified as police exhibit number FEJ 7449/01 is available for members to view.
13. A letter dated 13 September 2010 from David Johnnie of Lancashire County Council Trading Standards Service, detailing their representations is attached to this report at Appendix (d).
14. Officers are aware that on 8th September 2010, Lancashire Constabulary served an application for a review under the Licensing Act 2003 Section 51, on Blackburn with Darwen Borough Council. A review hearing has been scheduled for the 19 October 2010. The review is in respect of Mehboob Patel who is the designated premises supervisor for the premises in Blackburn; the reasons for the review are similar to these proceedings.
15. There are no representations from interested parties.

16. The premises licence holder is Mehboob Patel and Suhail Patel. A copy of the premises licence is attached to this report at Appendix (e).
17. Section 4 of The Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and the guidance issued by the Secretary of State under Section 182 of the Act.
18. As Members will be aware the four licensing objectives are as follows –
 - The prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - The protection of children from harm.
19. The Licensing Act 2003 Section 51 provides that where relevant representations are received the Licensing Authority must hold a hearing to consider them.
20. The Licensing Authority in determining the application, having had regard to the representations, and Licensing Act 2003 Section 52 may take the following steps it considers it necessary for the promotion of the licensing objectives.
 - i) To modify the conditions of the licence
 - ii) To exclude a licensable activity from the scope of the licence
 - iii) To remove the designated premises supervisor
 - iv) To suspend the licence for a period not exceeding 3 months
 - v) Revoke the licence.
21. Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member's attention is drawn to the following paragraphs:
22. **Paragraph 1.3** The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing, However, each application will be considered separately, on its individual merits.
23. **Paragraph 1.4** The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.
24. **Paragraph 2.5** Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.
25. **Paragraph 2.6** The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.

CRIME AND DISORDER

26. **Paragraph 6.1** Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems.

27. **Paragraph 6.4** The Council will have particular regard to the likely impact on licensing of related crime and disorder in the Borough particularly when considering the location, impact and the operation and management of all proposed licensed premises and applications for variations.
28. **Paragraph 6.5** The promotion of the crime and disorder-licensing objective, places a responsibility on licence holders to try and achieve this objective. Applicants will therefore be required to address, in their operating schedules, where appropriate, those measures that have been identified and will be implemented and/ or maintained to reduce or prevent crime and disorder in the vicinity of their premises. The Licensing Authority considers that best practice will be exemplified by the night safe initiative and would recommend that licence holders join this initiative.

REVIEWS

29. **Paragraph 41.1** The Act 2003 makes provision for the review of premises licences where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
30. **Paragraph 41.2** At any stage following the grant of a premises licence, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request the Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
31. **Paragraph 41.1** The Licensing Authority recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Licensing Authority would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement.

The Licensing Authority advises licence holders that a failure to respond to such a warning may lead to a responsible authority to request a review.

32. **Paragraph 41.11** The Licensing Authority will hold a hearing following a request for a review from a responsible authority, interested party or after closure procedures described earlier.

The Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.

33. **Paragraph 41.12** In determining a review, the Licensing Authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- no action necessary as no steps required to promote the licensing objectives;
 - issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time; The Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder.
 - to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
 - excluding a licensable activity from the licence;
 - remove the designated premises supervisor,
 - suspend the licence for a period of three months;
 - to revoke the licence.

34. **Paragraph 41.13** The Licensing Authority in determining what action to take will seek to establish the cause(s) of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

HUMAN RIGHTS ACT IMPLICATIONS

35. 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.
36. There is a right of appeal to the Magistrates Court within 21 days from the date of receipt of the notification of the decision.

IMPLICATIONS OF REPORT

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

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

Jamie Carson
Director of People and Places

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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