

Report of	Meeting	Date
Director of Corporate Governance	Licensing Act 2003 Sub-Committee	12 November 2008

## **APPLICATION FOR A REVIEW OF A LICENCE IN RESPECT OF THE SWAN WITH TWO NECKS, HOLLINSHEAD STREET, CHORLEY PR7 1EP MADE UNDER SECTION 52 OF THE LICENSING ACT 2003**

### **PURPOSE OF REPORT**

1. To enable Members to determine the application for a review of a licence in respect of the premises known as The Swan with Two Necks, Hollinshead Street, Chorley PR7 1EP.

### **RECOMMENDATION(S)**

2. Members are recommended to consider the reasons for the review and any representations made by any relevant authorities or interested parties and after considering those representations determine the licensable activities for the purpose of the premises licence for The Swan with Two Necks.

### **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 The Swan with Two Necks, Hollinshead Street, Chorley PR7 1EP. The hearing is conveyed 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	4
Involving people in their communities	4	Ensure Chorley Borough Council is a performing organization	

## BACKGROUND

8. On 2 November 2005 an application for the grant of a Premises Licence under the Licensing Act 2003 was received for The Step Inn (now known as The Swan with Two Necks) Hollinshead Street, Chorley. PR7 1EP.

The application was made in accordance with Section 17 of the Licensing Act 2003 and advertisements were placed in the local paper and on the premises in the prescribed manner.

On 19 December 2005 the application was considered at a hearing due to 21 representations being received from interested parties. No representations were received from responsible authorities.

The conditions attached to the licence from the hearing of 19th December 2005 are attached for member's information as in Appendix A.

On 27 April 2007 an application for a review of the premises licence was received from the Council's Environmental Services Unit acting as a Responsible Authority.

A brief outline of the grounds for that review were as follows and made under the heading of the Prevention of Public Nuisance:

'The Environmental Protection Section received a complaint regarding noise nuisance in February 2007. Tape-recorded evidence was gathered and an abatement notice was served on 28 March 2007. Recording equipment was again installed on 13 and 14 April 2007 and this recorded loud music, which was in breach of the abatement notice. The DPS did not respond to any letters or warnings from the Environmental Protection Section.

On 18 June 2007 a review of this licence was considered at a hearing and conditions were attached to make a permanent and positive impact on the noise levels to ensure that there was no recurrence of a statutory nuisance and to prevent further public nuisance'. A copy of the decision notice is attached for member's information as at Appendix B

It came to the attention of the Licensing Office on 16 January 2008 that Mr N Hogan (the Premises Licence holder) had been declared bankrupt at a meeting held at Bury County Court in December 2007. Mr Hogan had not notified the Council of this fact and under the provisions of the Licensing Act section 27 (1)(c) "a premises licence lapses if the holder of the licence becomes insolvent. An interim authority notice could have been applied for within seven days of the date of the bankruptcy order, however, no application was received to enable the interim authority notice to take effect.

Between 2 February 2008 and 2 March 2008 five Temporary Event Notice applications were granted for each of the weekends falling within this period to enable the Premises to partly open.

On 28 January 2008 an application to grant a premises licence was made by Swan Hospitality Ltd in accordance with Section 17 of the Licensing Act 2003 and advertisements were placed in the local paper and on the premises in the prescribed manner. On 4 February 2008 the proposed Designated Premises Supervisor Mrs D Hogan confirmed that she had served copies of the application on the Responsible Authorities.

It is understood that a meeting was arranged and held at Chorley Police Station between the applicant the police and the Councils Environmental Health Department prior to the application for the grant of the licence for The Swan with Two Necks being submitted to agree the operating schedule for the premises. The purpose of this meeting was to ensure all parties were content with the licence application prior to its submission. The conditions proposed at that meeting by the police were accepted by the applicant and attached to the application under the relevant headings. The conditions proposed by the Environmental Health Department were not accepted at that time.

On 11 February 2008 a representation was received from the Environmental Services Unit as a Responsible Authority on the grounds that the applicant failed to provide sufficient information to satisfy this department that the applicant is able to Prevent Public Nuisance from the premises and members are asked to refer to Appendix F for information.

In order to address the concerns of the Environmental Services Unit, a proposal was put to the applicant which would allow the applicant to monitor and manage the aspects of noise outbreak from the premises according to the type of regulated activity employed. This was by way of a acoustic noise report to be conducted and presented to the Environmental Services Unit prior to the provision of any regulated entertainment, where specific readings must be achieved. The specifics contained in the conditions for an acoustic report are contained under Annex 2 section 9.

On 2 March 2008 a letter was received from Swan Hospitality Limited stating that they agree to the conditions set out for the premises licence and had instructed a Council approved sound engineer to attend the premises and undertake the required survey.. A new premises licence was issued on 3 March 2008 and details of this licence are as follows:-. Members are also asked to refer to Appendix H.

Premises Licence Holder – Swan Hospitality Ltd

Designated Premises Supervisor – Denise Hogan

Current Licensable activities:

Exhibition of films (Indoors) (B)

02:00 to 01.00 Monday to Sunday

Indoor Sporting Event (C)

12.00 to 01.00 Monday to Sunday

Performance of Live Music (Indoors) (E)

08:00 to midnight Monday to Sunday

### Non Standard Timings

Non amplified live music will be permitted outside the premises on Sundays and Bank Holidays between 14.00 – 17.00

### Playing of recorded music (Indoors) (F)

08:00 to 01.00          Sunday to Thursday  
08.00 to 02.30          Friday and Saturday

### Performance of Dance (Indoors) (G)

08:00 to midnight      Monday to Sunday

### Provision of facilities for making music (Indoors) (I)

08:00 to 01.00          Monday to Thursday  
08.00 to 02.30          Friday and Saturday  
09.00 01.00              Sunday

### Provisions of facilities for dancing (Indoors) (J)

08:00 to 01.00          Sunday to Thursday  
08.00 to 12.30 Friday (this is the time applied for on the application form and not 00.30).  
08.00 to 02.30 Saturday

### Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors) (K)

08.00 to 01.00          Sunday to Thursday  
08.00 to 02.30          Friday and Saturday

### Late Night Refreshment (Indoors) (L)

23:00 to 01:00          Monday to Sunday

### The sale by retail of alcohol for consumption On and Off the premises (M)

08:00 to 00.30          Monday to Wednesday  
08.00 to 01.00          Thursday  
08.00 to 02.30          Friday and Saturday  
08.00 to 01.00          Sunday

### The opening hours of the premises

08.00 to 01.00          Monday to Wednesday  
08.00 to 01.30          Thursday  
08:00 to 03.00          Friday and Saturday  
08.00 to 01.30          Sunday

## **ANNEX 1 - MANDATORY CONDITIONS**

### Section 19:

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 authorised by a person who holds a personal licence (section 19 of the Licensing Act 2003).

#### Section 20:

- 1a) The Premises licence holder shall ensure that the admission of children to the exhibition of any film shall be restricted in accordance with section 20 of the Licensing Act 2003(the Act)
- 1b) Unless section 20(3) (b) of the Act applies, admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the film classification board specified in this licence
- 1c) Where section 20(3) (b) of the Act applies, admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the licensing authority
- 1d) Where no film classification board is specified in this licence admission of children to the exhibition of any film shall be restricted in accordance with any recommendation made by the licensing authority.
- 1e) For the purposes of this condition:  
“children” means persons aged under 18; and  
“film classification board” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification)

#### Section 21:

Where Relevant;

1. The Premises licence holder shall ensure that each individual present on the premises to carry out a security activity [as defined by paragraph 2(1) (a) of the Schedule 2 to the Private Security Industry Act 2001] must be licensed by the Security Industry Authority.

### **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

#### Prevention of Crime and Disorder

1. Installation of digital CCTV system with cameras both internally and externally. The system to be recording 24 hrs a day 7 days a week, to be fully operated and maintained to the satisfaction of Lancashire Constabulary.
2. Ensure there is one member of staff on duty at all times when the premises is trading who can operate and download images from the CCTV system. These images to be made available on reasonable request from any responsible authority.
3. The premises will be a pro-active member of Pubwatch where such a scheme exists and will abide by it's rules and constitution.
4. Smoking will not be permitted in any licensed area at any time.
5. The premises will have a written Drugs Policy.
6. The premises will have and operate a town centre link radio.

## Public Safety

1. Staff will make regular checks of internal and external areas to ensure any unused glasses and bottles are collected.
2. All staff including door staff will be trained and have knowledge of fire precaution measures, illegal sales of alcohol, first aid and the drugs policy.
3. All staff training will be recorded and these records made available for inspection on request by any responsible authority.

## Prevention of Public Nuisance

1. No amplified sound will be played in any external areas.
2. Windows and doors will be kept closed whenever live entertainment or amplified sound is taking place.
3. Regulated entertainment will be inaudible at the nearest noise sensitive location.
4. When live entertainment or amplified sound is provided a nominated member of staff will make regular checks of the external areas for noise. These checks both positive and negative any action taken will be recorded in document form and this should be made available for inspection at the request of any responsible authority.
5. Signage will be displayed on the premises asking customers to leave the premises quietly.
6. Regular contact will be made with local residents to discuss any concerns and a record of these meetings maintained, these should be carried out at least every quarter.
7. The premises will adopt a dispersal policy at the end of the evening to ensure customers leave the area quietly.
8. The Premises Licence Holder will implement a daybook to be maintained and managed to the satisfaction of Lancashire Constabulary.
9. Prior to the provision of regulated entertainment at B,C,E,F,H,I and K as per the premises licence application: Noise from regulated entertainment shall be attenuated to a level not exceeding 5dBA above the measured background level or in any case 45dB NR outside any noise sensitive dwelling.

To meet the above condition, the premises licence holder shall produce a report from an approved Acoustic Consultant describing the steps that will be taken to attenuate noise outbreak from the premises during the provision of regulated entertainment. The monitoring programme and report shall be in accordance with the specification provided by the Council's Environmental Health department. The report's recommendations shall be complied with and monitoring shall take place after the recommendations have been implemented to evidence that the above noise limits are met prior to the provision of any regulated entertainment as listed, save that non-amplified live music will be permitted outside the premises on Sundays and Bank Holidays between 14.00 and 17.00. 7 days notice shall be given in writing to the Environmental Health department of any such events for the purposes of monitoring. Terms of reference as provided by Chorley Council's Environmental Health department.

### Protection of Children from Harm

1. Children will not be permitted in the downstairs licensed area after 21.00 hours Monday to Sunday other than those coming from or going to the restaurant area.
2. The premises will adopt a Challenge 21 Policy and there will be signage displayed in the premises advertising this.

### **ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

None.

### **THE APPLICATION FOR REVIEW**

9. On the 25 September 2008 an application for review of the premises licence for The Swan with Two Necks was received from a Responsible Authority, Lancashire Constabulary. An outline of the grounds for review is as follows:

The premises has come to the attention of the police in respect of the number of incidents and crimes recorded at the premises, in addition to complaints regarding the provision of entertainment.

There are also concerns that activities being provided are in breach of the conditions on the licence, and that other conditions are not being complied with.

The Police and Local Authority have engaged with the management of the premises and have offered support and advice which has not been acted upon and therefore problems and breaches still persist.

It is the Police view that many of the incidents can be attributed to the ineffective and lax management practices of the Designated Premises Supervisor and other persons with responsibility for managing the premises.

The incidents and complaints undermine the Prevention of Crime and Disorder and the Prevention of Public Nuisance licensing objectives.

To this end the Police, through this review, have recommended amendments to the Premises Licence with regards the hours of operation, the provision of licensable activities and the imposition of further conditions.

The Police feel that these measures are reasonable and proportionate to ensure the Licensing Objectives are no longer undermined and a reduction in crime and disorder incidents is achieved.

The recommendations are contained within the body of the review at Appendix C1-4 of The Swan with Two Necks. Review and – Recommendations and reasons pages 1-4.

A copy of the full application for review for member's information is attached to this report as in Appendix C

Exhibit Ref AJB 11 contains CCTV footage which is held and available to view through the Licensing Section.

In June 2008 the Licensing Manager's attention was drawn to the number of incidents relating to crime and disorder and noise nuisance at the premises. In order to assist with the issues raised a partnership approach was adopted with the Police Licensing Sergeant

Antony Bushell, the Licensing Department and the designated premises supervisor of the Swan with Two Necks, Mrs Denise Hogan, to resolve the issues. The purpose of the meeting held at the premises on 10 June 2008 was to examine those concerns raised and to establish control measures within the powers of the existing management that would reduce the number of incidents and calls for services to the Police. At the same time the premises licence conditions were examined for compliance. The minutes from that meeting are contained within the application for review and attached at appendix C reference AJB 7 & 8 and of a further meeting on 29 August 2008 reference AJB 13 is also documented. The conclusions from those meetings were clearly communicated to the designated premises supervisor in the minutes of the meeting and verbally at that time, giving clear recommendations and actions necessary to improve the situation. Areas of concern regarding non compliance of the premises licence conditions were also highlighted and appropriate guidance and advice was freely given to all present at the meeting to enable the premises to achieve compliance with the licence conditions.

At the above meetings, issues regarding the unlawful provision of regulated entertainment by the Swan with Two Necks was not discussed, as this was a contentious issue and was dealt with by separate correspondence.

At the present time the Council have issued a number of summons to the premises licence holder Mr Chris Tattersall, the designated premises supervisor Mrs Denise Hogan and Swan Hospitality Ltd under Section 136 of the Licensing Act 2003, for providing regulated entertainment outwith the permissions of the premises licence. This case is listed for hearing on the 5 November 2008 at Chorley Magistrates Court.

The Committee's attention is drawn to the fact that the Premises licence holder and the Designated Premises Supervisor of The Swan with Two Necks have been summoned for the above offences, however, it is a matter for the Courts to determine this matter.

## **RELEVANT REPRESENTATIONS**

### **RESPONSIBLE AUTHORITIES**

One representation was received for the review from Lancashire Constabulary. Members are asked to refer to Appendix C for information.

One representation was received from Environmental Health which acts as a Responsible Authority and details of their report can be viewed by members at Appendix F.

One representation was received from the Public Health Section and can be viewed by members at Appendix G.

### **INTERESTED PARTIES**

Two representations were received from interested parties (the owner of Applejax nightclub and The Chairman of Chorley Pubwatch) and members are asked to refer to Appendix E for information.

## **RELEVANT REPRESENTATIONS RECEIVED IN SUPPORT OF THE SWAN WITH TWO NECKS**

132 letters, (116 of which are identical letters but signed by different people, a sample letter is attached for members information at Appendix D) and 14 letters with an illegible signature have also been received from people who live in the Borough of Chorley.

35 letters have been received (31 identical) from people who live outside the Borough of Chorley and these have not been taken into account by reason of not in the vicinity.



53 letters (49 identical) have been received either with signatures only or address is incomplete and deemed not relevant.

A total of 132 representations have been accepted as relevant to the review and have been invited to make these representations today under section 52 of the hearings regs.

In summary, the issues raised by responsible authorities and interested parties by way of a review of the premises licence for the Swan with two Necks concern the licensing objectives relating to the prevention of crime and disorder and the prevention of public nuisance.

## **POLICY CONSIDERATIONS AND LEGAL CONSIDERATIONS**

Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act.

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.

The Licensing Act 2003 Section 51 provides that where relevant representations are received the Licensing Authority must hold a hearing to consider them unless the parties agree that a hearing is unnecessary.

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.

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:

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.

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.

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.

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**

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

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.

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.

## **LICENSING HOURS**

Paragraph 7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.

Paragraph 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, but each premise will be considered on its individual merits.

## **PROTECTION OF CHILDREN FROM HARM**

Paragraph 10.1 The policy does not seek to prevent or limit the access of children to licensed premises unless it is necessary for the prevention of physical, moral or psychological harm to them. The Licensing Authority is committed to protecting children from harm and activities associated with premises that sell alcohol or provide regulated entertainment, may in certain circumstances, give rise to concerns for the health and welfare of children. For the purpose of this Policy, a 'child' is defined as any person who is under the age of 16.

## **PREVENTION OF PUBLIC NUISANCE**

Paragraph 13.1 Licensed Premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

Paragraph 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.

Paragraph 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.

Paragraph 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

Paragraph 13.5 The policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.

Paragraph 13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:

- the location of the premises (in particular proximity to residential and other noise sensitive premises, eg hospitals, nursing homes, hospices and places of worship).
- the type of activities, the number and nature of clientele likely to attend at the time of the application.
- the proposed hours of operation.
- levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire).
- means of access to premises (whether on principal pedestrian routes).
- the level of car parking demand on any surrounding residential streets and its effect on local residents.
- the cumulative impact on licensed premises in an area.
- the scope for mitigating an impact i.e. CCTV, door supervisors.
- the frequency of an activity.
- the design and layout of the premises.
- measures taken or proposed to be taken to prevent noise or vibration escaping from the premises eg sound proofing, air conditioning and sound limitation devices.
- measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc.
- measures taken to lessen the impact of parking in the vicinity.
- control of operating hours for all or parts of the premises (eg gardens, last admission times and 'wind down' periods).
- measures to be taken to prevent drunkenness on the premises.
- measures to ensure collection and disposal of litter and waste outside their premises.

Paragraph 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.

Paragraph 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3 in the Council Statement of Licensing Policy. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.

Paragraph 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.

Paragraph 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

## **PUBLIC SAFETY**

Paragraph 14.1 The Licensing Authority considers that members of the public when visiting licensed premises, have a right to expect that due consideration has been given to public safety. The Licensing Authority notes that the public safety objective is concerned with the physical safety of people using premises and not with public health which is dealt with in other legislation.

Paragraph 14.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in partnership with Lancashire Police, Lancashire Fire & Rescue and Licence Holders.

Paragraph 14.3 Applicants should carefully consider the safety of the premises having regard to the licensable activities that are proposed and to address in the operating schedule, where relevant, how public safety will be achieved. Such measures may include, where relevant to the premises:

- the occupancy capacity of the premises.
- age, design and layout of the premises including means of escape.
- nature of the licensable activities to be provided, in particular the sale and supply of alcohol.
- hours of operation.
- customer profile (eg age).
- use of special effects eg lasers, pyrotechnics, smoke/foam machines.

Paragraph 14.4 The Act requires a plan of the premises to be supplied with operating schedules showing prescribed information.

The Licensing Authority will take notice of a health and safety risk assessment submitted with an operating schedule.

Paragraph 14.5 All licensed premises will be risk related according to a Protocol agreed with Lancashire Fire and Rescue. Inspections will be carried out by Lancashire Fire & Rescue in accordance with the Protocol. A copy is attached at Appendix 6.

Paragraph 14.6 The Licensing Authority may inspect premises where it considers it appropriate on public safety grounds.

Paragraph 14.7 On receipt of relevant representations the Licensing Authority may, where it considers it necessary and/or appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions attached at Appendix 3. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.

## **REVIEWS**

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.

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.

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.

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.

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.

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

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.

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

10. 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	4	No significant implications in this area	

## LEGAL IMPLICATIONS

11. The legal implications are addressed within the report.

ANDREW DOCHERTY  
CORPORATE DIRECTOR OF GOVERNANCE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Jayne Day	5708	30 October 2008	LEGREP/3011LM1