

Report of	Meeting	Date
Director of Corporate Governance	Licensing Act 2003 Sub-Committee	24 November 2008

## **APPLICATION TO TRANSFER A PREMISES LICENCE UNDER SECTION 42 OF THE LICENSING ACT 2003 AND AN APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS A DESIGNATED PREMISES SUPERVISOR UNDER SECTION 37 OF THE LICENSING ACT 2003 RELATING TO THE PREMISES KNOWN AS THE ROSE AND CROWN, ST THOMAS'S ROAD, CHORLEY**

### **PURPOSE OF REPORT**

1. To enable Members to determine whether an application to transfer a premises licence can be granted and also to determine whether an application to vary the premises licence to specify an individual(s) as a designated premises supervisor.

### **RECOMMENDATION(S)**

2. Members are asked to consider the details contained in the report and any representations made by the applicant and/or her representative and Lancashire Police.

### **EXECUTIVE SUMMARY OF REPORT**

3. On 15 October 2008 an application to vary the premises licence to specify an individual as a designated premises supervisor was received on 15 October 2008. A copy is attached at appendix 1. The licensing authority also received an application to transfer the premises licence with respect to the Rose and Crown, 15 St Thomas's Road, Chorley. A copy is attached at appendix 2. Both these applications were made by Cobbetts LLP, 58 Mosley Street, Manchester M2 3HZ.
4. On 27 October 2008 Lancashire Constabulary made a representation in respect of both applications. With regards to these applications the Police feel that there are exceptional circumstances that would undermine the Crime Prevention Objective of the Licensing Act 2003 if the applications were granted.
5. Due to the sensitive nature of the police representations with regards this matter, Lancashire Constabulary has asked that further evidence can be considered at the hearing that has not previously been disclosed. Therefore application will be made at the hearing for the exclusion of press and public under Statutory Instrument 2005 No. 44, the Licensing Act 2003 (Hearings) Regulations 2005, Section 14(2) which states 'the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.' And Section 14(3) which states 'for the purpose of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public'



6. 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
7. Where a notice is given under section 37(5) (and not withdrawn) *representation from the Chief Officer of Police* the authority must – (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice, agree that a hearing is unnecessary, and (b) having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
8. 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.
9. The Council's Statement of Licensing Policy states in Paragraph 26.1:

The main purpose of the designated premises supervisor is to ensure that there is one specified individual, who can be readily identified at the premises where a premises licence is in force. The premises licence holder would normally have given that person the day-to-day responsibility for running the premises.
10. Lancashire Police are able to object to the designation of a new designated premises supervisor where, in exceptional circumstances, they believe the appointment would undermine the Crime Prevention objective as set out in the Act.
11. Where the police do object, the Licensing Authority will hold a hearing as required by the Act. The Act provides that the applicant may apply for the individual to take his post up immediately and in such cases, the issue will be whether the individual should be removed.
12. The Licensing Authority will confine their consideration to the issue of crime and disorder and give comprehensive reasons for their decision.
13. The Council's Statement of Licensing Policy states in Paragraph 34.1:

The Act provides for any person who may apply for a premises licence to apply for a transfer of a premises licence. Where the applicant is an individual he or she must be aged 18 years or over. Notice of the application must also be given to Lancashire Police.
14. The Chief Officer of Lancashire Police may in exceptional circumstances object to a transfer on the grounds that it undermines the crime prevention objective.
15. In paragraph 19 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.

16. Where such an objection is made the Licensing Authority will hold a hearing to consider the objection. The Licensing Authority will confine its consideration to the issue of the crime prevention objective. The burden would be on Lancashire Police to demonstrate to the Licensing Authority that there were good grounds for believing that the transfer of the licence would undermine the crime prevention objective.

## CORPORATE PRIORITIES

17. 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		Ensure Chorley Borough Council is a performing organization	

## IMPLICATIONS OF REPORT

18. 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

19. Not applicable.

ANDREW DOCHERTY  
DIRECTOR OF CORPORATE GOVERNANCE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Janet Brereton	5204	11 November 2008	LEGREP/1011LM1