

Report of	Meeting	Date
Director of Customer and Digital	Licensing Act 2003 Sub Committee	10 th July 2018

REVIEW OF PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF WELDBANK STORE AND OFF LICENCE, 46 WELDBANK LANE, CHORLEY, PR7 3NQ (PLA0265)

PURPOSE OF REPORT

- For Licensing Act 2003 Sub-Committee Members to determine the outcome of an applications submitted by Lancashire Constabulary and Lancashire County Council Trading Standards to review the above premises licence

RECOMMENDATION(S)

- Members are recommended to consider the details contained in this report and any representations received by the premises licence holder PLA0265 and/or his representative to determine if any action is appropriate.

EXECUTIVE SUMMARY OF REPORT

- On the 24th of May 2018 an application for a review of the premises licence under the Licensing Act 2003 was received from Lancashire Constabulary acting in their capacity as a Responsible Authority. On the 25th of May 2018 an application to review and support the police application was received from Lancashire County Council Trading Standards. The reason for these applications is given under the licensing objective for: The Prevention of Crime and Disorder, in that the premises were found to be involved in the sale of illicit tobacco and lack of control of the premises.

Confidential report Please bold as appropriate	Yes	No
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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 communities	X	An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

- On the 24th and 25th of May 2018 applications for a review of the premises licence under the Licensing Act 2003 where received from Lancashire Constabulary and Lancashire County Council Trading Standards acting in their capacity as Responsible Authorities. The applications are attached. **See Appendix 1 & 2**

6. In addition to the application for review submitted by trading standards they also submitted supporting evidence in the form of a statement supplied by one of the attending officers, notice of power and rights of entry, a visit report and a picture of the goods found at the premises. **See Appendix 3, 4, 5 & 6**
7. Mr Ramesh Karsan Varsani is the current holder of PLA265. The premises licence is also attached **See Appendix 7.**
8. As required the Responsible Authorities were informed of the Review Applications as required under the Licensing Act 2003.
9. On the 24th of May 2018 a Notice of review of the premises licence was posted at the site for a period of 28 days during which representations could be made. **See Appendix 8 & 9**
10. None of the other Responsible Authorities or any other interested parties have submitted a representation during the consultation period other than the two stated. An email was received from the police on the 22nd of June 2018 asking for an email from a Weldbank Store member of staff to be added to the review file on behalf of the police. **See Appendix 10**
11. The reason given to review the premises licence is undermining the Licensing Objectives for The Prevention of Crime and Disorder. **See Appendix 1.** The grounds of the application for review are stated as this venue is the source of Trading Standards offences which undermines the Licensing Objective Prevention of Crime and Disorder.
12. On the 8th May 2018 Lancashire County Council Trading Standards Officers attended the premises with the police. During this visit illicit goods were discovered.
13. 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.
14. The Licensing Authority shall determine the application, having considered the representations that have been made, and having regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act.
15. Section 52 of the Licensing Act 2003 is the authority the Licensing Sub-Committee can rely upon with regards to this matter which is reproduced below:
16. The Hearing is conveyed under the Licensing Act 2003 (Hearing) Regulations 2005.

Section 52 Determination of application for review of a Premises Licence

(1) This section applies where—

- (a) the relevant licensing authority receives an application made in accordance with section 51,
- (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
- (c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section.

Subsections 11.1 and 11.2 of guidance issued under section 182 of the Licensing Act 2003 state:-

'the proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.'

17. Under Section 51 (1) of the Licensing Act 2003, a responsible authority or other party may apply to the licensing authority for the review of a licence. The grounds for review must relate to one or more of the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance and
- The protection of children from harm

18. Paragraph 11.24 of the 182 guidance clearly stipulates:

"A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authorities' role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective".

19. Paragraph 11.19 of the guidance states:

"Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- suspend the licence for a period not exceeding three months;*
- revoke the licence."*

20. Paragraphs 11.25 to 11.28 of the 182 guidance cover the review process in further depth:-

"11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective.

It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises.....

- *For the sale or storage of smuggled tobacco and alcohol;*

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.”

21. The Councils Statement of Licensing Policy 2016 – 2018 states;

8.2 Review of licences

8.2.1 The procedure for reviewing premises licences and club premises certificates represents a key protection for the community where there is evidence to show that a specific concern exists relating to one or more of the licensing objectives.

8.2.2 The Licensing Authority expects responsible authorities and other persons to give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement. It is expected that requests for a review of any licence or certificate will be sought only if such interventions have failed to resolve the matter or problem.

8.2.3 Representations must be made in writing and must be relevant. They must not be vexatious, repetitious or frivolous.

IMPLICATIONS OF REPORT

22. 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	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

23. The powers available to the sub-committee are described in the body of the report.
24. The licence holder, the police and Lancashire County Council Trading Standards enjoy a right of appeal against the decision of the licensing authority to the local magistrates' court within 21 days of notice of the decision.

25. The duty of the sub-committee to have regard to any relevant representations, national guidance issued by the Home Office under Section 182 of the Licensing Act 2003 and also to the Council's adopted licensing policy is referred to in the body of the report.
26. Aspects of the Human Rights Act 1998 are engaged, namely the right to a fair trial and the protection of property

ASIM KHAN
DIRECTOR CUSTOMER AND DIGITAL.

Background Papers			
Document	Date	File	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	Doc ID
Chris Carney	5665	26/6/2018	***