

Report of	Meeting	Date
Director of Planning and Development	Licensing Act Sub Committee	Wednesday 23 rd November 2022

Confidential report	Yes	No
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Application:	Application for the Review of a Premises Licence under the Licensing Act 2003
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PREMISES DETAILS

Premises Name:	Tony's Off Licence	Address:	50 Bolton Road, Chorley, PR7 3ET
Licence Holder:	Mr Verkaria Bharat	DPS:	Mr Verkaria Bharat

Reason for hearing

- To advise members of an application for the review of a premises licence which has been served by Lancashire Constabulary, in respect of the premises detailed above.
- For members to determine the application in accordance with the provisions of the Licensing Act 2003.

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

Appeals

- An appeal against the decision of the Council may be made to the Magistrates' Court within 21 days of receipt of the determination notice which will be delivered to all relevant parties.

Any decision made does not have effect until the end of this period or, if the decision is appealed, until the appeal is disposed of.

Legal considerations

7. Members must have regard to the following:
- The Guidance issued under Section 182 of the Licensing Act 2003. In particular, **Section 9.31 to 9.44 and Section 11.16 to 11.23** may guide members.
 - The Council's Statement of Licensing Policy effective from 2021.
 - The Licensing Act 2003.

History of the Premises Licence

8. The premises has been licensed under the Licensing Act since the old Justices' Licence was converted into a premises licence at the coming into force of the Licensing Act in 2005. The licence has been transferred a number of times since then.
9. The licence was transferred into the current licence holder's name on 15.02.18. At the same time, he became the designated premises supervisor. A copy of the licence is appended at [Appendix 1](#).
10. The premises itself sits just outside of the town centre on the busy arterial road, the A6 Bolton Road. It sits within a row of terraced houses with a zebra crossing over the road, close by. This is an area which is densely packed with residential properties on all sides. A plan view is appended at [Appendix 2](#).

Application for the review of a premises licence

11. On 6th October 2022, an application for the review of a premises licence was received from PC 6884 Connolly, for and on behalf of the Chief Constable of Lancashire Constabulary. A copy of the application is appended at [Appendix 3](#) and is concerned with the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm being undermined at the premises.
12. The grounds for the review are as follows:

The licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm are being undermined at the premises in that cannisters of nitrous oxide have been sold from the premises and that a large quantity of non-compliant e-cigarette products have been found.

Advertisement of the application and relevant representations

13. This application was advertised in accordance with the regulations in that a notice was displayed at the premises, at the Council Offices and a copy of the application was published on the Council's website for the whole 28-day consultation period.
14. During this period and on 18th October 2022, a representation was received from Lucy Collier, who states she is a member of staff at the premises. This representation relates to the prevention of crime and disorder objective and is appended at [Appendix 4](#).
15. During this period and on 26th October 2022, a representation was received from Scot Schilz, a member of the public. This representation relates to the prevention of crime and disorder objective and is appended at [Appendix 5](#).
16. During this period and on 31st October 2022, a representation was received from Jeff Bamber, a member of the public. This representation relates to the prevention of crime and disorder objective and is appended at [Appendix 6](#).

Implications of the Report

17. 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

18. The options available to the sub-committee are referred to in paragraph 20 below. The premises licence holder and any person who made relevant representations may appeal to the magistrates' court against a decision within 21 days of notice of the decision. The duty of the sub-committee to have regard to relevant representations, national guidance issued by the Home Office under section 182 of the Licensing Act 2003 and also the Council's adopted local policy is referred to in the body of the report. Aspects of the Human Rights Act 1998 are engaged, including the right to a fair hearing and the protection of property.
19. The supply of nitrous oxide cannisters provided it is not for recreational drug purposes e.g. for whipping cream is lawful but prohibited under Section 5 of the Psychoactive Substances Act 2016 if the person who supplied it knows that the substance is psychoactive and knows or is reckless as to whether the person who receives the supply will consume it for psychoactive effects. Possession is not a crime, unless the possession is with intent to supply for use as a recreational drug. The offence is punishable by imprisonment of up to 12 months or up to six months if committed before 2 May 2022, or to a fine or to both

Determination and Options

20. The decision should be based on the individual merits of the application and the representations (if any). In accordance with Regulation 26(2) of the Licensing Act 2003 (Hearings) Regulations 2005, a decision must be made within the period of 5 working days beginning with the day or the last day on which the hearing was held.
21. In accordance with Section 52 of the Act, the Authority must, having regard to the application and any representation made, take such steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:
 - a) To modify the conditions of the licence, (including altering, omitting or adding any condition),
 - b) To exclude a licensable activity from the scope of the licence,
 - c) To remove the designated premises supervisor,
 - d) To suspend the licence for a period not exceeding three months, or
 - e) To revoke the licence.
22. Where members decide to take such steps at a. or b. of paragraph 21 above, they *may* provide that they have effect for only such a period (not exceeding three months) as they may specify.

Jonathan Noad
Director of Planning and Development

APPENDICES

Appendix	Description
Appendix 1	Copy of Premises Licence
Appendix 2	Plan view of the area surrounding the premises
Appendix 3	Application for the review of a premises licence
Appendix 4	Representation- Lucy Collier (Other Persons)
Appendix 5	Representation- Scot Schilz (Other Persons)
Appendix 6	Representation- Jeff Bamber (Other Persons)

BACKGROUND PAPERS

Document	Date	Place of Inspection
The Council's Statement of Licensing Policy	2022- 2025	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	4 th November 2022