

LICENSING ACT SUB COMMITTEE

Licensing Act 2003 Premise Licence Review – Bradford Arms, 40 Queen Street, Morecambe

Determination of Application for the Summary Review of the Premise Licence 12th April 2017

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

To enable Members to determine an application for a summary review of a Premise Licence under Section 53A of the Licensing Act 2003 submitted by Police Constable Andrew Taylor on behalf of the Chief Constable of the Lancashire Constabulary.

The report is public

RECOMMENDATIONS

The Sub-Committee is requested to consider the application from Lancashire Constabulary for the summary review of the premise licence and any submissions made by the premises licence holder.

In accordance with Section 53C (3) and (4) of the Licensing Act 2003, the Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- (a) to modify the conditions of the licence;
- (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;
- (e) to revoke the licence.

The matter for decision, therefore, is which, if any, of these steps should be taken.

1.0 Introduction

- 1.1 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.

- 1.2 The Chief Constable of Lancashire Constabulary has submitted an application for a summary review of a premises licence under Section 53A of the Licensing Act 2003. The application relates to the Bradford Arms, 40 Queen Street, Morecambe. The grounds for submitting the review are that the Police have formed the view that the premises are associated with serious crime and provided a certificate to that effect to the Licensing Authority at 10.00 a.m. on Monday 20th March 2017. A copy of the application and associated certificate are contained in Appendix No.1 to this report.
- 1.3 A copy of the premises licence for the Bradford Arms is attached at Appendix No. 2. This licence was granted to the premises on 24th November 2005.
- 1.4 In accordance with sections 53A and 53B of the Licensing Act 2003, the sub-committee was required to consider what interim steps should be taken pending the summary review hearing. The sub-committee considered whether or not to take interim steps on 21st March 2017 and resolved, on the information available to them, that it was necessary to suspend the premises licence pending hearing of the summary review. A copy of the decision notice in relation to those interim steps is attached at Appendix No. 3.
- 1.5 At the date of preparation of this report, the premises licence holder had not exercised their right under section 53B (6) to make representations to the sub-committee against the interim step taken.
- 1.6 In accordance with the relevant Regulations, the parties have been given Notice of the summary review hearing. A copy of the Notice of Hearing is attached for Members attention at Appendix No. 4.

2.0 Legal background to Review Application

- 2.1 Under Section 53A, 53B and 53C of the Licensing Act 2003 the Police have powers of summary review of a premises licence in cases of serious crime or serious disorder (or both), where the premises licence authorises the sale of alcohol.
- 2.2 Serious crime is defined as an offence for which a person who has attained the age of 21 and has had no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.
- 2.3 A senior member of the Police (Superintendent or above) may apply for a summary review of a premises licence if that licence authorises the sale by retail of alcohol and that police officer provides a certificate stating that they are of the opinion that the premises are associated with serious crime or serious disorder (or both).
- 2.4 The Licensing Authority must, within 24 hours of receiving the application, display a prescribed notice of the review on the premises; the notice must remain on the premises for 7 days, and any person or responsible authority may make representations about the summary review in that period.
- 2.5 The Licensing Authority is then required, within 48 hours, to give notice of the review accompanied by the application and the certificate to the premises licence holder and the Responsible Authorities. A copy of the Notice is attached at Appendix 5.
- 2.6 Within 48 hours of receipt of the summary review application, the Licensing Authority is required to consider whether to take interim steps pending the determination of the

review. The consideration of interim steps can take place without notice to the premises licence holder.

- 2.7 The Licensing Authority is required to hold a hearing to consider the summary review application within 28 days of receiving the application.
- 2.8 Members are reminded that representations can either be in support of or against an application for a summary review of a premises licence. The representation must relate to the likely impact to one or more of the four licensing objectives, namely:
- Public Safety;
 - The prevention of crime and disorder;
 - The protection of children from harm;
 - Prevention of public nuisance.
- 2.9 No further representations were received during the statutory period either supporting the application for a summary review of the premises licence or opposing the application.

3.0 Background information provided by Licensing Authority

On 20th March 2017 the Licensing Authority received an application for Summary Review of a premises licence under Section 53A of the Licensing Act 2003 from Police Constable Andrew Taylor (2338) on behalf of the Chief Constable of Lancashire Constabulary in respect of the Bradford Arms Public House, 40 Queen Street, Morecambe.

This was supported by an obligatory Certificate under Section 53A(1)b) of the Licensing Act 2003 from Superintendent Mark Winstanley, who was satisfied that there was evidence of serious crime having taken place, directly linked to both the premises and the management of the premises.

Between 11th October 2016 and 24th November 2016 Lancashire Constabulary ran an under-cover drugs operation based on intelligence received of drug dealing taking place at the Bradford Arms. Three males living and working at the premises were involved in the sale and supply of bags containing white powder to an under-cover Police Officer during this time, which was subsequently analysed as cocaine.

Following a raid at the premises on Wednesday 15th March 2017 by Police Officers, the three males were each arrested on Suspicion of Conspiracy to Supply Class A drugs.

Further to the application for Summary Review of the premise licence, full details of which were given to Members prior to determination, together with an email from the premises licence holder, interim steps were taken by the Licensing Act Sub-Committee on 21st March 2017, whereby they determined it necessary to suspend the premises licence with immediate effect from 12:00 hours that day. Given recent police activity at the premises, Members were not confident the licence holder had enough opportunity in which to improve the situation in order to uphold the licensing objectives and found it necessary in the circumstances to take the interim step of the immediate suspension of the premises licence pending a full review.

On Thursday, 30th March 2017, a meeting of Police Licensing Officers, Lancaster City Council Licensing staff along with the Chief Executive and Operations Director of Bravo Inns II Ltd (the licence holder) took place at the Bradford Arms to discuss the

current situation and outline plans for the future. Having recently acquired the premises licence on 24th February 2017, Bravo Inns II Ltd indicated their commitment to work in partnership with other agencies to eradicate the stigma of the previous regime and are willing to adopt a wide range of conditions proposed by Police to this effect. An extensive refurbishment of the premises is intended to be undertaken pending the outcome of the review of the licence.

3.1 **Government Guidance under Section 182 of the Licensing Act 2003 in relation to a review hearing following a representation involving Crime and Disorder**

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 in the interests of the wider community and not those of the individual licence holder.

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 and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;

for the sale and distribution of illegal firearms;

for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

for prostitution or the sale of unlawful pornography;

by organised groups of paedophiles to groom children;

as the base for the organisation of criminal activity, particularly by gangs;

for the organisation of racist activity or the promotion of racist attacks;

for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

for unlawful gambling; and

for the sale or storage of smuggled tobacco and alcohol.

It is envisaged that licensing authorities, the police 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.

3.2 Government Guidance under Section 182 of the Licensing Act 2003 in relation to the prevention of Public Nuisance, the promotion of Public Safety and prevention of Crime and Disorder is attached at Appendix No. 6 to this report.

3.3 The relevant parts of the Council's Statement of Licensing Policy are set out at Appendix No. 7.

3.4 **Natural Justice and Human Rights**

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

4.0 **Conclusion**

Members should consider the application for review of the premises licence and any steps it considers necessary for the promotion of the licensing objectives.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted as there are no financial implications.

LEGAL IMPLICATIONS

Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the Magistrates' Court within 21 days.

BACKGROUND PAPERS

None

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