

<b>TITLE:</b>	<b>APPLICATION FOR REVIEW OF PREMISES LICENCE UNDER SECTION 53C OF THE LICENSING ACT 2003</b>
<b>TO:-</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>DATE:</b>	
<b>AT:</b>	<b>REMOTELY VIA LIVE STREAMING</b>
<b>BY:</b>	<b>LICENSING MANAGER ON BEHALF OF THE EXECUTIVE DIRECTOR (LEGAL AND DEMOCRATIC SERVICES) (EXT 2146)</b>

## **1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to consider an application for the review of the premises licence relating to the Duke of Wellington, Blackburn Road, Great Harwood, Lancashire, following the submission of an application under section 51 of the Licensing Act 2003 ("the Act") by a responsible authority namely the Lancashire Constabulary

## **2. RECOMMENDATIONS**

- 2.1 That the Committee consider the application to review the premises licence for the Duke of Wellington, Blackburn Road, Great Harwood made by the Lancashire Constabulary, and any submissions made by the premises licence holder.

## **3. INFORMATION**

- 3.1 Application for the conversion of the Justices' On-Licence to the premises licence in relation to the Duke of Wellington was received on 6th August 2005, together with application to vary the premises licence simultaneously.
- 3.2 The premises licence on conversion and variation was issued on 12<sup>th</sup> February 2006, although the premises licence came into effect on 24 November 2005.
- 3.3 There were a number of applications for transfer of the Premises Licence holder and Designated Premises Supervisor between 2006 and 2014 culminating on 28th July 2014 with the transfer of the premise licence into the name of the current premise licence holders, Baron and Douglas Limited. There were then various changes of designated premise supervisors, and on 7th June 2017 premise licence holder came to an agreement with the then licensing sergeant to remove the DPS Jason Peter Hall from the licence. This was following the receipt of a previous application to review the premise licence which had been submitted by Lancashire constabulary for similar reasons to the current application to review. Due to the agreement to remove the DPS at that time, that application to review was withdrawn. An interim DPS was put in place and then on the 18th September 2017 an application was submitted to make Jason Fenn the DPS of the premises. That application was granted.

- 3.5 The Duke of Wellington is situated on Blackburn Road, a busy main high street with a mixture of residential and commercial properties and is owned by Baron and Douglas Limited. The premises benefits from the following licensable activities:-
- Performance of live music (indoors)
  - Playing of recorded music (indoors)
  - Entertainment of a similar description
  - Late Night Refreshment and
  - the Supply of alcohol for consumption on and off the premises.

A copy of the current licence is attached at **Appendix 1** .

- 3.6 On 24th June 2020 an application for the review of the premises licence pursuant to section 51 of the Act was received from a the Lancashire Constabulary in its role as a responsible authority.. The ground for the review is that the licensing objective relating to the prevention of crime and disorder is not being upheld. A copy of the review application is attached at **Appendix 2**.
- 3.7 The police have stated that there is evidence and information available to indicate that the premises are being openly used to both take and supply drugs. The police state that this is occurring with the full knowledge of those who are supposed to be running the premises and who should be promoting the licensing objectives.
- 3.8 In the review application the police have included numerous incident logs and intelligence report relating to drugs at the premise and various reports in relation to crime and disorder. The additional evidence that the police will be relying upon is attached at **Appendix 3**.
- 3.9 The police have stated that they have serious concerns in relation to the management of the premise. Numerous visits have taken place at the premise during the past 12 months and the DPS, Jason Fenn has never been present.
- 3.10 The police also have concerns that the premise licence holder is not complying with the Coronavirus Regulations. Photographic evidence has been provided by the police of the premise when open. It would appear from the photographs that no attempt is being made by the management to ensure that social distancing is observed. Further during complete lockdown the premise was served with a prohibition notice by the Council as it was found to be operating during the period when all pubs, bars and restaurants should have been on full lockdown.
- 3.11 On the 14th August 2020 the premise was served with a direction by Lancashire County Council to close under The Health Protection (Coronavirus, Restrictions) (England) (no. 3) Regulations 2020 (no.2020/750)1, Regulation 4(1), following concerns about the lack of social distancing in the premises. The premises had to close from 7pm that day. The direction is to have effect until 7pm on the 14th November 2020 unless suspended or revoked before then. The reasons given are set out below:

The Authority considers that the following conditions are met—

- a. this direction responds to a serious and imminent threat to public health;

- b. this direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the Authority’s area; and
- c. the prohibitions, requirements or restrictions imposed by this direction are a proportionate means of achieving that purpose

A copy of the direction is attached. **Appendix 4**

3.11 The current permitted times for licensable activities are set out below.

Type	Times	Indoor/outdoor
Live music	12.00 – 00.00 Monday - Sunday	Indoors
Recorded music	09:00 - 02:00 Monday - Sunday	Indoors
Entertainment of similar description	11.00 -23.00 Monday to Thursday 11.00 – 00.00 Friday – Saturday 12.00 – 22.30 Sunday	Indoors
Late night refreshment	23.00 – 02.00 Monday - Sunday	Both
Supply of alcohol	09.00 – 01.30 Monday – Wednesday 09.00 – 02.00 Thursday - Sunday	Both
Hours of opening	09.00am – 02:00am	

#### 4.0 Advertisement

4.1 The Licensing Authority advertised the application for review of the premises licence at the Scaitcliffe House, Town Hall, on the Council’s website and on the premises itself in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

4.2 Responsible Authorities and other persons were invited to make representations in respect of the application for the review of the premises licence by 30th July 2020. The consultation period had to be extended to 30th July as the police did not immediately serve the review papers on the premise licence holder. A representation has been received from the Councils licensing enforcement officer. A copy of the representation is attached at **Appendix 5**.

#### 5.0 Implications

5.1 The Act at section 52(2) and (3) states that, before determining the application, the licensing authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 52 (4) (if any) as it considers necessary for the promotion of the licensing objectives.

5.2 The steps referred to in paragraph 6.1 above are:-

- 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;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 5.3 Where the licensing authority takes a step mentioned at a) or b) in paragraph 5.2 above in relation to the review, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- 5.4 Any party to the hearing has the right of appeal to Lancashire Magistrates' Court following the determination of the review under section 52 of the Act.

For further information on the details of this report, please contact:  
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