

TITLE:	APPLICATION FOR REVIEW OF PREMISES LICENCE UNDER SECTION 53C OF THE LICENSING ACT 2003
TO:-	LICENSING SUB-COMMITTEE
DATE:	6TH^h MARCH, 2017
AT:	QUEEN ELIZABETH ROOM SCAITCLIFFE HOUSE
BY:	LICENSING MANAGER ON BEHALF OF THE EXECUTIVE DIRECTOR (LEGAL AND DEMOCRATIC SERVICES) (EXT 2146)

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 Walmesley Arms, 26 Queen Street, Great Harwood, Lancashire, following the submission of an application under section 51 of the Licensing Act 2003 (“the Act”) by a resident (“the resident”).

2. RECOMMENDATIONS

- 2.1 That the Committee consider the application to review the premises licence for the Walmesley Arms, 26 Queen Street, Great Harwood made by the resident, 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 Walmesley Arms was received on 3rd August 2005, together with application to vary the premises licence simultaneously.
- 3.2 The premises licence on conversion and variation was granted on 1st September, 2005 and 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 2013 culminating on 29th March 2012 with the transfer of the premise licence into the name of John Yeoman and on 16th October, 2013 an application to vary the Designated Premises Supervisor into the name of John Yeoman was also granted.
- 3.4 The Walmesley Arms is situated on Queen Street, a busy main high street with a mixture of residential and commercial properties and is owned by Star Pubs and Bars Ltd. The premises benefits from the following licensable activities:-
- Performance of live music
 - Playing of recorded music
 - 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** and the street map location at **Appendix 1A**.

- 3.5 On 4th January, 2017 an application for the review of the premises licence pursuant to section 51 of the Act was received from a resident. The ground for the review is that the licensing objectives relating to the prevention of crime and disorder and public nuisance have not been promoted at the premises as evidenced by the number of incidents recorded against the premises. A copy of the review application is attached at **Appendix 2**.
- 3.6 The first incident report recorded on file indicates that on 28th July, 2013 the Lancashire Constabulary were contacted to report loud music being played from 2pm in the afternoon to the time of the report 7:03pm. An officer attended but there was no further action recorded.
- 3.7 On the 12th August, 2013 an application for a minor variation was received to remove the embedded conditions and to alter the plan. However, an objection to the variation was received from a member of the public in relation to the bar in the beer garden and the closing times. It was agreed therefore, through mediation, that the outside bar must close by 11pm Monday-Sunday and that there must no entry to and from the pub using the side yard door and that all patrons must enter and leave by the front entrance.
- 3.8 Between 2013 and May 2016, the Licensing Section received a large number of Ten's applications to extend the closing times mainly to 4:30am resulting in an application to vary the premises licence on 6th January, 2014. Six objections to the variation were received of which three were timed out having been sent after the deadline for representations. Of the valid objections, one was from a Councillor representing 12 residents. In addition, on 10th January, 2014 Planning forwarded an email to the Licensing Section raising concerns about the smoking shelter and outside bar. (**Appendix 3 refers**)
- 3.9 A hearing was set for 3rd March, 2014 and on 23rd January, 2014 Mr Yeoman agreed to the proposed conditions of licence with the Police. (**Appendix 4 refers**) The Licensing Sub-Committee resolved that the application as amended by conditions agreed by the applicant, Lancashire Constabulary and Hyndburn Council Environmental Health be granted.
- 3.10 On 9th May, 2016 a further application to vary the premises licence was received. The following amendments were requested:-

Type	From	To	Indoor/outdoor
Live music	12noon – midnight Monday - Sunday	10:00am – 02:00am Monday – Sunday	Both
Recorded music	10:00am -2:30am Monday - Sunday	10:00am – 04:am Monday - Sunday	Indoors
Late night refreshment	11:00pm – *11:30pm Monday - Sunday	11:00pm – 04:00am Monday - Sunday	Both
Supply of alcohol	10:00am – 2:00am Monday – Sunday <u>Bar in beer garden</u> Monday- Thursday 10:00am – 23:00 Friday – Sunday 10:00- Midnight	10:00am- 04:00am Monday – Sunday <u>Bar in beer garden</u> Hours unchanged	Both
Hours of opening	10:00am – 2:30am	08:00am – 4:30am	

***Late Night Refreshment times correspond with the original times applied for under the conversion process in 2005.**

- 3.11 The Licensing Section received four objections to the variation including the Lancashire Constabulary and Environmental Health which were subsequently withdrawn when the premises licence holder Mr Yeoman, via his solicitors, made assurances that a number of steps had been put into place to prevent noise nuisance and to carry out a risk assessment each night he was open to consider the need for door staff. This new and agreed condition was included on the amended conditions of licence at **Annex 2** of the premises licence (**top of page 8 of Appendix 1**). A letter was sent to Mr Yeoman asking for evidence of the risk assessments on 25th January, 2017 (**Appendix 4a refers**). No information was received by the letter's deadline. The Lancashire Constabulary were also asked to confirm that they had visited the premises but responded that owing to the huge number of premises the Police Sargent had to cover, he was unable to visit and check any of the risk assessments.
- 3.12 The variation to hours for the Walmesley Arms was subsequently granted on 22nd June, 2016.
- 3.13 Between 20th June 2016 – 15th January, 2017 further noise nuisance and crime and disorder complaints were received and as a result of monitoring and a visit by the Council's Environmental Health Division two noise abatement notices were served on the Premises Licence holder, Mr John Yeoman, dated 11th November, 2016. One for playing excessively loud amplified music at the Walmesley reference No:- 004358 and the other for excessively raised voices at the Walmesley reference No:- 004359. (**Appendix 5 & 6 refers**) The monitoring by the Council's Environmental Health Division is still on-going.
- 3.14 On the 1st February, 2017 the Licensing Section received an email from Mr Yeoman's solicitor requesting an adjournment on the grounds that he had booked a holiday in November last and would not be able to attend on 13th February, 2016. His solicitor also confirmed that she was not available herself on that date. (**Appendix 6a refers**)
- 3.15 On Sunday 5th February there were further reports of fighting outside the Walmesley Arms. The Lancashire Constabulary were asked to comment on this incident and responded by email on 6th February 2017 as follows:-

Incident LC-20170205-0190 refers

Police were called to outside the premises at 3.02am on Sunday 5th February 2017 to reports of 20/30 fighting outside on the main road with two staff members trying to break it up. CCTV picked out a large group but couldn't pick out what exactly was going on. Officers got to the scene within 6 minutes and there was nothing going on and the pub was shut. The incident was resulted has a third part report and no offences disclosed.

4.0 Additional information

- 4.1 The Licensing Section has received three letters of support for the existing premises licence. (**Appendix 7, 8 & 9 refers**).

4.2 Mr Yeoman had sought support from social media resulting in resident responses which were deemed relevant to the review. Facebook excerpts are attached at **Appendix 10**

4.3 The Fire and Rescue Services raised concerns in relation to recent visits in a letter dated 30th January, 2017. **(Appendix 10a refers)**

5.0 Advertisement

5.1 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.

5.2 Responsible Authorities and other persons were invited to make representations in respect of the application for the review of the premises licence by 31st January, 2017.

5.3 A total of five representations have been received from three residents, **(Appendix 11, 12 & 13 refers)** the Lancashire Constabulary and the Council's Environmental Health Protection, Regeneration & Housing Division **(Appendix 14 & 15 refers)**.

6. Implications

6.1 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.

6.2 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.

6.3 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.

6.4 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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