



AGENDA ITEM: 8

LICENSING SUB-COMMITTEE

Wednesday 21 May 2014

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

Contact for further information: Miss M Murray (Extn 5015)
(E-mail: michaela.murray@westlancs.gov.uk)

SUBJECT: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF TOWN GREEN INN, 17 TOWN GREEN LANE, AUGHTON L39 6SF

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To consider an application under the Licensing Act 2003 (the Act) for the Review of a Premises Licence in respect of Town Green Inn, 17 Town Green Lane, Aughton L39 6SF

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

3.1 Address of Premises: Town Green Inn, 17 Town Green Lane, Aughton L39 6SF

3.2 Premises Licence Holder: Punch Taverns, Jubilee House Plc, Second Avenue, Burton-on-Trent, Staffordshire DE14 2WF

Designated Premises Supervisor: David Alan Dursham, Town Green Inn, (DPS) 17 Town Green Lane, Aughton L39 6SF

4.0 BACKGROUND INFORMATION

4.1 A Premises Licence was originally granted for the property in June 2005. Whilst the Premise Licence Holder has remained the same, the Designated Premises Supervisor (DPS) has changed on several occasions since the initial grant of the licence.

4.2 A location plan of the premises and the surrounding area is attached as Appendix A to this report.

5.0 THE APPLICATION FOR REVIEW

5.1 In accordance with the Act, on the 2 April 2014, an application for the Review of the Premises Licence granted in respect of the Town Green Inn, 17 Town Green Lane, Aughton was received from Lancashire Constabulary. The grounds for the Review as stated in the application are:

'These premises have historically come to Police attention as a result of complaints from local residents. The complaints relate in the main to noise nuisance from entertainment, noise from customers and the premises operating after it authorised hours. The complaints have been investigated and warnings given where appropriate. However the premise has seen a number of changes of management and so the policy of issuing warnings in the first instance had meant that any enforcement process has had to be restated when a new manager is appointed. This has effectively meant that no real action has been taken against the premises which had resulted in the local community suffering over a number of years.

In July 2013, after the departure of yet another manager who was responsible for a number of complaints relating to the premises, a meeting was held with the new manager and the representative for the Premises Licence Holder. At the meeting the police outlined that the situation could not continue and any further complaints relating to the premises would result in review proceedings being instigated. The new manager operated the premises between July and December 2013 with no issues being reported, however she left the premises which closed over Christmas and New Year.

In March 2014 new managers were placed into the premises and on 8th March a complaint was received by the Police from a resident who was subjected to excessively loud music

The Police are no longer prepared to carry on with issuing warnings as they have not previously provided a sustainable resolution to the problems. Therefore they have no option but to bring this to the attention of the Licensing committee with a view to seeking a more long term sustainable solution.'

5.2 A copy of the full application for Review is provided at Appendix B to this report (Members should note that this application also has Appendices 1, 2 & 3 attached) Lancashire Constabulary seek the following amendments to the Premises Licence:

- Operating hours at the premises Mon to Sun 11.00 hrs to 23.00 hrs
- Opening hours of the premises Mon to Sun 11.00 hrs to 23.30 hrs
- Removal of all regulated entertainment provision
- Removal of the exemption for conditions relating to live music to have no effect as per Section 177(A)(3)

- 5.3 The Police have also provided incident logs to support the review application dating from November 2010 attached as Appendix C to this report.
- 5.4 In accordance with Section 51(3) of the Act, the relevant Notices detailing the aforementioned grounds for Review, were displayed on the premises and in the immediate vicinity thereof, giving interested parties and responsible authorities, the right to make representations regarding the application for Review. The notice was also published on the Council's website. The Premises Licence Holder and DPS have been forwarded copies of the application for Review.

6.0 RELEVANT REPRESENTATIONS – MEMBERS OF THE PUBLIC

- 6.1 Representations have been received from 6 members of the public and are attached as Appendices D, E, F, G, H & I to this report. The representations support the Review application, highlighting details of numerous problems of noise and disturbance both from the premises and patrons leaving the premises. The representations are made under the 'Prevention of Public Nuisance' and 'Crime and Disorder' Licensing Objectives.
- 6.2 Appendix D to this report also provides video evidence which will be shown at the hearing.
- 6.3 Representations were also received from 2 members of the public in support of the premises which are attached as Appendix J and K to this report. These representations are against the Review application and state that they have no concerns with the premises.

7.0 RELEVANT REPRESENTATIONS – RESPONSIBLE AUTHORITIES

- 7.1 Representations have been received from 3 Responsible Authorities - namely, Environmental Protection Department, Planning Services & Lancashire Fire & Rescue Services and are attached as Appendices L, M & N to this report. The representations detail breach of licence conditions and complaints that have been received.

8.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

- 8.1 Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under Section 182 of the Act.
- 8.2 The Council's Licensing Policy provides that licence holders should be given sufficient warning of any concerns regarding problems, which have been identified at the premises, and the need to make improvements. Licensees are expected to respond to such warnings and implement the necessary remedial action. The message is clear that any failure to respond to such warnings would more than likely lead to a request for a review of the licence.
- 8.3 As Members will be aware, the four licensing objectives are as follows:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm

8.4 The Act provides that before determining the application, the Licensing Authority must hold a hearing to consider it and relevant representations.

8.5 The Licensing Authority in determining the application, having had regard to the application and any representations, may take the following steps if it considers it necessary for the promotion of the licensing objectives:

- (i) Modify the conditions of the licence
- (ii) Exclude a licensable activity from the scope of the licence
- (iii) Remove the designated premises supervisor
- (iv) Suspend the licence for a period not exceeding three months
- (v) Revoke the licence

8.6 In deciding which of the powers to use it is expected that the Licensing Authority should, as far as possible, seek to establish the causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response in the cause of promoting the licensing objectives.

8.7 In particular, Members' attention is drawn to the following sections of the Policy, which must be read in conjunction with this report:

Section 9	Review of Licences	pages 16-17
Section 10	Appeals	page 18
Section 16	Prevention of Public Nuisance	pages 26-28
Section 19	Licensed Operating Hours	page 34

9.0 HUMAN RIGHTS ACT IMPLICATIONS

9.1 The Human Rights Act 1988 makes it unlawful for a Local Authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention rights;

Article 6

that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;

Article 8

that everyone has the right to respect for his home and family life;

Article 1 of the First Protocol

that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

10.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

10.1 The recommendations contained in this report have limited sustainability and/or community strategy implications. However, the Council's Licensing Policy (required under the Licensing Act 2003), which underpins the Committee's decision, impacts upon many areas within the Community. The Licensing Objectives contained in the Policy fit closely with many aspects of the Community Strategy and has the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D); Health and Social Care (issue A).

11.0 FINANCIAL AND RESOURCE IMPLICATIONS

11.1 No additional financial or other resources are required.

12.0 RISK ASSESSMENT

12.1 The Council has a legal duty to administer the Licensing Act 2003 and is under a legal duty to determine the matter contained in this report. A failure to determine this matter would result in potential legal challenge.

Background Documents

There are no background documents (as defined in Section 100 D (5) of the Local Government Act 1972) have been relied on to a material extent in the preparation of this report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Location Plan	(Appendix A)
Application for Review	(Appendix B)
Police Incident Logs	(Appendix C)
Public Representations (in support of the Review application)	(Appendices D to I)
Public Representations (against the Review application)	(Appendix J to K)
Responsible Authorities Representations	(Appendices L to N)