



AGENDA ITEM:

LICENSING SUB-COMMITTEE:

Tuesday 20 December 2016

Report of: Director of Leisure & Wellbeing

**Contact for further information: Michaela Murray(Extn 5326)
(E-mail: michaela.murray@westlancs.gov.uk)**

SUBJECT: APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR IN RESPECT OF EUREKA PUBLIC HOUSE, 78 HALSALL LANE, ORMSKIRK L39 3AX

Borough wide interest

1.0 PURPOSE OF REPORT

1.1 To consider an application under the Licensing Act 2003 (the Act) to vary a Premises Licence to specify an individual as Designated Premises Supervisor in respect of Eureka Public House, 78 Halsall Lane, Ormskirk L39 3AX.

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

- | | | |
|-----|---|---|
| 3.1 | Address of Premises: | Eureka Public House
78 Halsall Lane
Ormskirk
L39 3AX |
| 3.2 | Premises Licence Holder | Miss Lisa Mackay
78 Halsall Lane
Ormskirk
L39 3AX |
| 3.3 | Proposed Designated Premises Supervisor (DPS) | Ian Roche
72 – 74 Dickson Road
Blackpool
FY1 2AW |

4.0 THE APPLICATION

- 4.1 This report should be read in conjunction with the Sub-Committee report regarding an application for Premises Licence Holder Transfer in respect of the Eureka Public House, 78 Halsall Lane, Ormskirk L39 3AX. If Members resolved to grant the transfer application, Miss Lisa Mackay will be deemed to be the holder of the Premises Licence. If Members refused the transfer application, the DPS variation application referenced in this report should similarly be refused as Miss Mackay will not be the Premises Licence holder.
- 4.2 On 15 November 2016, a Miss Lisa Mackay applied to vary the Premise Licence to specify the following as DPS:

Mr Ian Roche
72 – 74 Dickson Road
Blackpool
FY1 2AW

A copy of the application is attached as Appendix 1 to this report.

- 4.3 Under the provisions of the Licensing Act 2003, Mr Roche was granted a Personal Licence by Blackpool Council – Personal Licence number PA3937.

5.0 NOTICE OF OBJECTION

- 5.1 In response to the application, a Notice of Objection was received from Lancashire Constabulary on the 29 November 2016 (A copy of which is attached as Appendix 2 to this report). This Notice is given when the Police are satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.

- 5.2 In summary the Notice is set out below

Lancashire Constabulary

The proposed DPS Ian Roche has and still does operate a licensed premises in the Blackpool area where his current home address is. He is currently already a DPS at BooBar, 54 Abingdon Street, Blackpool. Whilst the Licensing Act 2003 does not prevent a person being DPS at more than one premises, the guidance does make reference to the DPS being a person who has day to day control of the premises. Due to the individual's current commitments and his place of residence, it is difficult to establish how he will be able to have day to day control of two premises so far apart. The Eureka is located in a residential area, and as such, it is important that the DPS be present at these premises to ensure the licensing objectives are not undermined.

- 5.3 Accordingly, a letter and email has been sent out to the applicant advising of the Police Notice and enquiring whether or not they wished to withdraw the application at the present time. No response has been received.

5.4 On 12 December 2016 the applicant and Lancashire Constabulary were invited to attend the Licensing Sub-Committee on 20 September 2016.

6.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

6.1 The Local Authority must have regard to the provisions of the Licensing Act 2003. In addition 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.

6.2 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

6.3 Section 39 of the Act provides that where a Notice from the Police is received the Licensing Authority must:

- a) Hold a hearing to consider it unless that parties agree that a hearing is unnecessary
- b) having regard to the Notice:

Reject the application if it considers it necessary for the promotion of crime prevention objective to do so.

6.4 Members' attention is drawn to paragraphs 4.20 and 4.21 of the guidance issued by the Secretary of State under Section 182 of the Act. These paragraphs state that when considering this matter, Members must confine their consideration to the issue of crime and disorder. When making their decision, Members should give comprehensive reasons for that decision.

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

Section 11 - Hearings

Page 35

7.0 RIGHTS OF APPEAL

7.1 The applicant is entitled to appeal the decision to the Magistrates Court should the Sub-Committee decide to reject the application.

7.2 If the Sub-Committee decides to grant the application, Lancashire Constabulary also has the right to appeal the decision to the Magistrates Court.

8.0 HUMAN RIGHTS ACT IMPLICATIONS

- 8.1 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.

9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 9.1 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).

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 10.1 No additional financial or other resources are required.

11.0 RISK ASSESSMENT

- 11.1 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

Application
Objection Notice

(Appendix 1)
(Appendix 2)