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Report of the Chief Officer Elections and Regulatory

Report to the Licensing Sub Committee

Date: Monday 16th August 2021

Subject: Summary Review of the Premises Licence for Barley Mow, Lower Town Street, Bramley, LS13 3EN

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| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): | Bramley & Stanningley | |
| Are there implications for equality and diversity and cohesion and integration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If relevant, Access to Information Procedure Rule number: | | |

Executive Summary

West Yorkshire Police have made an application under section 53A of the Licensing Act 2003 for the summary review of the premises licence in respect of Barley Mow, Lower Town Street, Bramley, LS13 3EN.

West Yorkshire Police are of the opinion that these premises are associated with serious crime or serious disorder or both. The Licensing Authority is now under a duty to hold a review hearing in accordance with Section 53C of the Licensing Act 2003.

This engagement follows interim steps which Members carefully considered on the 22nd July 2021. Members resolved to suspend the licence with immediate effect pending the hearing of the substantive review application.

A representation to the decision of the interim steps hearing was submitted by the applicant's agent (Woods Whur). In this document the agent offered several conditions in which the premises would adhere to should the licence be reinstated. On receipt of the representation a further hearing was scheduled for the 3rd August where members made the decision to reinstate the licence, simultaneously imposing the conditions offered by the agent.

The narrative of this report sets out the background of the premises licence, the relevant law and highlights appropriate guidance for members. A recommendation is also made to Members that the premises licence is reviewed using their statutory powers.

Member must also have regard to reviewing the interim steps pending the appeal period to ensure appropriate and proportionate safeguards are in place at all times.

1.0 Purpose of this Report

- 1.1 This report informs Members of the Licensing Sub Committee of an application for a licence summary review made by the West Yorkshire Police in respect of Barley Mow, Lower Town Street, Bramley, LS13 3EN. The application is made on the grounds of serious crime and disorder.
- 1.2 The Licensing Sub Committee now has the responsibility to review the premises licence held by Mrs Kelly Shaw.

1.0 History of the Premises

- 2.1 On the 1st June 2005 an application by the licence holder at the time, Mitchells And Butlers Leisure Retail Ltd, was made to convert and simultaneously vary the existing Justices' On Licence and Public Entertainment Licence in to a premises licence.
- 2.2 The variation proposed to extend the hours for licensable activities and attracted representations from the Leeds City Council Environmental Protection Team, West Yorkshire Police and a number of local residents.
- 2.3 The representations from the two responsible authorities suggested additional measures to promote the licensing objectives, however only some of these were agreed prior to the hearing. During the consultation period, the Environmental Protection Team received several noise complaints regarding the premises and changed their original representation to an outright objection.
- 2.4 The outstanding matters were considered by a Licensing Sub Committee on the 15th July 2005, where Members of that committee resolved to grant the licence in part authorising all licensable activities Sunday to Thursday 10:00 until 23:00 hours, and Friday & Saturday 10:00 until midnight. The committee also imposed additional measures aimed at promoting the licensing objectives, specifically the prevention of crime & disorder, the prevention of public nuisance and public safety.
- 2.5 An application to vary the designated premises supervisor was received on the 23rd November 2007. No representations were received, and the licence was granted.
- 2.6 An application to vary the premises licence was received by the Licensing Authority on the 20th December 2007. The variation sought to make alterations to the layout of the premises. Licensable activities/times were to remain the same. No representations were received and the licence was granted as applied for.
- 2.7 Applications to change the designated premises supervisor were made on the 16th January 2008, 27th April 2010, and the 7th September 2010. All applications were granted as applied for as no representations were received.
- 2.8 On the 19th October 2010 a closure notice was served on the premises by Paul Rix (Senior Enforcement & Liaison Officer) from the licensing Authority due to having no drug safe and no authorisation by the DPS for sales of alcohol. The steps to be taken were to obtain and install a drug safe within 14 days of the notice been served and to appoint a DPS within 3 days. Paul Rix then issued a cancellation notice to the closure notice on the 1st November as he was satisfied the points had been addressed.

- 2.9 On the 20th October 2010 an application to vary the designated premises supervisor was made to the licensing authority. This received no representations and the licence was granted.
- 2.10 The Licensing Authority received a minor variation on the 20th October 2010 to permit structural alterations to the layout of the premises and to remove obsolete conditions. The Environmental Protection Team submitted a representation, however agreements were reached with the applicant's agent and subsequently the representation was withdrawn. With no representations outstanding the licence was granted subject to the agreement reached.
- 2.11 On the 12th November 2010 the licensing authority received an application to vary the designated premises supervisor in which the licence was granted.
- 2.12 On the 16th August 2011, 18th September 2012, 22nd November 2013 and the 19th June 2014, applications to vary the designated premises supervisor were received by the licensing authority. No representations were received to any of these applications and all licences were granted.
- 2.11 The licensing authority received a minor variation on the 7th October 2014. The minor variation sought to make slight amendments to the contact details on the licence and to also extend the opening hours of the premises to permit trade to start from 07:00 hours, Monday to Sunday, to allow breakfast to be served. No comments were received and the application was granted as applied for.
- 2.12 Applications to vary the designated premises supervisor were made to the licensing authority on the 7th June 2016, 15th September 2016 and 10th March 2017. All applications were successfully granted.
- 2.13 On the 2nd August 2017 the licensing authority received an application to transfer the licence from Mitchells And Butlers Leisure Retail Ltd to LT Management Services Limited. The application did not attract a representation from West Yorkshire Police and the licence was granted.
- 2.14 An application to vary the designated premises supervisor was received on the 22nd May 2018 and was successfully granted.
- 2.15 On the 23rd October 2018 the licensing authority received an application to transfer the premises licence from LT Management Services Limited to Milton Portfolio Op Co 2 Limited. As no representations were received this was successfully granted.
- 2.16 On the 14th September 2020 the licensing authority received applications to transfer the licence and vary the designated premises supervisor (DPS) to the current licence holder and DPS, Kelly Shaw. Both these applications did not receive representations from West Yorkshire Police and they were granted as applied for.

3.0 Main Issues

Application

- 3.1 An application for a summary review of the premises licence has been brought by West Yorkshire Police. A redacted copy of this application is attached at **Appendix A**. The licensing authority is in receipt of a signed copy of the application.

- 3.2 Members will note that in accompaniment of the application a certificate made under section 53(1B) of the Act, which confirms that a senior member of West Yorkshire Police is satisfied that these premises are associated with serious crime or serious disorder or both. A redacted version of the certificate can be found at **Appendix B** of this report and as above, the Licensing Authority is in receipt of a signed copy of the certificate.
- 3.3 Officers can confirm that signed versions of the application and certificate were served on the premises licence holder and the responsible authorities. This is in line with requirements of the Licensing Act 2003 and took place, by e-mail, on receipt of the application on 20th July 2021, and additionally hand delivered direct to the premises the following day on 21st July 2021.
- 3.4 The licensing authority can confirm that the statutory requirements to advertise the review application have been followed.

The Interim Steps

- 3.5 At the interim steps hearing, the measures available to Members and considered were:
- The modifications of the conditions of the premises licence.
 - The exclusion of the sale of alcohol by retail from the scope of the premises licence.
 - The removal of the designated premises supervisor from the licence.
 - The suspension of the licence.
- 3.6 It was decided that the most appropriate course of action would be to suspend the licence with immediate effect pending the hearing of the substantive review application. The Committee took the view that to modify or add to existing conditions of the licence or to exclude the sale of alcohol by retail from the scope of the licence would not adequately address the risk of further violent offences taking place at the premises and that to remove the designated premises supervisor would have no effect on the commission of violent offences in the future.
- 3.7 Further information on the resolution taken is contained within the Interim Steps decision notice attached at **Appendix C** of this report.

Representation

- 3.8 In accordance with Section 53B of the Licensing Act 2003, a premises licence holder may submit a representation to the interim steps initially taken. In this instance, a representation was submitted by the applicant's representative. A copy of this along with supporting documents may be found at **Appendix D**.

Hearing – Representation against interim steps decision

- 3.9 The hearing for the representation against the interim steps decision occurred on the 2nd August 2021 and after having carefully considered the contents of the senior police officer's certificate that accompanied the application, Mr Parker's representations and the representation made on behalf of Ms Shaw, the Committee resolved to lift the suspension with immediate effect and to impose the conditions offered by the licence holder pending the hearing of West Yorkshire Police's substantive application. A copy of this decision notice is attached at **Appendix E**.

4.0 Premises Licence

- 4.1 The premises licence holder is Mrs Kelly Shaw.
- 4.2 A copy of the premises licence can be found at **Appendix F** of this report.

5.0 Designated Premises Supervisor

- 5.1 The Designated Premises Supervisor is Mrs Kelly Shaw.

6.0 Location

- 6.1 A map which identifies the location of the premises is attached at **Appendix G**.

7.0 Representations

- 7.1 Under the Act representations can be received from responsible authorities and/or other persons. Representations must be relevant and, in the case of another person, must not be frivolous or vexatious.

Representations from Responsible Authorities

- 7.2 The application has attracted representations from both the Licensing Authority and the Environmental Protection Team in their capacities as responsible authorities.
- 7.3 The representation made by the Licensing Authority supports the review sought by West Yorkshire Police. Paul Rix, Senior Liaison and Enforcement Officer, is the author and a copy of this representation can be found at **Appendix H** of the report.
- 7.4 Also supporting the review application is the Environmental Protection Team, who have submitted a representation providing a chronology of nuisance complaints. A copy of this representation is available at **Appendix I**.

Other representations

- 7.5 The application has attracted representation from members of the public (described as 'other persons' in the legislation).
- 7.6 The licensing authority is in receipt of a total of 3 individual letters of objection on the grounds of crime and disorder & public nuisance all of which support the police's application to review the premises licence.
- 7.9 All representations received from members of the public have expressed concern that they may be at risk of retribution should their details be made public. As such their personal details have been redacted and they will remain anonymous. For this reason, despite their strength of feeling they will not be attending the hearing and would like their representations to be considered fully in their absence.
- 7.9 In order to protect personal data, redacted copies of the representations supporting the premises are attached at **Appendix J**. Original copies will be circulated in advance of the hearing for Member's consideration.

7.7 It should be noted that following the hearing to consider the representation against the interim steps, an interested party who has raised a representation supporting the review application has made further comments that have been appended to their original representation. The same party also included a photograph included with their representation and three audio files that will be made available at the hearing.

8.0 Matters Relevant to the Application

8.1 In making their decision, Members may take into account the guidance issued by the Home Office in relation to summary licence reviews. Although this guidance is not provided under Section 182 of the Act, it will be of some assistance in reaching a conclusion in this matter. A copy of this guidance is attached at **Appendix K** of this report.

9.0 Options Available to Members

Determination of Summary Review

9.1 In the determination of this review the licensing subcommittee are required to take any of the following steps as it considers necessary for the promotion of the licensing objectives:

- To modify the conditions of the licence which includes adding new conditions or the alteration or omission of an existing conditions;
- To remove the designated premises supervisor;
- To suspend the licence for a period not exceeding three months;
- To exclude any licensable activity from the scope of the licence; and
- To revoke the licence.

Review of the Interim steps

9.2 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged. Should the premises licence holder or applicant appeal the decision, the interim steps decision will remain in place until the appeal is decided or dispensed with. To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under 53C has been reached. In making its decision the licensing authority must consider any relevant representations made. Members are directed to paragraphs 12.29 and 12.30 of the Section 182 Guidance.

9.3 In conducting the review under this section, the Members must –

- (a) Consider whether the interim steps are appropriate for the promotion of the licensing objectives;
- (b) Consider any relevant representations; and
- (c) Determine whether to withdraw or modify the interim steps taken.

- 9.4 Members may alternatively decide that no action is necessary and that the circumstances of review do not require the licensing subcommittee to take any steps to promote the licensing objectives.
- 9.5 Members of the licensing subcommittee are asked to note that they may not take any steps outlined above merely because they consider it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

10.0 Background Papers

- Guidance issued by the Home Office
- Leeds City Council Licensing Policy

Appendices

Appendix A - Application Form

Appendix B - Certificate

Appendix C - Interim Steps Decision Notice

Appendix D - Representation Against Interim Steps

Appendix E - Representation Against Interim Steps Decision Notice

Appendix F - Premises Licence

Appendix G - Premises Location

Appendix H - Licensing Authority Representation

Appendix I - Environmental Protection Team Representation

Appendix J - Public Representations

Appendix K - Summary Review Guidance