



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Wednesday 16th January 2013

Subject: Review of a Premises Licence - Interim Steps Hearing

For: Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	City & Hunslet	
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

This report advises Members that West Yorkshire Police have served an application under section 53A of the Licensing Act 2003, for the Summary Review of a Premises Licence. The application was received on the 15th January 2013. West Yorkshire Police are of the opinion that Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT, is a premises associated with serious crime and serious disorder. A Review hearing will be heard within 28 days receipt of the application. Before then an Interim Steps hearing must be held. Members are asked to consider if it is necessary to take interim measures pending the Review Hearing. A recommendation is made that Members undertake this consideration.

1.0 Purpose of this Report

- 1.1 This report informs Members of an application for Summary Review in respect of Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT. West Yorkshire Police make this application on the grounds of serious crime or serious disorder or both.
- 1.2 The Licensing Authority is now under a duty to review the Premises Licence held by Ravenpine Ltd, a copy of which can be found at **Appendix A**.
- 1.3 An Interim Steps Hearing must be held prior to the Review Hearing. This report sets out the relevant procedure, considerations and guidance for the Interim Hearing.

2.0 Background Information

The Licensing Authority and Interim Steps

- 2.1 Under section 53A of the Licensing Act 2003 (“the Act”) the Chief Officer of Police for the Leeds area may apply to the Council for a review of the Premises Licence if:
- (a) The premises are licensed for the sale of alcohol by retail; and
 - (b) A senior member of that force has given a certificate that it is of the opinion that the premises are associated with serious crime or serious disorder or both and that certificate must accompany the application.
- 2.2 Within 48 hours of receipt of the application the Licensing Authority must give the Premises Licence Holder and Responsible Authorities a copy of the application for review and a copy of the Certificate. The Licensing Authority must also, within this period, consider whether it is necessary to take interim steps.

The Interim Steps

- 2.3 The interim steps the Sub Committee must consider taking are:
- 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.
- 2.4 Members will note that the conditions of a Premises Licence are modified if any of them are altered or omitted or any new condition is added. Unless specified otherwise, any steps taken will have immediate effect.
- 2.5 The Act does not provide a right to appeal in relation to a decision reached at the Interim Steps hearing. The Premises Licence holder can make representations about any decision reached at the interim hearing. If representations are made, then the Licensing Authority must hold a hearing within 48 hours of receiving these representations.

The application for Summary Review

- 2.6 An application for Summary Review of a Premises Licence has been brought by West Yorkshire Police. A copy of this application is attached to this report at **Appendix B**.
- 2.7 Members will also note that attached to the application of West Yorkshire Police is a certificate made under Section 53(1B) of the Licensing Act 2003 which confirms that a senior member of West Yorkshire Police is of the opinion that the premises are associated with serious crime or serious disorder. The certificate is attached to this report at **Appendix C**.
- 2.8 Officers confirm that the application and certificate have been served on the Premises Licence holder and Responsible Authorities. This was done on the 15th January 2013 in line with the requirement under the Act.
- 2.9 Officers have also advertised the Summary Review by way of a notice displayed prominently at the premises. This notice will be in situ from 16th January 2013 until 24th January 2013. Representations can be made in relation to the Summary Review within 9 working days from the display of the notice. The notices will be removed at the end of this period.

3.0 Main Issues

Considering the Interim Steps

- 3.1 Members are now requested to consider whether it is necessary to take Interim Steps pending the determination of the review of this Premises Licence. This consideration may take place without the holder of the Premises Licence or West Yorkshire Police in attendance.
- 3.2 Members are asked to consider what steps, if any, are necessary to address the immediate problems at the premises identified by the Police. In particular, Members should consider any steps that will address the likelihood of serious crime and/or serious disorder at the premises.

4.0 Matters Relevant to the Application

Government Guidance

- 4.1 In making their decision, Members may take into account the guidance issued by the Department of Culture, Media & Sport in relation to Summary Licence Reviews. Although this guidance is not issued 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 D** of this report.
- (a) Government guidance suggests that the practical implications of compliance in relation to the premises, be taken into account. For example, to comply with the modification of the conditions of the licence that required the employment of Door Supervisors, those running at the premises may need some time to recruit appropriately qualified and accredited staff.
- (b) Government guidance also suggests careful consideration need to be given to interim steps which require significant costs of permanent or semi-permanent

adjustments to the premises. This would be difficult to remove if the outcome of the subsequent Summary Review hearing was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives, may be disproportionate if they are not likely to be deemed necessary following the full review. The focus for interim steps should be in the immediate measures that are necessary to prevent serious crime or serious disorder occurring.

- (c) Finally the guidance provides that in some circumstances, it may be better to seek suspension of the licence pending the Summary Review, rather than imposing a range of costly conditions or permanent adjustments. It is open to Members having considered the application and representations made, that no steps pending the review should be taken.

5.0 Implications for Council Policy and Governance

- 5.1 There are no significant implications identified.

6.0 Legal and Resources Implications

- 6.1 There were no resource implications in determining the interim steps.
- 6.2 The Act does not provide a right to appeal in relation to a decision at Interim Steps hearing. The Premise Licence holder can make representations about any decision reached at the interim Steps Hearing. If representations are made, then the Licensing Authority must hold a hearing within 48 hours of receiving these representations to consider them.

7.0 Recommendations

- 7.1 Members are requested to consider those interim steps, if any, that are necessary pending the Summary Review. The interim steps the Sub Committee must consider taking are:
- The modifications of the conditions of the Premises Licence;
 - The exclusion of the sale of alcohol by retail from the scope of the Licence;
 - The removal of the Designated Premises Supervisor from the Licence; and/or
 - The suspension of the Licence.
- 7.2 Members will note that the conditions of a Premises Licence are modified if any of them are altered or omitted or any new conditions are added.
- 7.3 Members are then requested if they determine an interim step(s) should be taken, when that those steps should take effect.

Appendices

Appendix A	Premises Licence
Appendix B	Summary Review Application
Appendix C	Summary Review Certificate
Appendix D	Summary Review Guidance