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DEPARTMENT OF ENVIRONMENT & LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING ACT 2003 PANEL

Date 03:10:2017

**TITLE : APPLICATION FOR A REVIEW OF PREMISES LICENCE-
Haslingden Road General Store, 87 Haslingden Road Blackburn Lancashire
BB2 3HW**

1. PURPOSE OF REPORT

For members to consider an application for a review of a premises licence in respect of **Haslingden Road General Store, 87 Haslingden Road, Blackburn BB2 3HW.**

2. BACKGROUND

- 2.1 The Licensing Act 2003 provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by the Licensing Committee. The Licensing Committee may delegate these functions to sub-committees. The Council's constitution has been amended to incorporate this.
- 2.2 The Statement of Licensing Policy indicates how the licensing authority approaches its various functions.
- 2.3 Review provisions were included in the Act to ensure that there is an appropriate element of balance under the new licensing regime. Operators have been given a greater freedom in the way they operate their premises, the provision for reviews of premises licences and club premises certificates allows residents and businesses in the area of such premises, together with regulatory authorities, to voice their concerns should they feel that the premises are causing problems.
- 2.4 The procedure is also a consequence of the fact that the premises licences and club premises certificates are not renewed and objections cannot be made at the renewal of a licence.
- 2.5 An application may be made to review either a premises licence or a club premises certificate at any time. Either a responsible authority or an interested party may make the application.
- 2.6 The authority may only refuse to deal with an application if it is not relevant to the licensing objectives or an interested party makes it and the authority considers it to be frivolous vexatious or repetitious.
- 2.7 In the event that a closure order is served on the premises, a review of the premises licence will automatically take place.
- 2.8 An applicant seeking a review must give written notice of the application to the licensing authority, and on the same day give a copy to the premises licence, or club premises certificate holder and to each responsible authority.

- 2.9 The licensing authority must advertise the application and invite representations from other responsible authorities and interested parties. The application must be advertised in the following ways:
- By displaying a notice in the form prescribed by the regulations for not less than 28 consecutive days commencing on the day after the application was received by the authority for all review applications (other than those relating to closure orders where the notice need only be displayed for 5 days)
 - The notice must be displayed at or near the premises where the public can read it. If the authority has a website it must also publish a notice on that website.
- 2.10 The licensing authority must then arrange a hearing at which all parties may put their case.
- 2.11 At the review hearing the authority may take any of the following steps which they consider necessary in order to promote the licensing objectives:
- Modify the conditions of the licence
 - Exclude a licensable activity from the scope of the licence
 - Remove the designated premises supervisor (premises licence only)
 - Suspend the licence for a period not exceeding 3 months
 - Revoke the licence
- 2.12 Modification of the conditions of a licence includes adding new conditions as well as altering or omitting any existing conditions.
- 2.13 Where conditions are modified, or where a licensable activity is excluded, this can but need not be for a specified period not exceeding 3 months.
- 2.14 The authority is not obliged to take any of the above actions even when there is sufficient evidence to do so. It may, for instance, decide to take no action or to issue an informal warning to the licence holder and/or to recommend that certain improvements take place within a specified timescale. Similarly, it may revoke a licence at the very first review hearing if the circumstances warrant such action in order to promote the licensing objectives.
- 2.15 The authority must notify all parties of its determination and provide reasons for its decision.
- 2.16 Any party to the hearing may appeal against a decision of the authority by giving notice to the clerk to the magistrates within 21 days of being notified of the decision.
- 2.17 A review decision does not have effect until the time for bringing an appeal has expired and, if an appeal lodged, until the determination or withdrawal the appeal.

3 **DETAIL**

- 3.1 An application for a review was made by Mr Mansoor Ellahi Senior Public Protection Officer, in respect of the **Haslingden Road General Store, 87 Haslingden Road Blackburn Lancashire BB2 3HW**, under section 51 of the Licensing Act 2003, on 15th August 2017.
- 3.2 The grounds for the review under the licensing objective protection of children from harm ; failing to protect children by serving alcohol to persons under the age of 18.(Appendix 1)

- 3.3 Officer statements and letters from previous test purchase operations have been provided to support the review (see appendices 1a to 8)

4 CONSULTATION

- 4.1 All responsible authorities have been consulted, advertisements have been displayed in accordance with the Act, and two statements have been received from the police and the local high school in the area. They have raised concerns under the protection of children from harm.
- 4.2 A statement from Christopher Jobe, PC 6680 Police Officer Immediate Response Team 5 has been submitted with regards to an incident at the premises.(Appendix 9)
- 4.3 An email was sent to the public protection officers on Tuesday 12th September 2017 from Mr M Kamaluddin, from Education Safeguarding and Welfare, Blackburn Centre High School supporting the application for a review. (Appendix 10)
- 4.4 The applicant was given notice under Regulation 7(1)(d) Licensing Act 2003 (Hearings Regulations) 2005.
- 4.5 The required documents in accordance with Column 3, Schedule 3 have accompanied the Notice of Hearing in accordance with Regulation 7 Licensing Act 2003 (Hearings Regulations) 2005.

5 POLICY CONSIDERATIONS

5.1 Review of a premises licence following persistent sales of alcohol to children

The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

5.2 THE LICENSING ACT 2003

The Licensing Act 2003 requires the licensing authority to have regard to the representations, and take such of the steps as you consider necessary for the promotion of the licensing objectives.

At a review hearing the authority may take any of the following steps which they consider necessary in order to promote the licensing objectives:

- Modify the conditions of the licence
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor (premises licence only)
- Suspend the licence for a period not exceeding 3 months
- Revoke the licence

The authority cannot however restrict the hours of the sale of alcohol to less than those authorised under the current Justice's Licence by virtue of Paragraph 11 Schedule 8 Licensing Act 2003.

6 LEGAL IMPLICATIONS ARISING FROM THE REPORT

Members are reminded that they must follow the rules of natural justice and they are bound by the code of conduct for elected members in licensing applications.

Members are reminded that they should have read or should hear all the facts prior to making a determination

Members are reminded of the consideration they should give to the Human Rights Act 1998, in particular Article 1 – the right to peaceful enjoyment of possessions, Article 6 – the right to a fair hearing, Article 8 – respect for private and family life and Article 10 – the right to freedom of expression.

7 BACKGROUND PAPERS

Appendices

Statement of Licensing Policy

The guidance issued by the Secretary of State in April 2017 under section 182 of the Licensing act 2003

The Licensing Act 2003.

8 RECOMMENDATION

That members consider the application for the review of the Premises Licence.

9 WARDS AFFECTED

The premises are situated in the Queens Park Ward. None of the ward councillors are members of this subcommittee.

10 CONTACT OFFICER

Penni McGinty Customer Support Officer Extn 5073

11 DATE PREPARED

18 September 2017