

Name of meeting: Licensing Panel

Date: Wednesday 3rd July 2019, at 09:30 – Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003 – The Cotton Mill, 446 Wakefield Road, Dewsbury, WF12 8PX

Purpose of report: To determine the application

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| Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | Not applicable |
| Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?) | Not applicable |
| The Decision - Is it eligible for call in by Scrutiny? | Not applicable |
| Date signed off by <u>Strategic Director</u> & name | Russell Williams – Group Leader Licensing (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure) |
| Is it also signed off by the Service Director (Finance)? | Not applicable |
| Is it also signed off by the Service Director for Legal Governance and Commissioning? | Not applicable |
| Cabinet member portfolio | Cllr Rob Walker |

Electoral wards affected: Dewsbury East.

Ward councillors consulted: Not Applicable

Public or private: Public

GDPR Implications:

GDPR has been considered and appropriate sections of the report have been amended

1 Summary

- 1.1 On 27th March 2019 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention public nuisance, the prevention of crime and disorder and public safety are not being achieved at the premises.
- 1.2 Full details of the grounds for the review are contained in the attached review application at **Appendix A**.
- 1.3 The review was heard by Members of the 5th June 2019 Licensing Panel, who took the decision to adjourn the matter pending an agreement being reached, between the premises licence holder and West Yorkshire Police, on additional conditions that would alleviate the concerns raised by West Yorkshire Police.

2 Information required to take a decision

Background

- 2.1 The Cotton Mill was first granted a premise licence under the Licensing Act 2003 in February 2007 and at the time operated as The Spinners Arms. Since this time the licence has been transferred on three occasions prior to Clifton Properties Ltd, taking over the licence in January 2011. A Copy of the current Premises Licence PR(A)1139 is attached at **appendix B**.
- 2.2 During the time this premise has been licenced there has been a history of complaints from residents on the basis of noise and anti social behaviour, dating back as far as 2014. The frequency of which have compounded of late leading West Yorkshire Police to make an application for review of the Premise Licence section (51) licensing Act 2003. A copy of the review application is attached to this report as **appendix A**
- 2.3 At the Licensing Panel meeting of the 5th June 2019, Members heard the application for review. Following representations by the Police and the Premises licence holder, Members of the Panel agreed to adjourn the hearing pending further discussions taking place between the premises licence holder and the police, with a view to agreeing additional conditions that would alleviate the concerns raised by the Police that resulted in the review taking place.
- 2.4 As a result of discussion between the police and the premises licence holder the following conditons are being put forward by the police and the premises licence holder –
 - 1) Alcohol sales to be ancillary to a table meal, “table meal” means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table;
 - 2) Alcohol sales can only be made by table service, customers must order alcohol via waiting staff.
 - 3) A personal licence holder to be on duty when all alcohol sales take place.
 - 4) CCTV to be installed covering all licensed areas, the entrances, exits and any external trading areas. CCTV must record for 28 days, and be of evidential quality. Copies must be made available on request from any authorised persons such as a police officer, fire officer, environmental health officer or a local authority officer.
 - 5) A terminal hour of 23.30 to be in place for all licensable activities to cease. The premises to be closed to the public at midnight.

Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

1.0 – Executive Summary

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

1. *Public Safety*
2. *Prevention of crime & disorder*
3. *Prevention of public nuisance*
4. *Protection of children from harm*

Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the review relates to prevention of crime and disorder and public safety, Members attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix C**.

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

3.3 Place Based Working

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

3.4 Improving outcomes for children

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective.

3.5 Other (e.g. Legal/Financial or Human Resources)

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

4 Consultees and their opinions

4.1 Consultation took place in accordance with the Act, and a further representation was received from a local resident. A copy is attached at **appendix D**.

5 Next steps and timelines

5.1 When determining the review application Members, having had regard to the information in the application, may take any of the following steps as they consider appropriate:

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- b) Exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- c) Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- d) Suspend the licence for a period not exceeding three months;
- e) Revoke the licence.

5.2 Findings on any issues of fact should be on the balance of probability.

5.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

5.4 The decision should be based on the individual merits of the application.

6 Officer recommendations and reasons

6.1 Members of the Panel are requested to determine the application

7 Cabinet portfolio holder's recommendations

7.1 Not applicable

8 Contact officer

8.1 Russell Williams
Licensing Officer
01484 221000
russell.williams@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application

9.2 Appendix B – Copy of Premises Licence

9.3 Appendix C – Secretary of States Guidance

9.4 Appendix D - Supporting Representation.

9.5 Matter heard by Members of the 5th June 2019 Licensing Panel, who adjourned the hearing pending discussions between West Yorkshire Police and the premises licence holder -

10 Strategic Director responsible

Karl Battersby – Strategic Director Economy and Infrastructure
Tel: 01484 221000
Email: karl.battersby@kirklees.gov.uk