

<b>Report to:</b>	<b>SPEAKERS PANEL (LIQUOR LICENSING)</b>
<b>Date:</b>	6 July 2021
<b>Reporting Officer:</b>	Emma Varnam – Assistant Director, Operations & Neighbourhoods
<b>Subject:</b>	<b>APPLICATION FOR A NEW PREMISES LICENCE – SUMMERS QUAY, UNITS 1-3, ARMENTIERES SQUARE, STALYBRIDGE, SK15 2AR</b>
<b>Report Summary:</b>	Members are requested to determine the application
<b>Recommendations:</b>	<p>Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:</p> <p>(a) to grant the licence subject to –</p> <ul style="list-style-type: none"> <li>(i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and</li> <li>(ii) current mandatory conditions;</li> </ul> <p>(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;</p> <p>(c) to refuse to specify a person in the licence as the premises supervisor;</p> <p>(d) to reject the application.</p>
<b>Corporate Plan:</b>	Living Well – Improve satisfaction with local community
<b>Policy Implications:</b>	Members are provided with policy guidelines to assist in the decision making process.
<b>Financial Implications: (Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	There are limited financial implications for the Council, as detailed in the report, however, any legal challenge to a policy decision may potentially incur costs.
<b>Legal Implications: (Authorised by the Borough Solicitor)</b>	<p>In determining the application the Panel must do so with a view to promoting the licensing objectives. The Panel must have regard to its own licensing policy and the Guidance issued pursuant to s182 Licensing Act 2003. The Panel's decision must be supported with reasons.</p> <p>If the Panel rejects the application that decision can be challenged by the Applicant. If the Panel grants the licence the Applicant can appeal against any of the conditions imposed on the licence or against a decision to refuse to specify a person in the licence as the premises supervisor. Any person who made relevant representations can appeal against the decision to grant the licence or against any of the conditions imposed on the licence or on the grounds that the Panel should have refused to specify a person in the licence as the premises supervisor. Any challenge would be by way of an appeal to the Magistrate's Court which may dismiss the appeal, substitute for the decision appealed against any other</p>

decision which could have been made by the licensing authority, or remit the case to the licensing authority to dispose of it in accordance with the direction of the court, and may make such order as to costs as it thinks fit. If an appeal were successful the Magistrates would be unlikely to order costs against the Local Authority if the authority had acted honestly, reasonably, properly and on grounds that reasonably appeared to be sound, in exercise of its public duty.

**Risk Management:**

Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.

**Access to Information:**

The author of the report is Mike Robinson, Regulatory Services Manager (Licensing).

**Background Information:**

The background papers relating to this report can be inspected by contacting Mike Robinson



Telephone: 0161 342 4122



e-mail: [mike.robinson@tameside.gov.uk](mailto:mike.robinson@tameside.gov.uk)

## **1. INTRODUCTION**

- 1.1 Section 17 of the Licensing Act 2003 outlines the procedure whereby an application can be made to the Licensing Authority for a premises licence.
- 1.2 Section 18(3) of the Licensing Act 2003 states that where relevant representations are made in respect of such an application, the authority must:
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
  - (b) having regard to the representations, take such steps as mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- 1.3 The steps mentioned in subsection (4) are:
- (a) to grant the licence subject to –
    - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
    - (ii) current mandatory conditions;
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the premises supervisor;
  - (d) to reject the application.

## **2. REPORT**

- 2.1 An application for a premises licence for Summers Quay, Units 1-3, Armentieres Square, Stalybridge, SK15 2AR was received by the Licensing Office on 11 May 2021. The named applicant is Ohana FL Ltd, the sole director of this company is Tina Harrison, who is also the proposed Designated Premises Supervisor (DPS).
- 2.2 The application is seeking the authorisation of licensable activities, namely the provision of sale of alcohol, regulated entertainment and late night refreshment.

The application is summarised as follows:

- Live Music:  
Sunday-Thursday (11:00hrs – 00:00hrs)  
Friday-Saturday (11:00hrs – 01:30hrs)
- Recorded Music:  
Monday-Wednesday (07:00hrs – 00:00hrs)  
Thursday (07:00 – 01:00hrs)  
Friday-Saturday (07:00hrs – 02:00hrs)  
Sunday (07:00 – 01:00hrs)
- Sale of alcohol  
Monday-Wednesday (11:00hrs – 00:00hrs)  
Thursday (11:00 – 01:00hrs)  
Friday-Saturday (11:00 – 01:30hrs)  
Sunday (11:00 – 01:00hrs)
- Late night refreshment  
Monday-Wednesday (07:00hrs – 00:00hrs)  
Thursday (07:00hrs – 01:00hrs)  
Friday-Saturday (07:00hrs – 01:30hrs)  
Sunday (07:00hrs – 01:00hrs)

A copy of the application is attached at **Appendix 1**.

- 2.3 In response to the application, the Licensing Authority received representations from a number of concerned residents residing at Summers Quay, which has up to 67 residential apartments. The representations mainly relate to concerns regarding the late night hours proposed, which is feared will cause severe inconvenience and nuisances to residents living nearby and will negatively impact on their lives.
- 2.4 In addition to the concerns from the local residents regarding the application, the Licensing Authority is also not satisfied that the operating schedule sufficiently details how the licensing objectives will be promoted if the application is granted. Furthermore, the application does not specify what type of venue the applicant intends to operate, as no clear description is defined within the application.
- 2.5 The premises does not currently have the required planning permission in place. Any application for planning permission will be determined separately.

### **3 CUMULATIVE IMPACT**

- 3.1 The premises is located within a Cumulative Impact Area (CIA), which is set out in the Council's Statement of Licensing Policy (2021-2022). The CIA in Stalybridge Town Centre has been in place since 2011.
- 3.2 The decision to introduce the Cumulative Impact policy was taken with regard to the Council's concern over rising trends of late night alcohol related violence against the person and late night disorder and rowdiness associated with late night licensed premises in the area.
- 3.3 The effect of this special policy is to create a presumption that applications for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 3.4 Upon determining the application, the Panel must have regard to the relevant Policy and Statutory Guidance relating to cumulative impact, including the following:

*Cumulative impact statement or saturation policy is a term used to describe the potential impact on the promotion of the four licensing objectives where there are significant numbers of licensed premises concentrated in one area. If there are large numbers of premises in an area then disorder and nuisance may arise when customers leave licensed premises either to go onto a venue with later licensing hours, or to congregate at takeaways or taxi ranks or walk home past residential properties. The impact of their behaviour is likely to be greater than when in the individual premises particularly as they may not be as aware of how loud or rowdy their behaviour is.*

*Paragraph 13.33 of the statutory guidance advises it would not be normally be justifiable to adopt a special policy on the basis of concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Section 4 of the Licensing Act provides that 'a licensing authority should have regard to guidance issued by the Secretary of State under S182 guidance' however the guidance states in section 1 it is permissible for the 'licensing authority to depart from the guidance provided they have reason to do so and are able to provide full reasons'.*

*The process of introducing a statement of cumulative impact begins with receiving representations from a responsible authority or an interested party accompanied with evidence that the addition of premises would produce the suggested negative impacts on the*

*licensing objectives. This approach has been made by Greater Manchester Police G Division to look at the feasibility of introducing a cumulative impact policy for licensed premises in Stalybridge and Ashton Town Centres.*

*The following steps must be taken when considering the adoption of a special policy on cumulative impact;*

- Identification of concerns about crime and disorder and public nuisance.*
- Consideration whether there is good evidence that crime and disorder or impact is imminent*
- Identification of the boundaries of the area where problems are occurring*
- Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation*
- Amend licensing policy statement to include details of special policy*

## **CUMULATIVE IMPACT POLICY – ON LICENCE PREMISES**

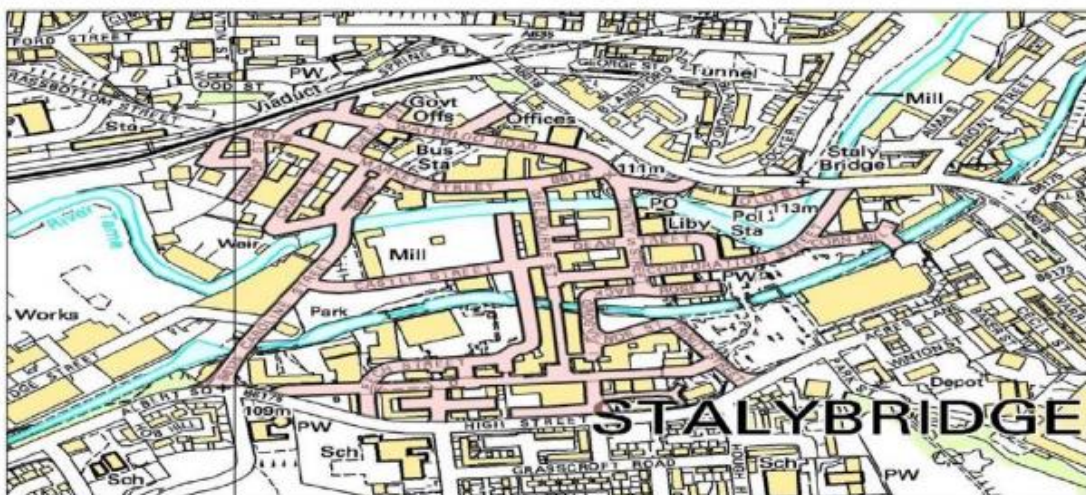
The cumulative impact policy adopted is to refuse applications for new premises licences, club premises certificates or variations which increase late night opening [for the supply of alcohol] in the centre of Stalybridge or the centre of Ashton-under-Lyne where a representation against granting the application has been made on the grounds granting it will or is likely to add to the existing cumulative impact. This policy will be strictly applied, but all cases will be considered on their merits. If the application can be granted in such a way so that the application would have demonstrable positive or neutral impact on the four licensing objectives then it will be granted,

The Council has a duty to consider section 17 of the Crime and Disorder Act and the impact on Crime and Disorder of each application.

The Council recognises that a minority of consumers behave badly. The Licensing Policy is not the only tool that can be used to address anti-social behaviour; it is part of a framework of measures listed in paragraph 1.39 of statutory guidance.

Examples of circumstances where it may be appropriate to grant an exemption include an application from a restaurant with reduced hours for sale of alcohol or an application which seeks to bring family entertainment or a type of entertainment with broad appeal to the area. This list is not exhaustive and there will be other examples.

The Council consider it is necessary for the cumulative impact policy to apply to streets in Stalybridge town centre as shown in the map below highlighted in pink;



For the purposes of this policy, premises are in Central Stalybridge if they have a frontage onto the parts of Caroline St, Castle St, Leech street, Trinity St, Back Grosvenor St, Melbourne St, Melbourne St, Dean St, Corporation St, Chapel St, Market St, Queen St, Waterloo Rd, Queen St and Harrop St as shown in the area marked on the plan

## **REASON**

The Council are of the view the concentration of licensed premises in Stalybridge town centre particularly those licensed to trade beyond 2am contribute to an unacceptable level of crime and disorder and public nuisance in and around the Market Street area. The pattern of customers arriving into Stalybridge town centre has stretched later and later into the night with the effect the town does not get busy until after 23:00 or later. People appear to arrive into the town showing signs of intoxication. As the larger venues do not close until 3am – 4am it appears people are content to pre-load and then come out much later. The area is under stress because of the cumulative impact of the concentration licensed premises with late trading hours leading to crime and disorder and public nuisance.

The majority of licensed premises in Stalybridge offer the same type of entertainment which is predominately recorded music. They compete for the same clientele with the added pressure of declining footfall at night. A large number of the premises do not open during the day and do little to attract people into this part of the town during the day.

Evidence for this special policy has been obtained from Analysis of crime reports using the Simple2Start methodology and also analytical reports Page 27 commissioned from GMAC (Greater Manchester against Crime) analysts. The analysis shows a trend of incidents of crime and disorder occurring later and later into the night and early morning particularly in and around the Market Street area. Premises in the town centre are located in close proximity to each other and the cumulative impact of the premises does put the area under stress. Residents suffer from the alcohol related ASB, criminal damage etc from people leaving the area at the same time.

The 'cumulative impact' of the granting of a new premises licence or variation to an existing licence on the promotion of the Licensing Objective to prevent crime and disorder is a proper matter for the Council to consider under this policy.

It is hoped introducing this policy will encourage operators to provide a different style of premises that will appeal to a broader market.

Paragraph 14.44 of the statutory guidance advises that CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

#### **4. REPRESENTATIONS & EVIDENCE SUBMITTED**

- 4.1 Representations have been received by TMBC Licensing, Greater Manchester Police, TMBC Councillors and members of the public.

##### **TMBC Licensing**

- 4.2 A representation relating to the application has been provided by James Horton of TMBC Licensing. A copy of this is attached at **Appendix 2**.

##### **Greater Manchester Police**

- 4.3 A representation has been provided by the Police Licensing Officer, PC Martin Thorley. A copy of this is attached at **Appendix 3**.

A representation has also been provided by PC Sue Morris, Neighbourhood Beat Officer. A copy of this is attached at **Appendix 4**.

##### **TMBC Councillors**

- 4.4 A representation has jointly been received from Stalybridge and Dukinfield Ward Members; Cllr Eleanor Wills, Cllr David Sweeton and Cllr Leanne Feeley. A copy of this is attached at Appendix 5.

##### **Interested Parties**

- 4.5 Representations have been received from 19 members of the public, who are residents of Summers Quay and live above the premises which is proposed to be licensed. A copy of these are attached at **Appendices 6 - 24**.

A representation has also been received from Mr Ray Harrison on behalf of a local community association, Stalybridge Town Team. This is attached at **Appendix 25**.

#### **5. HOME OFFICE GUIDANCE (S182 Licensing Act 2003)**

Determining actions that are appropriate for the promotion of the licensing objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

Revised Guidance issued under section 182 of the Licensing Act 2003 I 75 imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on

determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination

## **6. CONCLUSION AND OPTIONS FOR THE PANEL**

6.1 The Panel is requested to consider the evidence and decide what (if any) steps to take as it considers appropriate for the promotion of the licensing objectives. The options available to the Panel are;

- (a) to grant the licence subject to –
  - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
  - (ii) current mandatory conditions;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.