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| Report to: | SPEAKERS PANEL (LIQUOR LICENSING) |
| Date: | 7 November 2023 |
| Reporting Officer: | Emma Varnam – Assistant Director of Operations and Neighbourhoods |
| Subject: | APPLICATION FOR A REVIEW OF A PREMISES LICENCE – PL0140 – BACK TO THE 80S, 37-39 MARKET STREET, STALYBRIDGE, SK15 2AJ |
| Report Summary: | Members are requested to determine the application. |
| Recommendations: | <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> <ul style="list-style-type: none"> a) Modify the conditions of the licence b) Exclude a licensable activity from the scope of the licence c) Remove the Designated Premises Supervisor d) Suspend the licence for a period not exceeding 3 months e) Revoke the licence |
| Corporate Plan: | Living Well – Improve satisfaction with local community. |
| Policy Implications: | Members are provided with policy guidelines to assist in the decision making process. |
| Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer) | 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. |
| Legal Implications: (Authorised by the Borough Solicitor) | Any decision to revoke/suspend a licence or impose amendments or conditions to a licence can be challenged by way of appeal (in the first instance) to the local Magistrates Court. |
| 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 |

1. INTRODUCTION

- 1.1 Section 51(1) of the Licensing Act 2003 outlines the procedure whereby a responsible authority may apply to the Licensing Authority for a review of a premises licence.
- 1.2 Section 52(3) of the Licensing Act 2003 states that the Authority must, having regard to the application and any relevant representations, take such of the steps 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 modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding 3 months;
 - (e) to revoke the licence.

2. INTRODUCTION

- 2.1 Back to the 80s, 37-39 Market Street, Stalybridge, SK15 2AJ is a licensed premises, Mr Ian Whittaker has been the premises licence holder since 12 May 2016. A copy of the premises licence is attached at **Appendix 1**.
- 2.2 A site plan, including an up to date photograph of the premises is attached at **Appendix 2**.
- 2.3 The current licensable hours relating to the premises licence are:

Sale by retail of alcohol
Monday – Sunday 11:00 – 03:00

Regulated entertainment
Monday – Sunday 11:00 – 03:00
- 2.4 On 27 July 2023, the Licensing Authority received a review application for Back to the 80s, 37-39 Market Street, Stalybridge from Greater Manchester Police. The review application is attached at **Appendix 3**.
- 2.5 On 24 July 2023, at approximately 03:10hrs, a serious assault occurred on Market Street, Stalybridge, close to the rear of the premises. The victim of the assault was a customer at the venue until he was ejected from the premises. Following the ejection, a member of bar staff and an off-duty member of door staff subsequently left the venue and assaulted the customer in close proximity to the premises, resulting in the Police and North West Ambulance Service attending the scene to treat the victim and arrest the two males involved who were working at the premises.
- 2.6 CCTV cameras located on Market Street, Stalybridge, monitored by Tameside MBC captured the assault and operatives reported this to Licensing.
- 2.7 Upon reviewing the CCTV footage from inside the premises, it was clear that door staff working at the premises on 24 July 2023 had not taken appropriate measures to prevent this incident from occurring. The CCTV footage shows the door staff lying down, smoking and drinking in the moments preceding the victim being ejected from the premises.
- 2.8 Due to the severity of the incident and to ensure effective promotion of the licensing objectives, a meeting was arranged on 26 July 2023 between the Premises Licence Holder, Mr Ian Whittaker, Police Inspector John Cesarz and Regulatory Services Manager, Mr Mike Robinson. Following the meeting, it was agreed by the Premises Licence Holder that the

below amendments would be implemented in relation to how the venue operates in the interim period before the review hearing took place.

- **Sale by retail of alcohol**

Thursday – Saturday 21:00 – 03:00

Sunday 21:00 – 00:00

- **Opening Hours**

Thursday – Saturday 21:00 – 03:30

Sunday 21:00 – 00:30

- **Door Staff**

A minimum of 3 SIA registered door supervisors shall be employed at the premises on Thursday, Friday, Saturday and Sunday nights from 9.00 pm until 20 minutes after the premises closes. Door supervisors will wear high visibility armbands.

2.9 A copy of the email sent to Mr Whittaker following the meeting on 26 July 2023 is attached at **Appendix 4**.

2.10 Since November 2021, several serious Section 18 (Grievous Bodily Harm) assaults have taken place at the premises, involving customers and staff employed at the premises. These are detailed below:

- On 29 November 2021, the Licensing Department received information from Greater Manchester Police relating to an incident on 21 November 2021, which resulted in a male customer having part of his ear bitten off while on the dancefloor inside the venue. Greater Manchester Police arrested the offender at the scene and the victim was taken to hospital for their injuries.

- On 14 June 2022, the Licensing Department received information from Greater Manchester Police in relation to a Section 18 assault (Grievous Bodily Harm) that occurred at the premises on 12 June 2022. The offender hit the victim, allegedly with a knuckle duster, and the victim of the attack sustained lacerations to the face and a fractured eye socket. CCTV showed the offender remaining in the premises after assault and finishing his drink.

2.11 Greater Manchester Police have provided a list of incidents relating to the premises. A total number of 56 incidents are detailed within the list over a yearlong period from August 2022 until July 2023. A list of incidents provided by Greater Manchester Police relating to the premises is shown at **Appendix 5**.

2.12 The Licensing Department and Greater Manchester Police have previously attempted to work with Mr Whittaker in order to ensure that further incidents did not occur and to ensure that the licensing objectives would be promoted.

2.13 Due to an increase in crime related incidents in Stalybridge and near the vicinity of Back to the 80s, a meeting initially took place on 29 October 2021 with the Premises Licence Holder, Mr Whittaker, Mr Chris Badawed, who owns the door supervisor company employed by Mr Whittaker to operate at the premises, PC Martin Thorley and Regulatory Compliance Officer Mr James Horton.

2.14 The purpose of the meeting was to discuss a recent rise in crime related incidents, and how the venue can provide further measures to ensure the licensable objectives are being promoted. On this occasion, the Licence Holder did not wish to impose any conditions on the premises licence by means of Minor Variation. However, the Licence Holder did agree to voluntary increase door staff at the venue.

- 2.15 Following the incident that occurred on 12 June 2022, the following conditions were proposed to be attached to the licence, by way of a Minor Variation application:
- Increase door staff to minimum of 3 on Friday, Saturday and Sunday nights.
 - The use of metal detectors by door staff upon customer admission.
 - The Personal Licence Holder to be on the premises at all when times licensable activities are taking place.
- 2.16 Mr Whittaker instructed a legal representative to deal with the matter on his behalf and despite numerous attempts to agree to the conditions and reminders to submit a Minor Variation, the application was not forthcoming.
- 2.17 On 10 September 2023, an email was received from the venue's current Designated Premises Supervisor (DPS) Natalie Robinson, requesting to remove herself as DPS from the licence.
- 2.18 The Licensing Department received an application on 12 September 2023 to vary the DPS, nominating Mr Colin Campbell as the newly appointed DPS. Greater Manchester Police subsequently submitted a representation opposing the application as they were of the view that this appointment would undermine the crime prevention objective. The application was withdrawn on 18 September 2023.
- 2.19 The Premises Licence Holder has since submitted a new application on 20 September 2023 to vary the DPS and nominated Ms Taryn Harrington.

3. REPRESENTATIONS & EVIDENCE SUBMITTED

3.1 Greater Manchester Police

In addition to the review application, a supporting statement has been received from Police Inspector John Cesarz on behalf of Greater Manchester Police. This statement is attached at **Appendix 6**.

3.2 TMBC Licensing Authority

A representation has been received from Mr James Horton on behalf of TMBC Licensing Authority. This is attached at **Appendix 7**.

3.3 Public Health

A representation has been received from Mr James Mallion on behalf of Public Health. This is attached at **Appendix 8**.

3.4 TMBC Councillors

A representation has jointly been received from Stalybridge North Ward Members; Councillor Jan Jackson, Councillor Christine Beardmore and Councillor Adrian Pearce. A copy of this is attached at **Appendix 9**.

3.5 Public Representation

A representation has been received from a member of the public. This is attached at **Appendix 10**.

3.6 Greater Manchester Fire & Rescue Service

A representation has been received from Katy Rathfelder on behalf of Greater Manchester Fire & Rescue Service. This is attached at **Appendix 11**.

3.7 CCTV Footage

- CCTV footage obtained from the premises relating to the assault on 24 July 2023 and Tameside MBC operated CCTV footage relating to the assault on 24 July 2023 is attached at **Appendix 12**.

- CCTV footage obtained from the premises relating to an assault on 12 June 2022 is attached at **Appendix 13**.

4. HOME OFFICE GUIDANCE

4.1 In determining this review, the Panel must have due regard to the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy 2022-2027 published pursuant to s5 of the Licensing Act 2003.

4.2 The current guidance issued by the Home Office under section 182 of the Licensing Act 2003 deals with the Powers of a Licensing Authority on the determination of a review, with particular attention being drawn to sections 12.22, 12.23 and 12.24, where a Licensing Authority considers action under its statutory powers:

12.22 The Licensing Authority must hold a full review of the Premises Licence and determine the review within 28 days after the day of receipt of the Chief Officer's application. There can be no adjournment of the hearing or delay in reaching a determination beyond the end of the 28-day period. This must take place even if the Chief Officer asks to withdraw his application or representations. At the review hearing, the Licensing Authority must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken (if any).

12.23 In making its final determination the steps the Licensing Authority can take are:

- the modification of the conditions of the Premises Licence;
- the exclusion of a licensable activity from the scope of the Licence;
- the removal of the Designated Premises Supervisor from the Licence;
- the suspension of the Licence for a period not exceeding 3 months; and
- the revocation of the Licence.

12.24 Modification of the conditions of the Premises Licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the Licence can take place.

5. CONCLUSION AND OPTIONS FOR THE PANEL

5.1 The Panel is requested to consider the content of this report and appendices and any oral evidence/submissions put forward at the hearing in order to determine this review and to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are set out at the front of the report.