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| Report to: | SPEAKERS PANEL (LIQUOR LICENSING) |
| Date: | 23 July 2020 |
| Reporting Officer: | Emma Varnam – Assistant Director, Operations & Neighbourhoods |
| Subject: | APPLICATION FOR A REVIEW OF A PREMISES LICENCE – TOP END BAR, 132-134 STAMFORD STREET CENTRAL, ASHTON-UNDER-LYNE, OL6 6AD |
| 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 Sharon Smith – Head of Public Protection |
| Background Information: | The background papers relating to this report can be inspected by contacting Sharon Smith |
| |  Telephone: 0161 342 4122 |
| |  e-mail: sharon.smith@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.

2. REPORT

- 2.1 Top End Bar has held a premises licence since 26 August 2008. Anita Mistry Jones has been the premises licence holder since 10 May 2019 and Designated Premises Supervisor since 28 April 2015. A copy of the premises licence is attached at **Appendix 1**.
- 2.2 On 20 March 2020, the Prime Minister's announced that all pubs bars, restaurants, and other specified premises, must close down in an effort to suppress the coronavirus outbreak.
- 2.3 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020, came into force at 14:00 hours on 21 March 2020. These regulations provided the Council with the necessary enforcement powers to ensure the closure of the specified premises.
- 2.4 Part 2 of the Regulations state;

Requirement to close premises and businesses during the emergency

2.—(1) A person who is responsible for carrying on a business which is listed in Part 1 of the Schedule must—

(a) during the relevant period—

(i) close any premises, or part of the premises, in which food or drink are sold for consumption on those premises, and

(ii) cease selling food or drink for consumption on its premises;

- 2.5 On 3 April 2020, whilst carrying out checks that licensed premises were complying with the regulations, Greater Manchester Police and the Council's Licensing Department visited Top End Bar. At the time of the visit the brother of the premises licence holder, Sanjay Mistry, was present at the premises in the company of two members of the public.
- 2.6 The CCTV was subsequently reviewed and shows that the premises were open and alcohol was being consumed, a direct breach of The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020.
- 2.7 Sanjay Mistry jointly manages Top End Bar and is a Director of Top End Bar (Stamford St) Ltd. In October 2013, Mr Mistry was convicted of smuggling non-duty paid wine, vodka and tobacco. He was sentenced to 27 months imprisonment for the offence.
- 2.8 On 16 June 2020, Mike Robinson, on behalf of the Licensing Authority submitted an application to review the premises licence. The review was served on the grounds that the licensing objectives, namely Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance, had been seriously undermined. A copy of the application is attached at **Appendix 2**

3. REPRESENTATIONS & EVIDENCE SUBMITTED

- 3.1 In addition to the application to review the premises licence, a supporting statement has been received from Mike Robinson on behalf of the Licensing Authority. This statement is attached at **Appendix 3**.
- 3.2 A representation has been received from Martin Thorley, Police Licensing Officer on behalf of Greater Manchester Police. This representation is attached at **Appendix 4**.
- 3.3 A representation has been received from James Mallion, Consultant Public Health on behalf of Public Health. This representation is attached at **Appendix 5**.
- 3.4 The Licensing Department received 11 emails from members of the public in support of the premises. These letters are attached at **Appendix 6**.

4. HOME OFFICE GUIDANCE

- 4.1 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 section 11.19, where a Licensing Authority considers action under its statutory powers:

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- *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;*
- *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);*
- *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- *suspend the licence for a period not exceeding three months;*
- *revoke the licence.*

5. CONCLUSION AND OPTIONS FOR THE PANEL

- 5.1 Panel are 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 set out at the front of the report.