

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	26 January 2021
Reporting Officer:	Emma Varnam – Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A REVIEW OF A PREMISES LICENCE – JOLLY HATTERS, 119 TOWN LANE, DENTON, M34 2DJ
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, impose amendments or conditions to a licence or to take no action 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. REPORT

- 2.1 Jolly Hatters, 119 Town Lane, Denton, M34 2DJ was first granted a Premises Licence under the Licensing Act 2003 on 5 November 2005. The Premises Licence Holder is Ei Group Limited and the most recent Designated Premises Supervisor (DPS) is Deborah McCallum, who was in place from 6 March 2020 until 18 September 2020. A copy of the Premises Licence is attached at **Appendix 1**.
- 2.2 The Health Protection (Coronavirus Business Closure) (England) Regulations 2020, came into force at 14:00 hours on 21 March 2020. On 4 July 2020, the Prime Minister relaxed coronavirus restrictions imposed on all pubs, bars, restaurants and other specified premises since 23 March 2020. The restrictions previously imposed had been in an effort to suppress the coronavirus outbreak.
- 2.3 On 4 July 2020, officers from Greater Manchester Police and the Licensing Authority conducted an inspection at the Jolly Hatters. The premises was found to be non-compliant with the coronavirus regulations, customers were not maintaining social distancing, multiple households were mixing together and the premises were overcrowded.
- 2.4 Following the visit, the Authorities raised concerns with Ei Group Ltd that the DPS was unable to manage the premises effectively and ensure the venue was covid secure.
- 2.5 On 13 July 2020, the Local Authority received a complaint from a member of the public alleging the premises had been trading beyond its terminal hour on 11 July 2020. A review of CCTV footage confirmed the complaint to be justified. The premises was found to be trading outside of its licensable hours and had patrons on site until 04:00 hours. Ei Group were made aware and a copy of the warning letter relating to this incident is attached at **Appendix 2**.
- 2.6 On 14 August 2020 the premises was visited by Licensing and Greater Manchester Police. A jukebox was being operated and the volume of music was at an unacceptably loud level, which made it difficult to have a conversation. The guidance issued by the government to assist premises to operate safely, states that music must be kept at a low background level so that voices need not be raised in order to prevent transmission of coronavirus. A warning letter was served and a copy is attached at **Appendix 3**.

- 2.7 On 15 August 2020, a large brawl involving approximately 15-20 people took place inside the premises and then spilled out onto the street. This incident was not reported to the Police. CCTV obtained by the Police, showed that prior to the fight taking place, covid regulations had been breached, large groups were sat together not socially distanced and the DPS had been watching football and drinking within the large group. Still images taken from the CCTV at 21:54, immediately before the fight on 15 August 2020, are attached at **Appendix 4**.
- 2.8 No crimes were recorded in relation to the fight that occurred on 15 August 2020; however, PC Thorley contacted Ei Group to advise that in his opinion, the broadcasting of football matches was a trigger for covid related incidents at the premises and to request that Ei Group Ltd considered not showing future football matches. PC Thorley received no reply.
- 2.9 On 11 September 2020, Licensing and Greater Manchester Police carried out a visit to the premises. At the time of their visit, a DJ was playing loud music and the DPS was asked to turn the music down. Following this, it is reported that the DPS, who was extremely intoxicated, became confrontational towards the Police. Louise Ashton, Regulatory Compliance Officer, served a warning letter on the DPS. A copy of the letter and Ms Ashton's statement is attached at **Appendix 5**.
- 2.10 Consideration was given to serve a Direction Notice requiring the temporary closure of the premises and on 14 September 2020, the Licensing Authority contacted Ei Group to request the immediate removal of the DPS and voluntary closure of the premises.
- 2.11 Following this, Ei Group terminated their contract with the DPS, Ms Deborah McCallum. The Council raised its concerns about the DPS remaining on site as this could present a risk. On 16 September 2020, Ei Group Limited provided assurance that the premises would remain closed whilst the DPS remained on site until a replacement was appointed.
- 2.12 On 17 September 2020, the premises re-opened and received an inspection conducted by officers from Greater Manchester Police and the Licensing Authority. During the visit, the DPS was found to be intoxicated and Greater Manchester Police had reasonable grounds to suspect the condition of the DPS at the premises was likely to cause nuisance to members of the public. This resulted in Greater Manchester Police serving a Closure Notice under the Antisocial Behaviour Crime and Policing Act 2014, closing the premises for 24 hours.
- 2.13 On 18 September 2020, a Direction Notice was served under the Health Protection (Coronavirus Restrictions) England Regulations 2020. This notice required the premises to close from 18 September 2020 until 12 October 2020. A copy of the Direction is attached at **Appendix 6**.
- 2.14 On 18 September 2020, Ei Group Limited submitted an application to the Council to remove Ms Deborah McCallum from the position of DPS at the premises.
- 2.15 The Licensing Department have received historical complaints regarding disorder and anti-social behaviour, including noise and drug use associated with the premises dating back through the tenure of previously appointed Designated Premises Supervisors at the premises.
- 2.16 On 4 December 2020, James Horton, Regulatory Compliance Officer, on behalf of the Licensing Authority acting in their capacity as a Responsible Authority under the Licensing Act 2003, reviewed the premises licence for Jolly Hatters, 155 Haughton Green Road, Denton, M34 2DJ. A copy of the Premises Licence Review Application is attached at **Appendix 7**.

3. REPRESENTATIONS & EVIDENCE SUBMITTED

3.1 TMBC Licensing

A supporting statement relating to the application provided by James Horton, Regulatory Compliance Officer, Licensing, is attached at **Appendix 8**.

3.2 Greater Manchester Police

A statement has been provided by PC Martin Thorley in relation to his involvement with the premises. This is attached at **Appendix 9**.

3.3 TMBC Population Health

A representation has been received from James Mallion on behalf of TMBC Population Health, is attached at **Appendix 10**.

3.4 Members of the Public

A representation has been received from a member of the public. This is attached at **Appendix 11**.

A representation has been received from a member of the public. This is attached at **Appendix 12**.

A representation has been received from a member of the public. This is attached at **Appendix 13**.

A representation has been received from a member of the public. This is attached at **Appendix 14**.

3.5 CCTV

CCTV obtained from the premises relating to an incident on 15 August 2020.

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, 11.20, 11.21 and 11.22 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.*

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed

at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 *For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*

11.22 *Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would.*

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.