

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING HEARINGS PANEL
DATE:	15 NOVEMBER 2013
SUBJECT:	APPLICATION FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF BUTT HILL STORES, 133 BURY NEW ROAD, PRESTWICH
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report relates to an application pursuant to section 51 of the Licensing Act 2003, from the Licensing Authority, for a review of the premises licence in respect of Butt Hill Stores, 133 Bury New Road, Prestwich
OPTIONS & RECOMMENDED OPTION	<ul style="list-style-type: none"> To revoke the licence To suspend the licence for a period not exceeding three months To remove the Designated Premises Supervisor To exclude a licensable activity from the scope of the licence To modify the conditions of the licence
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Executive Director of Resources:	The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Equality/Diversity implications:	Yes No (see paragraph below)
Considered by Monitoring Officer:	Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.
Wards Affected:	St. Marys
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Service.
- 1.3 On Thursday 29th August 2013, Mr Kelly representing the Licensing Authority submitted his application for a review of the Premises Licence, the licence is held by Mr Imran Mohammed. Mr Imran Mohammed is the Designated Premises Supervisor (DPS).

2.0 PROCEDURE

- 2.1 The Licensing Authority has complied with all the necessary procedural requirements laid down by the Act.
- 2.2 As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council web site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.
- 2.3 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- a) the prevention of crime and disorder
- b) public safety
- c) prevention of public nuisance and
- d) protection of children from harm

3.0 CURRENT LICENSABLE ACTIVITIES

3.1 The current licensable activities are as follows:

a. **The Supply of alcohol – For consumption off the premises:**

Monday to Sunday 07.00 to 23.00am

b. **The opening hours of the premises:**

Monday to Sunday 07.00 to 23.00am

4.0 REVIEW APPLICATION

4.1 Mr Kelly, the Deputy Licensing Officer, has explained in the review application that Butt Hill Stores is a general convenience store which has been licensed for the retail sale of alcohol for consumption off the premises under the authority of a Premises Licence granted by Bury Council on the 4th April 2006. Since that date, Mr Imran Mohammed who currently resides in accommodation above the shop, has been the holder of the Premises Licence and the Designated Premises Supervisor (DPS).

4.2 On the 16th June 2010, the Licensing Hearings Panel attached the following condition to the Premises Licence following a review hearing:

“The premises are to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number / positioning of cameras is to be agreed in liaison with the police. The recording medium (e.g. discs / tapes / hard drive etc) are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police and Authorised Officers of the Licensing Authority upon request. The premises licence holder is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of the recorded data upon request and within no more than 12 hours from the time of the request. Mr. Mohammed and Mr. Davies to notify the police and the Licensing authority as soon as reasonably practicable if the CCTV is not working.”

4.3 In relation to the above condition, Mr Davies is not responsible for the day to day running of the business and has not been involved for some time now.

4.4 On Tuesday 6th August 2013, as a result of information received from the Council's Trading Standards Section which was subsequently corroborated in a witness statement received from PC Mark Livesey, Greater Manchester Police, Mr Kelly visited Butt Hill Stores and requested Mr Mohammed to provide a copy of the shops CCTV footage covering the period 12.00hrs on 1st August 2013 to close of business on 7th August 2013. When Mr Kelly returned to the shop the

following day to collect the CCTV footage as agreed, Mr Mohammed stated that he had been unable to download the footage but that he was in the process of contacting a CCTV engineer to assist him. At that point Mr Kelly handed Mr Mohammed a formal written notice requiring him to provide the requested CCTV footage by midday the following day.

- 4.5 On his return to the premises the following day, Mr Mohammed handed Mr Kelly a pen drive which he claimed contained the requested data. He further stated that he had managed to download the footage himself. Upon returning to the Council Offices Mr Kelly viewed the data on the pen drive and discovered that the requested CCTV footage had not been supplied. Other than images of an incident at the shop on the afternoon of 1st August 2013, which lasted approximately 10 minutes, no other images had been downloaded onto the pen drive. This was confirmed by an officer from the Councils IT Department who also checked the device. Later that afternoon, Mr Kelly returned to Butt Hill Stores, returned the pen drive to Mr Mohammed and informed him that he was now in breach of the condition attached to his Premises Licence relating to CCTV. Mr Kelly also told Mr Mohammed that he had until midday the following day to provide the requested footage.
- 4.6 Around midday on Friday 9th August 2013, Mr Kelly received a phone call from Mr Mohammed stating that he was not in a position to provide the requested CCTV footage because he had accidentally reformatted the hard drive on the shops CCTV recorder and as a result all of the captured images which had been stored on the device had been deleted.

5.0 REPRESENTATIONS

- 5.1 Greater Manchester Police in their capacity as a Responsible Authority have submitted a representation to support the Local Authority review of the Premises Licence at the premises known as Butt Hill Stores, 113 Bury New Road, Prestwich.

This store is a general convenience stores which is licensed for the retail sale of alcohol for consumption off the premises. This premises currently has a number of conditions which are attached to its licence, these conditions take into account the Licensing Act 2003 to promote one or more of the four licensing objectives as follows:-

- The prevention of Crime & Disorder
- Public Safety
- The prevention of Public Nuisance
- The protection of Children from Harm

On 16th June 2010 a licence panel hearing imposed a number of further conditions. One of these conditions is the requirement for a recognised effective CCTV system to be in place at the premises as follows,

"The premises are to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number / positioning of cameras is to be agreed in liaison with the police. The recording medium (e.g. discs / tapes / hard drive etc) are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police and Authorised Officers of the Licensing Authority upon request. The premises licence holder is to provide the police with the contact details of at least two members of staff (or other

person(s) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of the recorded data upon request and within no more than 12 hours from the time of the request. Mr. Mohammed and Mr. Davies to notify the police and the Licensing authority as soon as reasonably practicable if the CCTV is not working".

This is condition that is requested by Greater Manchester Police of all premises that partake in the licensable activity of the sale by retail of alcohol, so that the licensing objective The Prevention of Crime & Disorder and Public Safety can be maintained at the premises.

In an effort to deter, prevent and detect crime at or near licensed premises Greater Manchester Police consider that an effective CCTV system is an essential requirement that must be installed at any licensed premises and this system must be fully operational to allow for images to be captured, stored or produced and these images to be made available when requested by the Police or any official of the Local Authority.

On this occasion when the local authority have requested Mr Mohammed the Designated Premises Supervisor (DPS) at the store to produce images from the CCTV system. Mr Mohammed has been obstructive by failing to supply the requested images from the CCTV system this is a clear breach of the CCTV condition which is attached to the premises licence.

- 5.2 Bury Safeguarding Children Board in their capacity as a Responsible Authority have submitted a representation to support the review application submitted by the Licensing Authority. They state we would support any actions suggested by Bury Council Licensing Department in order to protect the public (including children) from the sale of illegal goods and would also support any action taken to prevent crime and disorder through the appropriate use of CCTV.

6.0 OBSERVATIONS

- 6.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

List of Background Papers:-

Review Application form and supporting documentation

For further information on the details of this report, please contact:

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BURY

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