

<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Licensing Hearings Sub-Committee
<b>Meeting date:</b>	18 May 2023
<b>Title of report:</b>	An application from Greater Manchester Police for a Summary Review of the premises licence in respect of Topshop, 20 Hurst Street, Bury, BL9 7ER
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	East

**Executive Summary:**

This report relates to an application by the Chief Constable of Greater Manchester Police in respect of the licensed premises Top Shop, 20 Hurst Street, Bury, BL9 7ER for a Summary Review of the Premises Licence and a review of the interim steps that were taken in advance of this review in accordance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application is because the police believe that the premises are associated with serious crime and/or disorder.

**Recommendation**

**Options & recommended option**

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence for a period not exceeding 3 months.
- To revoke the licence.
  
- Following the review under section 53C, Members of the Licensing Hearings Sub-Committee must review the interim steps that are currently in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

## Key considerations

This is a Council Function that is delegated to the Licensing Hearings Sub-Committee by the Council's Constitution.

---

## Community impact / Contribution to the Bury 2030 Strategy

Not applicable

---

## Equality Impact and considerations:

A GM-wide Equality Impact Assessment has been undertaken and a copy is available on request.

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

*The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics*

---

## Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Not applicable	

---

## Consultation:

Not applicable

---

**Legal Implications:**

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

---

**Financial Implications:**

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.

---

**Report Author and Contact Details:**

M Bridge  
Licensing Unit Manager  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ      Tel: 0161 253 5209      Email: m.bridge@bury.gov.uk

---

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
DPS	Designated Premises Supervisor

**Background papers:**

Current Premises Licence  
Section 53A application, Certificate and supporting evidence  
Licensing and Safety Panel Report (interim steps hearing) – 26 April 2023  
Licensing and Safety Panel Minutes (interim steps hearing) –26 April 2023

**1.0 INTRODUCTION**

- 1.1 On the 24 April 2023, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of Top Shop, 20 Hurst Street, Bury, BL9 7ER because they believe that the premises are associated with Serious Crime.
- 1.2 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.
- 1.3 A 10 working-day public consultation exercise has been undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

- 1.4 Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.
- 1.5 On 26 April 2023, a Licensing Hearings Sub Committee interim steps hearing was held, following receipt of the Summary Review application from Greater Manchester Police, Members of the Licensing and Safety Panel considered whether interim measures should be taken in respect of the Premises Licence for the purpose of promoting the Licensing Objectives.
- 1.7 The Sub-Committee resolved that in order to promote the said licensing objectives, it was necessary to impose interim steps and that it must suspend the premises licence immediately. The reasons for the Panel's decision are attached at Appendix One.
- 1.8 The premises licence holder may make representations against the interim steps taken by the licensing authority. Under s53B of the Licensing Act 2003 the licensing authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- 1.9 At the time of writing this report, the premises licence holder has not made representations against the interim steps taken by the licensing authority.
- 1.10 On the date of the review hearing, the licensing authority is required to review any interim steps that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.
- 1.11 Under section 53C of the Licensing Act 2003, 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 application.
- 1.12 Following the review under section 53C, the licensing authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.
- 1.13 The premises licence in respect of Topshop, 20 Hurst Street, Bury, BL9 7ER has been held by Syed Khurshid Hussain Shah since 19 February 2020. He has also been the designated premises Supervisor since the same date.
- 1.14 The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) 2005 (as amended) is the relevant legislation.
- 1.15 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 Office.

## **2.0 BACKGROUND**

- 2.1 The Chief Superintendent has issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he states the following:-

At 16:00 hours on Thursday 20<sup>th</sup> April 2023, officers from Bury Council's Trading Standards and Licensing department attended Topshop, 20 Hurst Street, Bury, in company with Greater Manchester Police and immigration officers. The intention was to search the premises for illicit tobacco and illegal vapes, however during the search, a large quantity of cannabis, already divided in separate snap bags (75 Cannabis and 11 cannabis resin) were discovered in the store room at the rear of the premises.

Two individuals were arrested in the premises on suspicion of an offence of Possession With Intent to Supply, however neither party is the DPS or Premises License Holder. During the investigation, it has been established that neither detained persons, were employed by the store and certainly one male had been asked to temporarily watch the store by two Asian males as Police and other agencies arrived on scene.

It is in my opinion that an expedited review of the premises license is necessary to allow the Licensing Authority to review/amend the license conditions and prevent a recurrence of such serious crime.

Attached to this report at Appendix Two (Application by Greater Manchester Police for the Summary Review) and Appendix Three (Certificate issued by the Chief Superintendent) respectively.

### **3.0 REPRESENTATIONS**

3.1 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of this review 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. Greater Manchester Police will give evidence at the hearing.

3.2 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
- d. Protection of children from harm

### **4.0 CURRENT LICENSABLE ACTIVITIES**

4.1 The premises licence which shows the current licensable activities and conditions is attached at Appendix Four.

### **5.0 THE SECRETARY OF STATE'S GUIDANCE TO THE LICENSING ACT 2003**

5.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

5.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

5.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

## 6.0 CONCLUSION

6.1 A licensing authority must carry out its functions under this Act (“licensing functions”) with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

6.2 In considering the matter, the Sub-Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council’s licensing policy statement.

6.3 The Sub-Committee 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, any relevant representations, and review the interim steps already taken (if any).

6.4 In making its final determination, the steps the Sub-Committee can take are:

- To modify the conditions of the premises licence
- To exclude from the scope of the licence any of the licensable activities to which the application relates;
- To remove the designated premises supervisor from the licence;
- To suspend the licence for a period not exceeding 3 months;
- To revoke the premises licence.

6.5 The conditions of the licence, with the exception of mandatory conditions of the premises licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.

6.6 All licensing determinations should be considered on the individual merits of the application.

6.7 The Sub-Committee’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. Findings on any issues of fact should be on the balance of probability.

6.8 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

6.9 The Sub-Committee is asked to determine what steps, as set out in 6.4 above, are appropriate for the promotion of the licensing objectives.

6.10 The Sub-Committee’s determination of the review does not have effect until the end of the 21-day period given for appealing the decision, or until the disposal of any appeal that is lodged.

6.11 To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the final review hearing. This is to be done immediately after the determination

of the review under s53C. In reaching its decision, the panel must consider any relevant representations made.

6.12 The steps available to the Sub-Committee are:

- To modify the conditions of the licence;
- To exclude the sale of alcohol by retail from the scope of the licence;
- To remove the designated premises supervisor from the licence; and
- To suspend the licence.

6.13 Upon the determination of the licence review, the Sub-Committee is asked to review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn

## Decision and Reasons

Decision: Suspend the Premises Licence and remove the DPS

The Panel therefore unanimously **resolved** that the evidence demonstrated serious crime. The Sub-Committee was therefore satisfied that there was sufficient evidence to mean interim steps are necessary.

### Reasons:

- The Sub-Committee found that evidence of serious crime taking place at the premises and not promoting the Licensing Objective of Prevention of Crime and Disorder.
- The Sub-Committee found that the Licensing Objective of Public Safety was not being promoted at the premises by the Premises Licence Holder/Designated Premises Supervisor.
- The Sub-Committee found that the Premises Licence Holder/Designated Premises Supervisor was breaching conditions of the premises licence in relation to breach of Licensing conditions in relation to the provision of CCTV and the requirement to maintain a refusals book to record incidents/descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. This book must be made available to the police / authorised officers of the Council on request.