

Classification	Item No.
Open	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	13 June 2023
Title of report:	An application from Greater Manchester Police for a Review of the Premises licence in respect of Club 66, 24 Silver Street, Bury, BL9 0DH
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	East

Executive Summary:

This report relates to an application by Greater Manchester Police in respect of Club 66, 24 Silver Street, Bury, BL9 0DH for a Review of the Premises Licence in accordance with Section 51 of the Licensing Act.

Recommendation

Options

- 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.

Key considerations

1.0 INTRODUCTION

1.1 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.

1.2 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 Office.

2.0 **BACKGROUND**

2.1 On the 27 March 2023, Greater Manchester Police submitted an application to the Licensing Authority for a Review of the premises licence in respect of Club 66, 24 Silver Street, Bury, BL9 0DH.

2.2 Greater Manchester Police have complied with all the necessary procedural requirements laid down by the Act.

2.3 At the time of the review application the premises licence in respect of Club 66, Silver Street, Bury, BL9 0DH has been held by Club Sixty Six Ltd since 13 July 2022. Mr Daniel Langford has been the Designated Premises Supervisor since 1 December 2022.

2.4 Greater Manchester Police, in their capacity as a Responsible Authority, will give their reasons for their application which is on the grounds of Protection from Children from Harm and Prevention of Crime and Disorder. The review application is attached to the report at Appendix 1.

2.5 Members may recall, the urgent business considered at the meeting of the Licensing and Safety Committee on the 17 April 2023. The minute of the meeting states as follows:-

The Licensing Unit Manager reported that GMP had informed the Council about a review of a premises licence under the Licensing Act 2003, for Club 66, Bury. The Officer advised that pursuant to that Act and regulations made under it, once the application is advertised, objections and representations can be made within a set period of time. Once that statutory period ends, a hearing must be arranged, and notice provided to all parties within a further set timescale. It was noted that the statutory period for this falls within the period between the local government elections and the annual council meeting when appointments are made to the various committees of the Council. Some Members of the Council are up for election this year and the Licensing Committee membership for 2023-2024 would not be confirmed until the meeting at the end of May.

The Officer went on to advise the Committee that under the relevant legislation, time limits can be extended where it is in the public interest to do so and that by reason of special circumstances relating to the local government election and timing of committee appointments, a request was therefore made that the deadline for holding the hearing be extended until the week commencing the 12th June 2023. This would also allow for any new Members of the Licensing Committee to receive the appropriate training.

It was agreed:

That the premises licence review process be extended until week commencing the 12th of June 2023.

- 2.6 On the 25 May 2023, the Licensing Service were notified by Mr Daniel Langford that he was no longer the Designated Premises Supervisor at the premises.
- 2.7 On the 26 May 2023, the Licensing Service received an application to transfer the premises licence into the name the Club 66d Limited, 262 Catherine Street, Leicester, LE4 6GD. The application stated that they wanted the transfer application to have immediate effect. At the time of writing this report, the Licensing Service had not received representations from Greater Manchester Police.
- 2.8 On the same day as the transfer application was received, the Licensing Service received an application to vary the premises licence to specify an individual as designated premises supervisor. The individual named on the application is Ms Vicky Bebbington, 23 St Mary's Road, Nantwich, CW5 5NU. The application stated that they wanted the transfer application to have immediate effect. At the time of writing this report, the Licensing Service had not received representations from Greater Manchester Police.

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 website. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.
- 2.2 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
- 2.3 No further representations were received.

3.0 CURRENT LICENSABLE ACTIVITIES

- 3.1 The premises licence which shows the current licensable activities and conditions is attached at Appendix 2.

4.0 THE SECRETARY OF STATE'S GUIDANCE TO THE LICENSING ACT 2003

- 4.1 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.

- 4.2 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.
- 4.3 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.

5.0 CONCLUSION

- 5.1 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.
- 5.2 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.
- 5.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.
- 5.4 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.
- 5.5 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.
- 5.6 All licensing determinations should be considered on the individual merits of the application.
- 5.7 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.
- 5.8 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.

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

5.10 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.

Community impact / links with Community Strategy

Not applicable

Equality Impact and considerations:

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.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<i>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.</i>	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
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There are no specific issues from the report other than potential costs/risks associated with legal appeals.	
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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:

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Background papers:

Current Premises Licence
Section 51 Review application

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

Term	Meaning
DPS	Designated Premises Supervisor
PLH	Premises Licence Holder