

Classification	Item No.
Open	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	12 January 2024
Title of report:	An application from Greater Manchester Police for a Summary Review of the premises licence in respect of OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	Radcliffe East

Executive Summary:

This report relates to an application by the Chief Constable of Greater Manchester Police in respect of the licence premises the OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that 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 consider whether to impose interim steps

The steps available are:

- 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.

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
Bury Council's Licensing Policy
Guidance issued under Section 182 of the Licensing Act 2003
Licensing Act (Hearings) Regulations 2005

1.0 INTRODUCTION

- 1.1 This report relates to an application by the Chief Constable of Greater Manchester in respect of licensed premises known as the OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ, for a summary review of the premises licence due to the premises being associated with serious crime or serious disorder or both. The Licensing Authority must consider whether interim steps are required pending a full summary review hearing.
- 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 for the review of the licence to be fast tracked

- 1.3 A 10 working-day public consultation exercise is 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 to be published on the Council's website.
- 1.4 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
- 1.5 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.
- 1.6 The premises licence in respect of the OverDraught has been held by Mr Alistair Scott Johnson since 4 April 2011. Mr Johnson is the Designated Premises Supervisor since 4 April 2011.
- 1.7 The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) is the relevant legislation.
- 1.8 The Local Authority is required to consider interim steps should be imposed for the promotion of the licensing objectives and what the steps should be. Any such measures and the reasons for them must be immediately notified to the premises licence holder.
- 1.9 The Panel will make a decision in relation to interim steps 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:-

"The premises are associated with serious crime and serious disorder.

At 00:16 hours on Saturday 6th January 2024, Greater Manchester Police received a report of a stabbing at Overdraught, 28-30 Blackburn Street, Radcliffe.

Witness statements have been obtained and the premises CCTV footage has been reviewed. The circumstances of this incident are at approximately 23:45 hours, two male perpetrators have entered the above licensed premises. Police are not aware of any incidents occurring inside however upon exiting, approximately 10 minutes later, a conversation has taken place between the perpetrators and other customers. At present, the content of those conversations are unknown however a fight has ensued near to the main entrance/exit.

Witnesses to the incident report seeing a 2inch blade being used by one off the perpetrators and two other customers who were victim to the attack received some serious injuries which included:

Victim 1: 2cm laceration to the left side of his face, close to the eye socket and a 6cm laceration to his left arm, just below the elbow. Swollen right elbow.

Victim 2: 2cm laceration to the back of the head, close to the base of the skull.

Both victims required hospital treatment, one of which fell uncouncious and unresponsive later in the morning.

No door supervision were on duty at the time of this incident and although the premises license does not require the employment of door supervisors on a weekly basis, it is my opinion that this incident may have been avoided had they been employed. For that reason It is my opinion that an expedited review of the premises is necessary to allow the licensing authority to review/amend the license conditions and prevent a reoccurrence of such serious crime and disorder in the future.” (sic)

Attached to this report at Appendix 1 (Application by Greater Manchester Police for the Summary Review) and Appendix 2 (Certificate issued by the Chief Superintendent) respectively. Greater Manchester Police have supplied CCTV footage of the incident. This has been circulated to the Members of the Committee and the Premises Licence Holder prior to this hearing.

3.0 CURRENT LICENSABLE ACTIVITIES

3.1 The Premises Licence shows the current licensable activities and conditions is attached at Appendix 3.

4.0 DETERMINING THE APPLICATION FOR INTERIM STEPS TO BE IMPOSED

4.1 In determining whether or not to impose interim steps, pending the summary review of the premises licence which must be held within 28 days from the date of the application being received, members must consider the information presented in relation to serious crime and or serious disorder. If members decide to impose interim steps, the following options are available to the Licensing Authority:

- a. To modify the Conditions attached to the licence
- b. The exclusion of the sale of alcohol from the scope of the licence.
- c. The removal of the Designated Premises Supervisor from the licence.
- d. Suspension of the premises licence

4.2 For the purposes of subsection 4.1a, the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added.

5.0 THE SECRETARY OF STATES 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 reaching the decision, regard must 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.

6.4 In making its decision with regard to this interim steps hearing, the steps the Sub-Committee can take are:

- a) To modify the conditions of the licence;
- b) To exclude any of the licensable activities from the licence;
- c) To remove the designated premises supervisor;
- d) To suspend the 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.