

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING HEARINGS PANEL
DATE:	5th AUGUST 2014
SUBJECT:	APPLICATION FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE ROSE & CROWN, 2 COCKEY MOOR ROAD, BURY.
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 The Rose and Crown, 2 Cockey Moor Road, Bury.
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 is 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.

Health & Safety implications:	<p>Holders of Premises Licences are required to promote the 'licensing objectives' 3 of which are:</p> <ul style="list-style-type: none"> • the Prevention of Public Nuisance • Public Safety • The Protection of Children from Harm
Equality/Diversity implications:	<p>Yes No (see paragraph below)</p>
Considered by Monitoring Officer:	<p>Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.</p>
Wards Affected:	<p>St. Marys</p>
Scrutiny Interest:	<p>Internal Scrutiny Panel</p>

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 the 10th June 2014, Mr David Mortimer, a Licensing Enforcement Officer employed by Bury Council, submitted an application for a review of the above Premises Licence in his capacity as Responsible Authority.
- 1.4 The Premises Licence is held by Greene King Retailing Ltd, Abbot House, PO Box 337, Bury St Edmonds, Suffolk. Since the 13th May 2008 when the current licence was granted, Amanda Balmbra has been 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 Thursday & Sunday	11.00 to 23.30hrs
Friday & Saturday	11.00 to 00.30hrs

b. The provision of regulated entertainment

Monday to Thursday & Sunday	18.00 to 23.30hrs
Friday & Saturday	18.00 to 00.30hrs

c. The opening hours of the premises:

Monday to Thursday & Sunday	11.00 to midnight
Friday & Saturday	11.00 to 01.00hrs

4.0 REVIEW APPLICATION

4.1 The review application submitted by Mr Mortimer, explains that the Rose and Crown has a large beer garden which backs onto a number of residential properties located on Lowercroft Road, Bury. The current premises licence was granted on the 13th May 2008. It was granted subject to a number of conditions being attached to the licence to include the following:

- a. The beer garden shall be closed to patrons and locked at 22.00hrs each day.
- b. No drinks shall be permitted to be taken into the smoking area after 22.00hrs each day.

4.2 Since July 2009 to date, the Council's Licensing Service has received a total of 10 separate complaints from local residents relating to noise nuisance issues connected to the premises. These complaints refer to noise emanating from either the beer garden or the outdoor smoking shelter. The majority of the complaints have been received from the same complainant, however, the most recent complaint is from another local resident who has complained that on the weekends of 17th/18th May and 24th/25th May 2014, customers were using

the beer garden until midnight and 11pm respectively and that the noise could be clearly heard inside her home on Lowercroft Road, Bury. Her rear garden backs onto the beer garden and is separated by a fence. Due to noise problems from the beer garden she has had to move her two year old son from a rear bedroom to the front of the house.

- 4.3 Previous complaints have resulted in two warning letters from the Councils Licensing Service (copies attached), dated 12th April 2011 and the 25th October 2013, being sent to both Greene King Retailing Ltd and copied to Ms Balmbra, the DPS. The letters outlined the nature of the complaints and reminded the premises licence holder and the DPS of the above licence conditions and the possible consequences if further breaches of these conditions took place.
- 4.4 In addition to the above, Mr Mortimer has personally visited the premises in relation to noise nuisance complaints and has liaised with the DPS on the matters. He has reminded her of her responsibilities in relation to the promotion of the licensing objectives, in particular the 'Prevention of Public Nuisance' licensing objective. Two such visits were on the 6th November 2013 and the 31st March 2014. On both occasions, Mr Rob Calderbank, the area manager from Greene King Retailing Ltd was present.. PC Watson from Greater Manchester Police was also present at the meeting on the 31st March 2014.
- 4.5 In view of the forgoing and the licence holders clear inability to control noise nuisance emanating from the premises beer garden, the Licensing Hearings Panel is requested to consider amending the current condition attached to the premises licence so as to require the beer garden to be closed to all customers by no later than 20.00hrs daily.

5.0 OTHER REPRESENTATIONS

- 5.1 Representations in support of the application to review the premises licence have been received from the aforementioned local resident who complained that on the weekends of 17th/18th May and 24th/25th May 2014, customers were using the beer garden until midnight and 11pm respectively and that the noise could be clearly heard inside her home on Lowercroft Road, Bury. A further representation was received from another local resident who has made numerous complaints about noise nuisance issues about the premises in the past. His representations are as follows:
 - a. The noise base beat when live music is provided at the premises can be heard plainly in his home He has recently phoned the area manager on a Saturday evening to get the music turned down.
 - b. Beer garden unruly elements. Despite promises by the pubs area manager no signs have been put up to respect neighbours. Swearing and ball games continue.
 - c. The seating in the smoking area is not being removed after 22.00hrs as promised. This leads to noisy gatherings on warm evenings.
- 5.2 The latter representor has also sent an email complaint to a ward councillor that on the night of the 19th June 2014, he experienced noise issues in relation to parking, horns, swearing and chanting emanating from the premises and that drinking went on in the beer garden until well after midnight.

- 5.3 A third representor stated that they have experienced noise, abusive and drunken behaviour issues until 2-3am in the morning. Bottles and glasses have been thrown into the resident's garden and all over the pub car park.
- 5.4 Other issues raised by some of the representor's relate to matters which do not fall under the 4 licensing objectives and cannot be considered by the Panel (i.e. parking issues, the pub is used as a children's play ground, etc).

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
Statement of Mr Mortimer
Representations received

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

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BURY
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