

FOR PUBLICATION

APPLICATION FOR A REVIEW OF THE PREMISES LICENCE IN RESPECT OF RED LION, 261 CHATSWORTH ROAD, BRAMPTON, CHESTERFIELD, S40 2BL (LC200)

MEETING: LICENSING COMMITTEE

DATE: WEDNESDAY 30TH DECEMBER 2015

REPORT BY: STEVE ASHBY
LICENSING OFFICER

WARD BRAMPTON

COMMUNITY FORUM SOUTH

1.0 PURPOSE OF REPORT

For Members to determine an application for a review of the Premises Licence in respect of the Red Lion.

2.0 THE LICENSING OBJECTIVES, GUIDANCE AND POLICY

2.1 When carrying out its licensing functions, the Committee must do so in accordance with the provisions contained in the Licensing Act and with a view to promoting the 4 licensing objectives which are:

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

2.2 The Committee must have regard to its Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 2.3 The Secretary of State's guidance concerning reviews is attached at Appendix 1.
- 2.4 The Council's Statement of Licensing Policy is attached at Appendix 2.
- 2.5 In determining the application the Committee can take such of the following steps as it considers necessary for the promotion of the licensing objectives, which are:
1. take no further action;
 2. to issue an informal warning to the Premises Licence Holder;
 3. modify the conditions of the licence;
 4. exclude a licensable activity from the scope of the licence;
 5. remove the designated premises licence supervisor;
 6. suspend the licence for a period not exceeding three months;
 7. revoke the licence.
- 2.6 Where the Committee takes a step mentioned in 3 or 4 of paragraph 2.5 above it may provide that the modification or exclusion is to have effect either permanently or temporarily and, if temporarily, only for such period (not exceeding three months) as it may specify.
- 2.7 Any decision of the Committee which involves any of the steps mentioned in 3 to 7 in paragraph 2.5 above is stayed from coming into effect for 21 days from the date of the decision, pending any appeal that might be made and the determination of that appeal. The Applicant, the Premises Licence Holder and any party who made relevant representations with regard to the review application may appeal to the Magistrates' Court against the decision of the Committee.

3.0 **BACKGROUND**

- 3.1 The premises is a two storey building which has 6 bed sit flats on the upper floor. One of these flats is currently believed to be occupied.
It is situated on Chatsworth Road Chesterfield, a main arterial route into the town and some 1 ½ miles from Chesterfield town centre.

- 3.2 The premises is licensed for regulated entertainment, late night refreshment and the sale of alcohol. A copy of the Premises Licence is attached at Appendix 3.
- 3.3 The holder of the Premises Licence is Mark Anglesea and the Designated Premises Supervisor is Sian Anglesea.
- 3.4 The Premises Licence is subject to the standard mandatory conditions regarding the sale of alcohol and door supervision. A copy of the mandatory conditions is attached at Appendix 4.
- 3.5 The Premises Licence is also subject to conditions consistent with the operating schedule which are mentioned in Annex 2 of the licence (Appendix 3).

4.0 **APPLICATION FOR A REVIEW**

- 4.1 On 11th November 2015, an application for a review of the Premises Licence was received from Vanessa Carty – Environmental Health Technical Officer. A copy of the review application is attached at Appendix 5. The application form states that the application for a review relates to public safety in regard to the licensing objectives.
- 4.2 The application provides details of the grounds for the review which are set out in the application form at Appendix 5. In summary, the grounds for the review derive from an inspection with the premises licence holder on 23rd July 2015. During the inspection a number of significant health and safety concerns were raised, some of which required immediate attention. Health and Safety improvement notices were served on 28th July 2015 and to this date have not been complied with. Failure to comply with these notices is an offence. The applicant therefore believes that the manner in which the Red Lion is being operated and managed is resulting in the Licensing Objective of Public Safety being undermined.
- 4.3 There has been a delay between the initial Environmental Health and Derbyshire Fire and Rescue Service inspection activity and the submission of review application papers.

After the premises were inspected and improvement notices were served in July 2015, the premises were closed and tendered for sale at auction.

- 4.4 No subsequent licensing activity took place at the Red Lion premises and the building was sold in September 2015 to an undisclosed buyer.
- 4.5 The premises remained dormant until 8th November 2015 when licensable activity was again observed at the premises, with doors to the premises seen to be open in the early hours of the morning and patrons served around the bar which was operated by a female member of staff.
No new applications had been received in respect of the premises. This indicated that the premises appeared to be trading under the auspices of the current premises licence and with the previously identified designated premises supervisor still in charge.
- 4.6 This new activity was outside the permitted hours identified in the premises licence and demonstrated a further disregard for licensing legislation and ultimately the licensing objectives.
- 4.7 As a result of this new activity it became apparent that further action was required in respect of the premises and the review process was instigated on 11th November.

5.0 **REPRESENTATIONS**

- 5.1 When an application for a review is submitted, the Licensing Authority is required to put a notice of the application on display at the premises to which it relates and at the offices of the Licensing Authority. These steps were carried out on 12th November 2015 in accordance with the Licensing Act and the relevant regulations.
- 5.2 The Premises Licence Holder, Responsible Authorities and Interested Parties have the opportunity of making representations within a period of 28 days starting from the day after the day on which the application was given to the Licensing Authority. Representations must be relevant to one or more of the 4 licensing objectives.

- 5.3 On 12th November 2015 Chesterfield Borough Council's Licensing Manager Trevor Durham made a representation in support of the review application.
- 5.4 A copy of the representation is attached at Appendix 6 and identifies that this premises has been a source of concern for the Responsible Authorities throughout 2015.

Matters raised include:

- trading after permitted hours and in breach of the terms of the licence
- unwillingness to settle annual license fees until challenged
- trading without a designated premises supervisor

The full details are included in appendix 6.

- 5.5 On 13th November 2015 Derbyshire Police submitted a representation supporting the review application.
- 5.6 A copy of the representation is attached at appendix 7 and cites the following activity as grounds for concern:
- Alleged criminal activity of the premises licence holder, Mark Anglesea.
 - Alleged drug related criminality on the premises.
 - General conduct of the premises which compromises the licensing objectives.
- 5.7 On 20th November 2015 Zara Gillibrand, a resident of a nearby dwelling made representation in response to the review notice posted on the licensed premises. She submitted a letter as an interested party supporting the review process.
- 5.8 The letter is copied at appendix 8 and refers to Ms Gillibrand's concerns over the past few years in relation to:
- Noise nuisance at the premises
 - Unruly customers in the rear yard of the premises where anti-social behaviour and drug related criminality have been common.
 - Trading outside the permitted hours specified in the premises licence

- The detritus of unruly alcohol-related activity left un-tidied around the outside of the premises. This includes broken glass, vomit and occasionally blood.

Ms Gillibrand is unable to attend the review in person. Her letter of representation and original statement are included at appendix 8.

These will be served in the committee hearing along with the availability of a compilation of images she has collected which support her statement, should they be required.

5.9 On 2nd December 2015 Derbyshire Fire and Rescue Service submitted a report making representations regarding the review process for the Red Lion.

5.10 The report is attached hereon at appendix 9 and arises from an initial fire safety visit conducted at the premises on 23rd July 2015. An audit was completed under the terms of the Fire Safety Order 2005.

A number of failures were identified under the order and included on an Enforcement Notice issued on 29th July 2015.

Difficulties have been encountered in contacting Mr Anglesea resulting in a subsequent lack of access to the premises, notwithstanding several attempts by the Fire Service to make and arrange such contact.

Consequently it has never been established whether the Enforcement Notice has been complied with.

6.0 **RECOMMENDATION**

6.1 That the Committee determines the application for a review of the Premises Licence in respect of the Red Lion, 261 Chatsworth Road, Brampton, Chesterfield, S40 2BL

Steve Ashby
LICENSING OFFICER

15th December 2015