

# **REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS**

## **LICENSING SUB COMMITTEE – 25 NOVEMBER 2021**

### **DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003**

#### **JUNGLE BAR, 20 VINE PLACE, SUNDERLAND, SR1 3NA**

**Premises Licence Holders: Mr John Kerr & Mr Paul Rowe**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1 The Sub-Committee are requested to consider the application and to take such steps as they consider appropriate for the promotion of the licensing objectives.

#### **3.0 INTRODUCTION/BACKGROUND**

- 3.1 An application under Section 51 of the Licensing Act 2003 ('the Act') has been received from Northumbria Police for a review of the above-mentioned premises licence on the grounds that the operation of the premises undermines the Licensing Objectives for the Prevention of Crime and Disorder and the Protection of Children from Harm. The review application is attached as Appendix A. A copy of the current premises licence is attached at Appendix B. The premises licence holders have not made a request to amend the licence to change the name of the premises to the Jungle Bar, and therefore the licence still shows the previous name of the premises, that being Reubens Bar.

#### **4.0 CURRENT POSITION**

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise the fact that a review is to take place and invite representations. Such notices were displayed for the statutory period of 28 days commencing on 14 October 2021.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received.
- 4.3 A representation has been received from Mr Scott Lawrence, Senior Licensing Officer on behalf of the Licensing Authority acting in its role as a responsible authority. A copy of this representation is attached at Appendix C. In addition, a representation has been received from Mr Alan Shaw, Principal Trading Standards Officer on behalf of the Council's Trading Standards and Environmental Health services, a copy of which is attached at Appendix D.

- 4.4 On 26 October 2021, one of the premises licence holders, Mr Kerr made an application to vary the premises licence to specify Mr Mark Morrison as the Designated Premises Supervisor (DPS). On 2 November 2021, an emailed message objecting to the application to vary the licence to specify the DPS was received from Northumbria Police. Arrangements have been made for a separate hearing of the Licensing Sub-Committee to be held to deal with the Police objection to the variation application. Such hearing is scheduled to be held on 25 November 2021, immediately following the hearing of the review application for these premises.
- 4.5 On 10 November 2021, the Senior Licensing officer received an email from Mr Paul Rowe confirming that he wanted to have his name removed from the premises licence. Therefore Mr John Kerr remains as the sole licence holder.

## **5.0 REASONS FOR THE DECISION**

- 5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

## **6.0 ALTERNATIVE OPTIONS**

- 6.1 None submitted.

## **7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS**

- 7.1 The provisions of sections 11.16 to 11.23 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter and are set out below.

### 11.16

The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

### 11.17

The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

### 11.18

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

#### 11.19

Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

#### 11.20

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

#### 11.21

For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

#### 11.22

Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

#### 11.23

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for

the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

- 7.2 Paragraph 11.24 (Reviews arising in connection with crime) of the Secretary of State's guidance states as follows:

A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

## **8.0 GLOSSARY**

- 8.1 No acronyms or abbreviations have been used in this report.

## **9.0 LIST OF APPENDICES**

- 9.1 Appendix A – Review Application Form
- 9.2 Appendix B- Copy of premises licence
- 9.3 Appendix C - Representation on behalf of the Licensing Authority
- 9.4 Appendix D – Representation on behalf of the Council's Trading Standards and Environmental Health Services.

## **10.0 BACKGROUND PAPERS**

- 10.1 None.