

## **Licensing Panel**

# **Licensing Act 2003 Review of Premises Licence following Review Notice**

## **Royal Oak 496 Oldham Road, Failsworth, Oldham, M35 0EH**

Report of Executive Member for: Neighbourhood Services

Officer contact: David Smith  
Ext. 3472

**4<sup>th</sup> December 2018**

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### **Reason for Decision**

Pursuant to Section 53C of the Licensing Act 2003, the purpose of this report is to ask Members to review the premises licence in respect of the Royal Oak, 496 Oldham Road, Failsworth, Oldham, M35 0EH following the application for a 'Summary Review', of those premises, made by Greater Manchester Police on the 12<sup>th</sup> November 2018.

### **Recommendations**

Members are recommended to consider the application, taking into account the representations received.

## Licensing Act 2003

### Review of Premises Licence following Review Notice Royal Oak, 496 Oldham Road, Failsworth, Oldham, M35 0EH

#### 1 Background

Pursuant to Section 53C of the Licensing Act 2003, the purpose of this report is to ask Members to review the premises licence in respect of Royal Oak, 496 Oldham Road, Failsworth, Oldham, following the application for a 'Summary Review', of those premises, made by Greater Manchester Police on the 12<sup>th</sup> November 2018.

#### 2 Recommendations

Members are recommended to consider the application, taking into account the information before them.

#### 3 The Summary Review

3.1 An application for a Summary Review was submitted by PC 1684 Farrell in his capacity as the Licensing Officer for the borough of Oldham, endorsed by Superintendent Daniel Inglis of Greater Manchester Police, a copy of the application, and accompanying certificate is attached at **Appendix 1**.

3.2 The application outlines the reasons given for the summary review but in essence it is the view of Greater Manchester Police that the premises are associated with serious crime and / or disorder.

3.3 A copy of the existing Premises Licence is attached at **Appendix 2**.

A location map is attached at **Appendix 3**

#### 4 Interim Steps

4.1 In accordance with Section 53B of the Licensing Act 2003, on Wednesday 14<sup>th</sup> November 2018, a duly constituted Licensing Panel considered whether it was necessary, based on the information before them, to take interim steps against the premises licence pending this review taking place.

4.2 Members of that Panel heard submissions from Greater Manchester Police and representatives of the Premises Licence Holder.

Having taken into account all the information before them, Members of the Panel took the decision to suspend the premises licence pending this full review taking place. A copy of the decision letter is attached at **Appendix 4**.

#### 5 Review of Interim Steps

5.1 Once Members have made their decision on what action, if any, to take against the premises licence, a review of the Interim Steps must take place.

5.2 In reviewing the interim steps Members must:-

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- a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;
  - b) consider any relevant representations; and
  - c) determine whether to withdraw or modify the interim steps taken

5.3 If Members are minded to say the interim steps should continue but be modified, the options open to Members include:-

- a) the modification of the conditions of the premises licence;
- b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- c) the removal of the designated premises supervisor from the licence;
- d) the suspension of the licence;

## 6 Representations

6.1 One representation was received during the consultation period. The representation was made by Gosschalks Solicitors acting on behalf of their client EI Group PLC who are the owners of the premises. The representation is attached at **Appendix 5**.

## 7 Secretary of State's Guidance

7.1 Chapter 11 of the guidance deals with reviews. Members attention is drawn to paragraphs 11.17 to 11.20 which provide:-

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting 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:

- (i) 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;
  - (ii) 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)<sup>10</sup>;
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- (iii) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - (iv) suspend the licence for a period not exceeding three months;
  - (v) 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 that 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.

7.2 A full copy of the guidance will be available at the hearing.

## 8 **Licensing Policy**

8.1 Members considering this application should take note of the Authority's Licensing Policy Statement when determining an application. In particular as crime and disorder were the basis of the summary review, attention should be drawn to Section 6 of the Policy.

8.2 A copy of the Policy will be available at the hearing.

## 9 **Options/Alternatives**

9.1 The options open to Members, having had regard to the information before them, including any verbal representations made by parties to the hearing, are -

- a) the modification of the conditions of the premises licence;
- b) the exclusion of a licensable activity from the scope of the licence;
- c) the removal of the designated premises supervisor from the licence; and
- d) the suspension of the licence for a period not exceeding 3 months; and
- e) the revocation of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

9.2 Findings on any issues of fact should be on the balance of probability.

9.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and if applicable the licensing policy statement and reasons must be given for any departure.

9.4 The decision should be based on the individual merits of the application.

## 10 **Consultation**

10.1 There is no requirement to consult on interim steps.

10.2 In relation to the substantive hearing, consultation in accordance with the Act has commenced.

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## 11 **Legal Services Comments**

- 11.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance referred to in paragraph 7. The chief officer of police for the police area in which the premises are situated, the holder of the premises licence or any other person who made relevant representations in relation to the application for the review have a right of appeal to the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against. (A Evans)

## 12 **Environmental and Health & Safety Implications**

- 12.1 If applicable, contained within the body of the report.

## 13 **Equality, community cohesion and crime implications**

- 13.1 The Council's 'Statement of Licensing Policy' takes into account these matters. All decision made by the Licensing Panel, must have regard to this policy and National Guidance.

## 14 **Equality Impact Assessment Completed?**

- 14.1 No

## 15 **Background Papers**

- 15.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref: Records held in Directorate  
Officer Name: David Smith  
Contact No: 0161 770 3472

## 16 **Appendices**

Appendix 1 – Application & accompanying certificate  
Appendix 2 – Existing Premises Licence  
Appendix 3 – Location map  
Appendix 4 – Interim steps decision letter  
Appendix 5 – Representation – Gosschalks Solicitors

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