

REVIEW OF PREMISES LICENCE FOLLOWING A CLOSURE ORDER - BLUE LAGOON PUBLIC HOUSE.

Committee	Licensing Sub-Committee
Officer Contact	Claire Freeman, Residents Services 01895 277433
Papers with report	Part 1 Appendix 1 - Closure Order issued on 9 th March 2015 Appendix 3 - Notice of Review under S167 Appendix 5 - Current Premises Licence Part 2 Appendix 2 - Police submissions Appendix 4 - Representation from the Licensing Authority
Ward(s) affected	Botwell

SUMMARY

To carry out a review pursuant to Section (S) 167 of the Licensing Act 2003 in relation to the Blue Lagoon Public House, Wood End Green Road, Hayes UB3 2SB.

RECOMMENDATION

That the Licensing Sub-Committee considers the premises licence review instigated by S167 of the Licensing Act 2003 (the Act) for the licence granted to Mahadev Pubco Ltd for the premises known as Blue Lagoon, Wood End Green Road Hayes, UB3 2SB.

MATTERS FOR CONSIDERATION

Under S167 of the Licensing Act 2003 a premises licence review is triggered where a Magistrates Court has made a Closure Order under section 80 of the Anti-Social Behaviour, Policing and Crime Act 2014.

On Monday 9th March 2015, Uxbridge Magistrates Court issued a Closure Order which closes the premises for a period of three months. The Licensing Authority was notified of the order on Tuesday 10th March 2015.

The closure order was sought by the Metropolitan Police Service following an incident of violence at the premises during the early hours of Saturday 7th March 2015.

A copy of the closure order is attached as **Appendix 1**.

Further submissions from the Police including the statements in relation to the closure order and previous history of the premises, are attached as **Appendix 2**.

The Licensing Authority is required to notify responsible authorities and other interested parties of the review and invite representations.

A Licensing Officer placed copies of the notice at the premises, at the Council offices and also on the Councils website.

The closing date for representations to be received was 17th March 2015. A copy of the notice of review is attached as **Appendix 3**.

A representation was received from the Licensing Authority. This representation is attached as **Appendix 4**.

INFORMATION

A premises licence once issued remains valid unless it is specified to have effect for a limited period, surrendered or revoked.

The premises is a public house (PH) situated on Wood End Green Road in Hayes and is licensed to provide regulated entertainment, in the form of live music, recorded music and performance of dance and entertainment of a similar description, late night refreshment and the sale of alcohol. A copy of the current premises licence is included in **Appendix 5**.

The premise has been licensed under the Licensing Act 2003 since 2005. The current premises licence holder (Mahadev Pubco Ltd) took on the premises licence in August 2013.

The premises was the subject of Summary Review proceedings under S53(a) of the Licensing Act 2003 in December 2014. This summary review was brought by Police on a number of incidents of serious crime and disorder.

The Licensing Authority considered the matter on 4th December and 22nd December resolving to impose a number of additional conditions.

Full details of the previous review hearings and decision notices have been included in the representation of the Licensing Authority.

Documents before the Sub-Committee

Appendix 1 - Closure Order issued by Uxbridge Magistrates Court on 9th March 2015

Appendix 2 - Police Submissions

Appendix 3 - Notice of review

Appendix 4 - Representation on behalf of the Licensing Authority

Appendix 5 - Current Premises Licence

LEGAL IMPLICATIONS

Following an application by the Chief Police Officer for summary review of a premises licence under section 53A of the Licensing Act 2003 the licensing authority must convene a hearing and determine a review licence within 28 days of receipt of that application. Owing to the tight timescales to commence the hearing, normal notice periods for the hearing are suspended. The review is required to be advertised for a period not less than seven consecutive days starting with the day after the application was received.

The Licensing Sub-Committee is required to consider:

- the application for review and any relevant representations by the applicant for review;
- representations by the premises licence holder; and
- any other relevant representations made.

Relevant representations are those that relate to one or more of the licensing objectives, have not been withdrawn and are made within the period of 10 consecutive working days beginning on the date the notice was first published.

Members must take such steps (if any) as they consider appropriate for the promotion of the licensing objectives. The Licensing Sub-Committee may:

- Modify the conditions of the licence (this includes the power to omit or alter existing conditions and add new conditions)
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence.

The Sub-Committee must also secure that from the coming into force of the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken by the Sub-Committee in the review). However, any interim steps may have effect until after the review decision has come into effect, either after the expiry of a period of 21 days after the parties are notified of the review decision, or if the decision is appealed, once the appeal has been dispensed with by the Magistrates' Court.

Conditions

Members are also referred to the Secretary of State's guidance on conditions, which states that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement.

Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Reasons

If the Sub-Committee determines that it is necessary to take any steps in relation to the premises licence, it must give reasons for its decision.

The Role of the Licensing Sub-Committee

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to perform the role of licensing authority. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory

authority in other contexts. Members must direct themselves to making a determination solely based upon licensing law, relevant guidance and the Council's Statement of Licensing Policy. As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say, material which tends logically to show the existence or non-existence of relevant facts, the occurrence of which would be relevant.

The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the licence holder and those making representations when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Appeals

Responsible Authorities, persons making relevant representations and the licence holder will have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.