


REPORT TO LICENSING SUB-COMMITTEE

23 November 2020

Subject:	Review of a Premises Licence under Section 53C of the Licensing Act 2003 in respect of The Phoenix, Martley Road, Oldbury, B69 1DY
Director:	Director – Prevention and Protection – Neil Cox
Contribution towards Vision 2030:	
Contact Officer(s):	Geeta Bangerh (Licensing Officer), Balbir Dhugga (Licensing Officer) licensing_team@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Licensing Sub-Committee 1:

1. Consider the review application submitted by a Senior Officer of West Midlands Police for review of the premises licence in respect of The Phoenix, Martley Road, Oldbury, B69 1DY. To consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed and consider any relevant representations.
2. Review any interim steps already in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

1 PURPOSE OF THE REPORT

- 1.1 To advise members of an application made under section 53A of the Licensing Act 2003 for a summary review of the premises licence for The Phoenix, Martley Road, Oldbury, B69 1DY.

2 IMPLICATIONS FOR VISION 2030

- 2.1 Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.
- 2.2 It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.
- 2.3 Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods, all local partners are focused on what really matters in people's lives and communities.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 On 29th October 2020 application for an expedited review of the premises licence was made under section 53A of the Licensing Act 2003 by a Senior Officer of West Midlands Police who has certified that in his opinion the premises are associated with serious crime and serious disorder. A copy of the application and certificate are attached at Appendix 1 and 2 to this report.
- 3.2 A copy of the review application and certificate was served on the Premises Licence Holder.
- 3.3 The authority had to consider within 48 hours of the application whether any interim steps needed to be taken pending the full review. On 30th October 2020 the committee took interim steps by suspending the Premises Licence as an interim measure with immediate effect.
- 3.4 The premises licence holder may make representations against the interim steps taken at any point. No representation has been received to date.
- 3.5 Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within

28 days after the day of receipt of the application. The review decision takes effect after 21 days (unless appealed during that period).

- 3.6 Following the review under section 53C, the licensing authority must then review the interim steps in place under section 53D and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.
- 3.7 The relevant notices about this full review hearing have been served on all relevant parties as required.

4 THE CURRENT POSITION

- 4.1 The licence was granted on 06 May 2014.
- 4.2 The licence was transferred to Mr Amritpal Singh on 12 October 2017.
- 4.3 The current Designated Premises Supervisor is Mr Amritpal Singh. Mr Singh was specified as DPS on 12 October 2017.
- 4.4 The hours permitted for Licensable Activities are 8:00 to 02:00 Monday to Sunday. The hours will be extended at the end of licensed hours on New Years Eve to the start of licensed hours on New Years Day.
- 4.5 The opening hours of the premises are an additional 30 minutes.
- 4.6 A copy of the current licence is attached at Appendix 3.
- 4.7 The location of the premises can be seen on the location map provided which is attached at Appendix 4.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 The Licensing Team have displayed a public notice on or near the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority in respect of the full review, detailing a closing date for these to be received. Details of the application have also been published on the Council's website.
- 5.2 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm

6 ALTERNATIVE OPTIONS

- 6.1 The options available to the Licensing Sub Committee having considered all the relevant information are as follows:
- To modify the conditions of the licence
 - To exclude the sale of alcohol by retail from the scope of the licence
 - To remove the designated premises supervisor
 - To suspend the licence
- 6.2 Modification of existing conditions/s can include alteration, omission or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.
- 6.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.
- 6.4 In conducting the review of the interim steps the sub-committee has the power to take any of the steps that were available to it at the initial stage and they apply until the end of the period given for appealing against the full review decision, if there is an appeal until the appeal is disposed of or the end of a period determined by the authority, which may not be longer than the above periods.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 There are no direct strategic resource implications associated with this application.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 A Licencing authority must carry out its functions under this Act with a view to promoting the four licensing objectives, taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Councils own statement of Licensing Policy.
- 8.2 Members of the Sub-Committee must give full reasons for their decision.
- 8.3 The applicant, licence holder or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

- 8.4 The Police and Licence holder can also appeal against continuing interim steps to the Magistrates Court within 21 days.
- 8.5 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.
- 9.2 The operators of these premises are responsible for complying with all relevant legislation.

10 DATA PROTECTION IMPACT ASSESSMENT

Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public on line, in line with data protection protocols.

11 CRIME AND DISORDER AND RISK ASSESSMENT

The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and licence holders should take steps to promote the licensing objectives.

12 SUSTAINABILITY OF PROPOSALS

In respect of premises licence applications, we do not for see any issues in respect of sustainability of proposals.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

This is not applicable to applications for premises licences submitted under the Licensing Act 2003.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

The application relates to privately owned property.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision immediately.

16 BACKGROUND PAPERS

Sandwell Metropolitan Borough Council Licensing Policy
Guidance issued under Section 182 of the Licensing Act 2003
The Licensing Act 2003 (Hearings) Regulations 2005
The Licensing Act 2003 (Summary Review of Premises Licences)
Regulations 2007

17 APPENDICES:

Appendix 1 – Summary Review application
Appendix 2 – Certificate
Appendix 3 – Premises Licence
Appendix 4 – Location Plan
Appendix 5 – Email from member of the public

Neil Cox
Director – Prevention and Protection