

# Report to Licensing Sub Committee 1

**Wednesday 9 September 2021**

|                         |   |
|-------------------------|---|
| <b>Subject:</b>         | Review of a Premises Licence under Section 167 of the Licensing Act 2003 in respect of Waggon & Horses Pub, 83 Lewisham Road, Smethwick B66 2DD |
| <b>Director:</b>        | Director – Borough Economy – Nicholas Austin  |
| <b>Contact Officer:</b> | Makhan Singh Gosal, Senior Licensing Officer<br><a href="mailto:licensing_team@sandwell.gov.uk">licensing_team@sandwell.gov.uk</a>              |

## 1 Recommendations

### 1.1 That Licensing Sub-Committee 1:

Consider the review of a premises licence following a Closure Order, under Section 80(5) Anti-Social Behaviour Crime & Policing Act 2014.

## 2 Reasons for Recommendations

2.1 To advise members of an application made under Section 167 of the Licensing Act 2003. The Licensing Authority has received notification from the Magistrates Court of a Closure Order under Section 80 (5) of the Anti-Social Behaviour Crime & Policing Act 2014. This has triggered a Licensing Review under Section 167 of the Licensing Act 2003.



### 3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 On 11th August Sandwell MBC applied for a Closure order in the Magistrates Court, under Section 80(5) of the Anti-Social Behaviour Crime & Policing Act 2014.
- 3.2 The Premises were identified as a nuisance to the public because of their poor structural condition following a survey of the premises under warrant powers on the 22 July 2021. A risk of collapse was identified causing a safety threat to those within and nearby the Building. Accordingly, an application was made to Dudley Magistrates Court on the 11<sup>th</sup> August 2021. The Magistrates granted a Closure Order under Section 80(5) of the Anti-Social Behaviour Crime and Policing Act 2014 after hearing the application on the basis that the premises were and if an order were not made would be on the balance of probabilities a nuisance to the public.
- 3.3 This Order imposes a duty upon the Licensing Authority to conduct a Review of the Premises Licence through its Licensing Sub-Committee under Section 167 of the Licensing Act 2003. The facts surrounding the Closure Order indicate the Public Nuisance Licensing Objective is engaged.

The Licensing Sub-Committee after hearing the review can

- Modify the Conditions of the Premises Licence
- Exclude a Licensable Activity from the scope of the licence
- Remove the Designated Premises Supervisor
- Suspend the Licence for a period not exceeding 6 months or
- Revoke the Licence
- Take no action

- 3.4 The Closure Order is in force for a period of 3 months from the date of this order, until 12pm on 11 November 2021.
- 3.5 A copy of the Notice of Hearing and a copy of the Closure was served on the Premises Licence Holder, at the address given on the licence, also via email.
- 3.6 A copy of the Notice of Hearing and a copy of the Closure order has been circulated to the Responsible Authorities.



3.7 The review under Section 167 of the Licensing Act 2003 has been triggered following a Closure Order under Section 80(5) of the Anti-Social Behaviour Crime & Policing Act 2014.

## 4 THE CURRENT POSITION

4.1 The licence was granted on 15 October 2005

4.2 The licence was transferred to Mr Jasbinder Singh Kang on 25 February 2016.

4.3 The current Designated Premises Supervisor is Mr Amandeep Singh Shanker. Mr Shanker was specified as DPS on 15 October 2005

4.4 The hours permitted for Licensable Activities are 10:00 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 Year's 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 1.

4.7 A copy of the Closure order is attached as Appendix 2.

4.8 The location of the premises can be seen on the location map provided which is attached at Appendix 3.

## 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 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 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**



The application relates to privately owned property.

### **13 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.

### **14 Appendices**

Appendix 1 – Premises Licence

Appendix 2 – Closure Order and evidence received to court on the day.

Appendix 3 – Location Plan

Appendix 4 – Representations

### **15 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

