

**REPORT TO: LICENSING SUB-COMMITTEE 27<sup>th</sup> JULY 2016**  
**REPORT BY: LICENSING MANAGER**  
**REPORT AUTHOR: DEREK STONE**

**Licensing Act 2003 – Application for a review of a premises licence – Cross Keys, Birdlip Road, Paulsgrove, Portsmouth PO6 4EE**

## **1. PURPOSE OF REPORT**

The purpose of this report is for the committee to consider an application by the Chief Officer of Police, Hampshire Constabulary, for the review of the premises licence at the Cross Keys, Birdlip Road, Paulsgrove, Portsmouth, under section 51 of the Licensing Act 2003 (“the Act”).

The premises licence is held by Hawthorn Leisure Limited and the Designated Premises Supervisor is Mr Steven Nigel Greaves.

## **2. STATUTORY PROVISIONS**

The steps set out in the Act for reviewing premises licences and club premises certificates are intended to represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

At any stage following the grant of a licence or certificate, a responsible authority or any other person may make an application for the review of a licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

## **3. THE APPLICATION**

The application and grounds for the review are attached as Appendix A to this report and relate to the following licensing objectives:

- The prevention of crime and disorder
- Public Safety

It is the concern of the Chief Officer of Police that crime and disorder emanating from the venue is rising and public safety is a concern. This follows two recent serious assaults where the injuries sustained have required the victims to receive surgery. Police have concerns that the Designated Premises Supervisor Mr Greaves has failed to demonstrate that the licensing objectives are being promoted and that his management at the venue is ineffective and does little to support the licensing objectives.

### **Officer Note:**

Full details of police concerns are presented in the review application together with supporting documents Annex A to F.

#### 4. BACKGROUND INFORMATION

The Cross Keys is a community pub situated in the heart of Paulsgrove and is the only remaining public house in this area.

The premises are currently licensed for the provision of the following licensable activities:

- **Sale by retail of alcohol**

Sunday to Thursday - 10:00 until 23:59  
Friday and Saturday - 10:00 until 00:30

- Performance of live music Monday to Sunday 19:00 until 23:00
- Playing of recorded music Monday to Sunday 19:00 until 23:00
- Late night refreshment Monday to Saturday 23:00 until 23:30

- **Opening hours of the premises**

Sunday to Thursday - 10:00 until 00:30  
Friday and Saturday - 10:00 until 01:30

A copy of the premises licence is attached as Appendix B.

In accordance with the procedure laid down in the Licensing Act 2003 ("the Act"), a public notice of the application for the review of the licence was advertised at the premises concerned and also in a prominent position at the Civic Offices. In addition a notice of the application was also posted on the website of Portsmouth City Council together with the grounds for the review. A copy of the application was also served on all of the responsible authorities.

#### 5. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES AND OTHER PERSONS

This review on behalf of the Chief Officer of Police, Hampshire Constabulary will be presented by PC 21945 Pete Rackham.

**Officer note:**

**The police have made various suggestions in their review application including changing the existing licensing conditions, inserting new conditions, the removal of the current DPS and reduction in hours of trading.**

There is a representation from Paulsgrove Ward Councillor Cllr Stuart Potter supporting the venue and providing his thoughts on how the venue should run in relation to door supervision attached at Appendix C.

#### 6. POLICY AND STATUTORY CONSIDERATIONS

When determining the application for review of the premises licence, the Committee must have regard to:

- Promotion of the licensing objectives which are;

- prevention of crime and disorder
  - public safety
  - prevention of public nuisance
  - protection of children from harm
- The Licensing Act 2003;
  - Its Statement of Licensing Policy;
  - Judgements of the High Court, (your legal adviser will give you guidance should this become necessary);
  - The representations, including supporting information, presented by all the parties.
  - The Statutory Guidance (revised in October 2014) provides advice in relation to the consideration of review applications.

In particular, members should have regard to the following advice:

**Paragraph 11.1** - *“The proceedings set out in the Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.”*

**Paragraph 11.2** – *“ At any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.”*

**Paragraph 11.10** - *"Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.*

**Paragraph 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."*

**Paragraph 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 holder of the licence.*

**Paragraph 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 stepped approach to concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate”.*

**Paragraph 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.*

**Paragraph 11.20** – *“In deciding which of these powers to invoke, it is expected that licensing authorities should so far 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”.*

**Paragraph 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”.*

**Paragraph 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”.*

**Paragraph 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 an appropriate 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. 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. APPEAL PROVISIONS**

An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a Magistrates' court. An appeal may be made by:

- the Chief Officer of Police;
- the holder of the premises licence; or
- any other person who made relevant representations in relation to the application.

The decision of the Committee, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of.

A copy of the Statement of Licensing Policy, statutory guidance and the Act has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

## **8. APPENDICES**

- A. Review application from Hampshire Constabulary (plus supporting documents)
- B. Copy of the premises licence for Cross Keys.
- C. Representation from Cllr Potter.

**THE COMMITTEE IS REQUESTED TO DETERMINE THE APPLICATION**

**Principal Licensing Officer**