

Bath & North East Somerset Council

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| MEETING: | Licensing Sub-Committee | AGENDA ITEM NUMBER |
| MEETING DATE: | Tuesday 20 May 2014 | |
| TITLE: | Application for the Summary Review of Premises Licence for Wunder Bar, Basement, 2 High Street, Midsomer Norton, BA3 2LE | |
| WARD: | Midsomer Norton | |
| AN OPEN PUBLIC ITEM | | |
| List of attachments to this report: | | |
| Annex A | Signed Certificate & Application for Summary Review | |
| Annex B | Copy of Current Premises Licence | |
| Annex C | Site Plan | |
| Annex D | Interim Steps - Conditions and Reasons for Decision | |
| Annex E | Representation from Review Applicant (Chief Officer of the Police) | |
| Annex F | Representations in support of the Premises Licence Holders (120) | |

1 THE ISSUE

- 1.1 An application and supporting certificate has been received from Police Superintendent Richard Cadden on behalf of the Chief Officer of Police for the Summary Review of a Premises Licence under Section 53A of the Licensing Act 2003.
- 1.2 The application relates to the premises licence for Wunder Bar, Basement, 2 High Street, Midsomer Norton, BA3 2LE

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application for the review of the Premises Licence.

3 RESOURCE IMPLICATIONS

- 3.1 The application for the Summary Review of the premises licence is free of charge. The application for the Summary Review of the premises licence is free of charge. The estimated cost of processing this application is £1,500.00 and this cost will be covered by reprioritisation within the existing licensing budget.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 An Equality Impact Assessment (Eq1A) has been completed. No adverse or

other significant issues were found.

- 4.2 Consideration must be given to the Human Rights Act 1998 and the “convention rights”.
- 4.3 The Licensing Sub-Committee has been delegated authority to determine the application on behalf of the Licensing Authority in accordance with the Licensing Act 2003.
- 4.4 When reaching a decision, the Licensing Authority must carry out its functions with a view to promoting the licensing objectives.

5 THE REPORT

- 5.1 Section 21 of the Violent Crime Reduction Act 2006 amended Section 53 of the Licensing Act 2003 (“the Act”) by inserting Sections 53A to 53C inclusive. These provisions allow for a fast track procedure which enables a senior police officer to apply for the summary review of a premises licence authorising the sale of alcohol. On application the officer must certify that in his opinion the premises are associated with serious crime, serious disorder or both.
- 5.2 On Tuesday 22 April 2014, the Chief Officer of the Police served on the Licensing Authority an application made under s.53A Licensing Act 2003, calling for the summary review of the premises licence pertaining to **Wunder Bar**, Basement, 2 High Street, Midsomer Norton, BA3 2LE (Annex A).
- 5.3 The grounds for the summary review application are that the premise is associated with serious crime as defined by the Regulation of Investigatory Powers Act 2000. Between 2 November 2013 and 8 March 2014, a covert policing operation took place at the premises and identified the following:
 - 9 occasions where drugs were purchased on the premises by covert police officers;
 - 3 occasions where drugs were purchased by covert police officers within the immediate vicinity of the premises;
 - 10 occasions where drugs were sold to covert police officers on the High Street in Midsomer Norton;
 - Occasion where drugs were openly taken in full view of bar-staff;
 - Occasion where drug dealing had taken place unchallenged, in full view of door supervisors ;
 - The type of drugs predominantly supplied during the operation were MDMA and cocaine, both class “A” controlled drugs. Deals of class “B” and class “C” drugs were also made to covert police officers at the Wunder Bar; and
 - Failure to promote the prevention of crime and disorder licensing objective at the premises.
- 5.4 The originating application was accompanied by a signed certificate as required under Section 53A (1) (b) of the Act. The details pertaining to the ground for review (serious crime) have been further amplified within the Police representation attached at Annex E.

5.5 The current premises licence is attached at Annex B and authorises:

Sale of Alcohol for consumption both on and off the premises:

Monday to Thursday 19:30 – 00:00

Friday and Saturday 12:00 – 00:30

Sunday 12:00 – 22:30

Performance of Dance (Indoors only)

Monday to Thursday 19:30 – 23:00

Friday and Saturday 19:30 – 23:30

Sunday 15:00 – 22:30

Exhibition of Film (Indoors only)

Monday to Thursday 19:30 – 23:30

Friday and Saturday 12:00 – 00:30

Sunday 12:00 – 22:30

Performance of Live Music (Indoors only)

Monday to Thursday 19:30 – 23:30

Friday and Saturday 12:00 – 23:30

Sunday 12:00 – 22:30

Performance of Recorded Music (Indoors only)

Monday to Thursday 19:30 – 00:00

Friday and Saturday 12:00 – 00:30

Sunday 12:00 – 22:30

Please note that facilities for dancing and facilities for making music have been abolished.

Non Standard Timings

Sale of alcohol- from normal start time on Christmas Eve until 00:30 hours on Christmas Day; from 12:00 hours New Year's Eve to 02:00 hours on New Year's Day;

Performance of live music- from normal start time on New Year's Eve until 00:30 hours on New Year's Day;

Performance of recorded music-from normal start time on New Year's Eve until 02:00 hours on New Year's Day

Opening Hours

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| Monday to Thursday | 19:30 – 00:30 |
| Friday and Saturday | 12:00 – 01:00 |
| Sunday | 12:00 – 23:00 |

Non Standard Opening Hours

From normal opening time on New Year's Eve until 02:30 hours on New Year's Day;

When Christmas Day falls on or between Sunday and Thursday, the premises will close at 01:00 hours.

The following conditions are attached to the current licence:

Annex 1 Mandatory

- No supply of alcohol may be made under the premises licence:
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended;
- Every supply of alcohol under the premises licence must be made or authorised, by a person who holds a personal licence;
- Any individual employed to carry out a security activity must be licensed by the Security Industry Authority;
- Subject to the standard terms and conditions attached to the public entertainment licence issued prior to the second appointed day;
- The mandatory conditions introduced April 2010;
- The mandatory conditions introduced October 2010;

Annex 2 Consistent with the operating schedule

- No live music after 23:30 hours;

Annex 3 Attached following interim steps hearing 23 APRIL 2014

- CCTV shall be installed to the satisfaction of the police and maintained in good working order. All cameras shall record continuously during trading hours and for one hour afterwards. The time and date shall be displayed on the recordings. Recordings shall be maintained for a period of 31 days and made available to the police or licensing authority for evidential purposes on request. If the CCTV equipment fails, the police and licensing authority must be informed as soon as possible and immediate steps shall be taken to effect a repair. A notice shall be displayed at the entrance to the premises advising that CCTV is in operation;
- There shall be 2 SIA registered door supervisors on duty, from opening

time until closing time, when the premises are open to the public and 2 other members of staff shall also be on duty. During these times one shall be female;

- Checks will be made of the male and female toilets on the premises every 15 minutes by door supervisors or other members of staff while the premises are open, a written record of such checks will be maintained at the premises and will contain the name of person carrying out such checks. This record will be available to the police and licensing authority on request;
- A register will be kept on the premises showing the full name, full SIA badge number, time on duty and time off duty of each door supervisor. The register will be retained for 12 months and made immediately available for inspection to the police or licensing authority;
- An incident book shall be maintained at the premises with all incidents of crime and disorder and any ejections by door supervisors shall be recorded. The incident book shall be completed on a daily basis regardless of whether any incidents have taken place. The incident book shall be retained on completion for 12 months and shall be made available to the police and licensing authority.
- A personal licence holder shall be at the premises during all opening hours.
- All staff will be regularly trained in matters concerning illegal drug use and sale of alcohol and records kept of such training. The records will be made available to the police or licensing authority on request.
- All persons entering the premises will be searched for drugs, weapons or other illegal items on entry or re-entry.

5.6 A site plan is attached at Annex C.

5.7 On Tuesday 22 April 2014 following receipt of the application, the Licensing Authority served copies of the application and signed certificate on the premises licence holders and relevant Responsible Authorities.

5.8 Under Section 53A(2)(a) of the "Act", the Licensing Authority must within 48 hours of the time of receiving the application, consider under Section 53(B) whether it is necessary to take interim steps pending the determination of a review of the premises licence.

5.9 On Wednesday 23 April 2014, a meeting of the Licensing Sub Committee was convened to consider whether it was necessary to take any interim steps to prevent serious crime from occurring at the premises prior to the review hearing.

5.10 The meeting before the Licensing Sub-Committee was attended by Inspector Shirley Eden on behalf of the review applicant (the Chief Officer of the Police) and premises licence holders Mr James Bull and Ms Lucy Milner.

5.11 The Licensing Sub Committee decided it was necessary to take interim steps to prevent further serious crime from occurring at the premises and determined that additional conditions be imposed on the premises licence with immediate effect. The conditions and reasons for the decision in respect of the interim steps are attached at Annex D.

- 5.12 Under Section 53B (6) of the “Act”, a premises licence holder may make representations against any interim steps taken by the relevant licensing authority at any time prior to the review.

No representations have been made by the premises licence holders who participated in the hearing held to consider any interim steps on 23 April 2014.

- 5.13 Under Section 53C (2) of the Act, the Licensing Authority must now hold a hearing to review the premises licence in relation to the Wunder Bar.

- 5.14 The Licensing Authority may, having had regard to the application, the signed certificate and any relevant representations, take any of the following steps (if any) as it considers necessary for the promotion of the licensing objectives:

- a) Modify the conditions of the Licence
- b) Exclude a licensable activity from the scope of the Licence
- c) Remove the Designated Premises Supervisor from the Licence
- d) Suspend the Licence for a period not exceeding three months
- e) Revoke the Licence

Where the Licensing Authority takes a step mentioned in 5.14 (a) or (b), it **may** provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 5.15 Under Section 53C(c) of the “Act” the Authority must ensure that any interim steps considered necessary in the period prior to the review hearing, **cease** to have effect on determination of the review.

- 5.16 Section 4(3) of the Licensing Act 2003 states that the Licensing Authority will also have regard to its licensing statement published under section 5 and any guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 5.17 **Any determination made by the Licensing Authority does not have effect until the end of the period given for appealing against the decision, or, if the decision is appealed against, until the appeal is disposed of.**

- 5.18 An appeal may be made to the Magistrates’ Court within 21 days of the notification of the decision by the Council by:

- the applicant for the review;
- the holders of the premises licence;
- any other person who made relevant representations in relation to the application.

On appeal the court may either:

- dismiss the appeal;
- substitute the decision appealed against for any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

The court may make such Order for costs as it thinks fit.

- 5.19 The Licensing Authority displayed notices outside the review premises, in the public area of the Licensing Office at Lewis House, Manvers Street, Bath, BA1 1JG and on the Authority's website for no less than 7 consecutive days following the day after the application was made. Representations were invited for the period commencing the first working day after the day on which the notice was published, and the date of the ninth subsequent working day. The last date for representations to be received by the Authority therefore was Thursday 8 May 2014.
- 5.20 A representation has been received from the Police in support of the originating application (Annex E).
- 5.21 120 representations have been received in support of the premises licence holders (Annex F).
- 5.22 Copies of all written representations were forwarded to the premises licence holders in advance of the hearing.

6 RATIONALE

- 6.1 When reaching a decision the Licensing Authority must carry out its functions with a view to promoting the four licensing objectives.
- 6.2 The Licensing Sub-Committee must determine the Summary Review application on behalf of the Licensing Authority.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 In accordance with the requirements of the Act and Regulations, the Licensing Authority has given notice of the summary review to the Premises Licence Holder, the Fire Authority, Environmental Health, Development Control, Trading Standards, Director of Public Health and the Child Protection Agency.
- 8.2 The Licensing Authority advertised the application in accordance with the legislation and invited representations from 24 April 2014 up to and including 8 May 2014.
- 8.3 This report has not been sent to the Trades Union because they would have no involvement in this application.

9 RISK ASSESSMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken in compliance with the Council's decision making risk management.

10 ADVICE SOUGHT

- 10.1 The Council's Monitoring Officer (Divisional Director – Legal & Democratic Services), s.151 Officer (Divisional Director – Finance) and the Divisional Director have had the opportunity to input to this report and have cleared it for publication.

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| Contact person | Terrill Wolyn, Senior Public Protection Officer – Licensing: 01225 396939 |
| Background papers | The Licensing Act 2003 Guidance issued under s.182 of the Licensing Act 2003 The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 The Violent Crime Reduction Act 2006 Home Office Guidance in respect of Summary Reviews issued 2012. BANES Statement of Licensing Policy |