

Report to:

Licensing Panel

Date of Meeting :

28 January 2019

APPLICATION TO REVIEW A LICENCE – Cornhill Hotel

1.0 Purpose of the report:

1.1 To consider an application by Health and Safety to review the Premises Licence issued in respect of The Cornhill Hotel, 377-379 Promenade.

2.0 Recommendation(s):

2.1 To determine the review application.

3.0 Reasons for recommendation(s):

3.1 The review application must be determined by the Licensing Panel.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

None, once a review is submitted it must be determined by the Licensing Panel.

4.0 Background Information

4.1 The Cornhill Hotel, 377-379 Promenade, Blackpool has the benefit of a premises licence authorising:

Entertainment (performance of plays, live music, recorded music, performance of dance and entertainment of a similar description) 19.00 – 00.00 Monday – Sunday.
Late night refreshment 23.00 – 05.00 Monday to Sunday.

Supply of alcohol (for consumption on the premises) 11.00 – 23.00 Monday – Saturday and 12.00 – 22.30 Sunday, with different timings permitted at Christmas and New Year. These hours apply to guests attending functions at the hotel – there are no restrictions on the hours during which alcohol may be sold to residents.

- 4.2 On 7 December 2018, the Licensing Service received an application from Health and Safety to review this licence on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. A copy of the application is attached at Appendix 4a
- 4.3 Representations in support of the review have been received from the Licensing Authority, Appendix 4b, and Lancashire Constabulary, Appendix 4c.
- 4.4 The licence holder at the time that the review was submitted was OMG Leisure Blackpool Limited (of which Alan Diamond is a director.) On 14 January 2019, an application to transfer the Premises Licence to Lancashire Leisure Limited was received to take immediate effect (Alan Diamond is also a director of this company.) Alan Diamond is the Designated Premises Supervisor named on the licence. A representation has been received from Mr Diamond and is attached at Appendix 4d.

4.5 **Local policy considerations**

None.

4.6 **National policy considerations**

Section 11 reviews is relevant in particular:

11.20 – In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

If a suspension or revocation is being considered 11.23 should be taken into account “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.”

The panel have the following powers:

1. Take no action
2. Modify the conditions of the licence (by adding, removing or varying conditions)
3. Exclude a licensable activity from the licence
4. Remove the designated premises supervisor (for example, because they consider that the problems are the result of poor management)
5. Suspend the licence for up to three months
6. Revoke the licence.

4.7 Observations

The Cornhill Hotel has been licensed under the current Licensing Act since 2005. Mr Diamond's companies have held the licence and he has been the Designated Premises Supervisor since March 2018.

This premises licence has been suspended since 11 September 2018 for non payment of the annual licence fee. Mr Diamond advised the Licensing Service at the time of the transfer to Lancashire Leisure Limited on 14 January 2019 that the bar is currently closed.

This licence has the following conditions endorsed upon it:

Annex 1 - Mandatory conditions

- 1 Intoxicating liquor shall be sold/supplied only to:
 - a) Residents in the hotel and their bona fide guests
 - b) Bona fide guests attending organised functions.
- 2 There are no off sales.
- 3 No bar or counter except as shown on the deposited plan.
- 4 Intoxicants to be served only in the dining room, residents bar and any room or rooms as shown on the deposited plan.
- 5 No display of intoxicants or advertisements thereof outside the premises.
- 6 Alcohol shall not be sold or supplied except during permitted hours.
Permitted hours means:
 - a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11 a.m. to 11 p.m.
 - b) On Sundays, other than Christmas Day or New Year's Eve, and Good Friday from 12 noon to 10.30 p.m.
 - c) On Christmas Day, 12 noon to 3.00 p.m. and 7 p.m. to 10.30 p.m.
 - d) On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.
 - e) On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.

On New Year's Eve, from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit:

- a) During the first twenty minutes after the above hours the consumption of the alcohol on the premises;
 - b) During the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
 - c) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
 - d) The ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered;
 - e) The sale of alcohol to a trader or club for the purposes of the trade or club;
 - f) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
 - g) The taking of alcohol from the premises by a person residing there; or
 - h) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
 - i) The supply of alcohol for consumption on the premises to person employed there for the purposes of business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
- 7 No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
- a) He is the child of the holder of the premises licence.
 - b) He resides in the premises, but is not employed there.
 - c) He is in the bar solely for the purpose of passing to or from some part of the premises that is not a bar and to or from some part of the premises where there is no other convenient means of access or egress.
 - d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. However, an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

- 8 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,
 - b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 9 Every supply of alcohol under the premise licence must be made or authorised by a person who holds a personal licence.
- 10 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 11 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

- 12 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark, or an ultraviolet feature.
- 13 The responsible person must ensure that -
- (a) where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 14 (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) In this condition:-
- a. “permitted price” is the price found by applying the formula $P = D + (D \times V)$, where-
- i. P is the permitted price,
- ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- b. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- c. "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e. "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the Operating Schedule

- 1 Any regulated entertainment will take place in the bar area only.
- 2 Noise from any regulated entertainment will be inaudible at the nearest sensitive premises or, at the discretion of the Local Authority, shall not exceed some other pre-agreed limit, which does not cause unreasonable disturbance to neighbouring residents or their guests. Any noise limit agreed with the Local Authority must be controlled by a sound limiter / cut out device installed and maintained by a reputable sound engineer.
- 3 The volume of amplified sound used in connection with entertainment shall at all times be under the control of the Licensee or Management and the controlling mechanism shall be operated from a part of the premises inaccessible to the public.
- 4 All external windows and doors in the function room will be kept closed during regulated entertainment except for access and egress and for use in the event of an emergency.

5 Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

6 The placing of refuse such as bottles into receptacles outside the premises shall not take place after 21.00 hours so as to prevent disturbance to nearby premises.

4.8 Does the information submitted include any exempt information? No

4.9 **List of Appendices:**

Appendix 4a: Application for Review of a Premises Licence- Health and Safety

Appendix 4b: Representation from Licensing Authority

Appendix 4c: Representation from Lancashire Constabulary

Appendix 4d: Representation from Licence Holder- Alan Diamond

5.0 **Legal considerations:**

5.1 Please see local and national policy in the background information.

6.0 **Human Resources considerations:**

6.1 None.

7.0 **Equalities considerations:**

7.1 None.

8.0 **Financial considerations:**

8.1 None.