

Please ask for: Mrs. D. Cook

Your Ref:

Extension No: 4623

My Ref: DC

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24 March, 2014

Dear Councillor,

**LICENSING SUB-COMMITTEE
10.00 A.M., TUESDAY 1 APRIL, 2014
ESPERANCE ROOM, CIVIC CENTRE, CANNOCK**

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

Yours sincerely,



**S.G. Brown
Chief Executive**

To: Councillors

Fisher, P.
Stretton, Mrs. Z.
Sutherland, M.

Chief Executive Stephen G. Brown

Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffordshire WS11 1BG **Tel:** 01543 462621 **Fax:** 01543 462317

A G E N D A

PART 1

1. **Appointment of Chairman**
2. **Apologies and Reconstitution of Membership**

The Council will only allow licensing decisions to be taken by a minimum of three Councillors. In the event of one Member being unable to attend, their place will be substituted by another Member taken from the membership of the full Licensing/Public Protection Committee. In the event of this substitution taking place, all parties will be informed of the change of membership at the beginning of the hearing.

3. **Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members**

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

4. **Licensing Act 2003 – Application for a Review of a Premises Licence
The Roebuck, S52-54 Stafford Road, Cannock, Staffs, WS11 2AG**

Report of Head of Environmental Health (Enclosure No. 4.1 – 4.7).
(Enclosure No. 4.8 – 4.15 – Annex 1).
(Enclosure No. 4.42 – Annex 3).
(Enclosure No. 4.43 – Annex 4).

5. **Exclusion of the Public**

The Chairman to move:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraph(s) 2 and 7, Part 1, Schedule 12A of the Local Government Act 1972 (as amended).

6. **Not for Publication Annex 2 to Report of Head of Environmental Health:
(Enclosure No. 4.16 – 4.41 – Annex 2).**

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

PROCEDURE TO BE USED FOR A REVIEW OF PREMISES LICENCE UNDER THE LICENSING ACT 2003

Procedure For The Hearing

1. The Chairman shall introduce the Members of the Sub-Committee and supporting staff.
2. The applicant for the review and other parties present shall introduce themselves.
3. The Chairman shall outline the procedure to be followed at the hearing.
4. The officer representing the Licensing Authority shall present a report on the matter.
5. The Licence Holder shall have the opportunity to ask questions of the officer from the Licensing Authority.
6. The applicant for review (or their representative) shall have the opportunity to ask questions of the officer from the Licensing Authority.
7. Members of the Sub-Committee may ask questions of the officer from the Licensing Authority.
8. *Where the officer of the Licensing Authority is legally represented, the legal representative may ask questions of clarification of the officer of the Licensing Authority.*
9. The applicant for review (or their representative) shall put the case in respect of the matter and may call witnesses.
10. The Licence Holder shall have the opportunity to ask questions of the applicant for review (or their representative) and any witnesses called.
11. Anyone making representations to the application shall have the opportunity to ask questions of the applicant for review (or their representative) and any witnesses called.
12. Members of the Sub-Committee may ask questions of clarification of the applicant for review (or their representative).
13. **Anyone making representations** in respect of the application shall put their case in respect of the matter in the presence of the officer representing the Licensing Authority and the applicant for review (or their representative) and may call witnesses.

14. The applicant for review (or their representative) may ask questions of clarification of anyone making representations.
15. The Licence Holder may ask questions of clarification of anyone making representations.
16. Members of the Sub-Committee may ask questions of clarification of anyone making representations.
17. The Licence Holder shall put their case in respect of the matter and may call witnesses.
18. The applicant for review may ask questions of clarification of the Licence Holder.
19. Anyone making representations may ask questions of clarification of the Licence Holder.
20. Members of the Committee may ask questions of clarification of the Licence Holder.
21. The officer of the Licensing Authority shall have the opportunity to sum up their case if they so wish.
22. The applicant for review (or their representative) shall have an opportunity to sum up their case if they so wish.
23. Anyone making representations in respect of the application shall have an opportunity to sum up their case if they so wish.
24. The Licence Holder shall have an opportunity to sum up their case if they so wish.
25. Members of the Sub-Committee shall deliberate in private, accompanied by the Council's Legal Advisor and Secretary to the Sub-Committee, only recalling the other parties or their representatives to clarify points of uncertainty on evidence or submissions already given. If it is necessary to recall any party, all parties are to return, notwithstanding that only one party may be concerned with the points giving rise to doubt.
26. At the conclusion of their deliberations, the Chairman of the Sub Committee may inform the applicant for review (or their representative) and the Licence Holder of the decision of the Sub-Committee, briefly explaining the reasons for the decision.
27. The Council's Legal Advisor shall write **within seven working days** (or as soon as practicable if this cannot be completed) to the Licence Holder and applicant for review confirming the Sub Committee's decision and giving reasons for that decision.

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

1 APRIL 2014

REPORT OF HEAD OF ENVIRONMENTAL HEALTH

LICENSING ACT 2003

APPLICATION FOR A REVIEW OF A PREMISES LICENCE

THE ROEBUCK PUBLIC HOUSE, STAFFORD ROAD, CANNOCK, STAFFS, WS11 2AG

1. Reason for Hearing

- 1.1 Staffordshire Police have made application to the licensing authority for a review of the Roebuck Public House Premises Licence on the basis that an offence has been committed under the Licensing Act 2003; that the licence holders have failed in their obligations to promote the licensing objectives and need to do more in relation to the promotion of the licensing objectives in the areas of Prevention of Crime and Disorder and the Protection of Children from Harm. A copy of the Application for Review of the Premises Licence is given as Annex 1 to this report. A confidential annex containing witness statements and documents giving personal details is given as Annex 2 to this report.

2.

Name and Address of Premises.	The Roebuck Public House, 52-54, Stafford Road, Cannock, Staffs, WS11 2AG
Unique Premises Licence Reference Number	CCDC/PREM/05/194 The Premises Licence is provided within Annex 2 to this report.
Applicant for Review of Premises Licence	Sgt Tracey Carsley, on behalf of The Chief Constable, Staffordshire Police, Southern Licensing Unit, Burton Police Station, Hominglow Street, Burton-on-Trent, Staffs, DE14 1PA
Date of Application for Review	13 February 2014

Reason for Review of the Premises Licence	<p>The Application for Review of the Premises Licence has been made by Staffordshire Police on the basis that the licensing objectives of:</p> <ul style="list-style-type: none"> • The Prevention of Crime & Disorder • The Protection of Children from Harm <p>have being compromised because of a sale of alcohol to underage children.</p>
Name and Address of the Premises Licence Holders	<p>Mr Keith & Mrs Mandy Williams The Roebuck Public House, 52-54 Stafford Road, Cannock, Staffs, WS11 2AG</p>
Designated Premises Supervisor (DPS) at the Premises	<p>Mrs Mandy Williams</p>
Permitted Licensable Activities	<p>The premises currently has the benefit of a licence which came into effect on 24 November 2005. It has been licensed continuously since.</p> <p>The Premises Licence currently permits:</p> <ol style="list-style-type: none"> 1. Sale by Retail of Alcohol 2. Provision of Regulated Entertainment 3. Provision of Late Night Refreshment
Current Licensing Hours:	<p><u>Sale by Retail of Alcohol (on and off sales)</u></p> <p>Sunday to Tuesday: 11.00 to 00.30hrs. Wednesday & Thursday: 11.00 to 01.00hrs Friday & Saturday 11.00 to 02.00hrs</p> <p><u>Non Standard Timings:</u> Christmas Eve & Boxing Day 11.00 to 02.00hrs New Year's Eve 11.00 to 01.00hrs</p> <p>31st December between the terminal time for the sale of alcohol following New Year's Eve until the start for such activity on 1st January.</p> <p>One additional hour on the morning that British Summer Time commences.</p>

<p>Current Licensing Hours (cont.)</p>	<p><u>Provision of Regulated Entertainment (indoors only)</u></p> <p><u>Live Music</u></p> <p>Every day 19.30 to 23.30hrs</p> <p><u>Recorded Music (indoors only)</u></p> <p>Everyday 11.00 to 23.30hrs</p> <p><u>Non Standard Timings:</u></p> <p>Christmas Eve & Boxing Day 11.00 to 24.00hrs New Year's Eve 11.00 to 00.30hrs</p> <p>31st December between the terminal time for the sale of alcohol following New Year's Eve until the start for such activity on 1st January.</p> <p><u>Films</u></p> <p>Every day 20.00 to 24.00hrs</p> <p><u>Indoor sporting events</u></p> <p>Every day 19.00 to 23.00hrs</p> <p><u>Anything of a similar description to live music, recorded music or performances of dance</u></p> <p>Friday to Sunday 20.30 to 23.30hrs</p> <p>NOTE:</p> <ul style="list-style-type: none"> • The provision of facilities for dancing; • The Provision of facilities for making music; & • The provision of facilities for anything similar to making music and dancing <p>are no longer licensable activities under the Licensing Act 2003.</p> <p><u>Provision of Late Night Refreshment (indoors only)</u></p> <p>Monday to Thursday 23.00 to 24.00hrs Friday & Saturday: 23.00 to 01.00hrs Sunday: 23.00 to 23.30hrs.</p> <p><u>Non Standard Timings:</u> When falling between Sunday & Thursday : Christmas Eve & Boxing Day 23.00 to 00.30hrs New Year's Eve: 23.00 to 01.00hrs</p>
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Current Licensing Hours (cont.)	31st December between the terminal time for the sale of alcohol following New Year's Eve until the start for such activity on 1st January.
Opening Hours of Premises	<p>Sunday to Tuesday: 11.00 to 01.00hrs. Wednesday & Thursday: 11.00 to 01.30hrs Friday & Saturday 11.00 to 02.30hrs</p> <p>Additional 30 minutes shall be added to the end of non standard timings given in Sale by Retail of Alcohol.</p> <p>A map of the premises is given as Annex 3 to this report.</p>
Other Responsible Authority representation in respect of the Application for Review.	<p>The Licensing Unit has received an email representation from Staffordshire County Council's Trading Standards Department.</p> <p>The representation offers support in its entirety for the Premises Licence Review submitted by Staffordshire Police concerning the underage sale of alcohol. The said representation is attached as Annex 4 to this report.</p>
Valid Representations from Other Persons	The Council's Licensing Unit has received no representations from Other Persons
Matters of note	<p>The Premises Licence for The Roebuck took effect on 24 November 2005 and has run continuously ever since.</p> <p>On Friday 29 November 2013, The Roebuck was subject to a compliance testing operation where two underage persons were sent into the premises in order that they could attempt to purchase alcohol. The two underage volunteers were subsequently sold alcoholic drinks.</p> <p>A brief synopsis of the events of 29 November 2013 and the subsequent investigation are given on page 5 of the Application for Review. These pages are reproduced as enclosure 4.13 to this report.</p> <p>In light of the licence holders failure to promote the licensing objectives, Staffordshire Police believe that a review of the Premises Licence is necessary in these circumstances.</p> <p>In view of the underage sale, Staffordshire Police ask that all the existing conditions under the heading of Protection of Children from Harm are removed and that they should be replaced with 6 new conditions.</p>

Matters of note (cont.)	<p>Further, in respect of the conditions which relate to the Prevention of Crime and Disorder, the Police ask that 2 conditions are added to the existing conditions in order to tighten the licence conditions and ensure that the licensing objectives are upheld.</p> <p>Staffordshire Police also "request that the Notice of Determination records that the Premise Licence Holder has been given clear warning that the Licensing Committee considers the sale of alcohol to children to be particularly serious and that any further sales of alcohol to children will result in a subsequent review of the Premises Licence by Staffordshire Police.</p> <p>A full list of the conditions mentioned above is given on pages 5 & 6 the application for review. These are reproduced as enclosures 4.13 & 4.14 to this report.</p>
Other Matters of Note	<p>There is a condition on the Premises Licence which prevents the admittance or re-admittance of children to the premises after 21.00hrs. The compliance test which took place on 29 November 2013 occurred at 22.15hrs.</p> <p>There is also a condition on the Licence which prohibits admittance to a child unless accompanied by a person who is at least 18 years of age.</p> <p>Both conditions can be found under the heading of The Protection of Children From Harm on page 8 of the Premises Licence contained within Annex 2 to this report. This page is reproduced as enclosure 4.24.</p>

3. Human Rights Act 1998 Implications

- 3.1 Article 6 of the Act provides that where a person's civil rights and obligations are being determined, s/he is entitled to a "fair trial". The Council complies with Article 6 in that it gives the person the opportunity to state their case, will make a decision within a reasonable period of time and will give reasons for its decision.
- 3.2 The Article also provides for the issue to be determined by an independent tribunal. The right of appeal to the Court against the Council's decision fulfils this.
- 3.3 The Council observes the rules of natural justice and its procedures are consistent with Article 6 of the Human Rights Act 1998.
- 3.4 Article 14 provides a prohibition against discrimination. This does not stand alone but requires that where any other rights are affected, they must not be dealt with in a discriminatory way.

4. Legal Implications

- 4.1 Regulations require that the application for review of the Premises Licence is heard by Members of the Licensing Sub Committee within 20 working days beginning with the day after the close of the statutory 28 day period within which representations can be made. This Hearing date satisfies this requirement.
- 4.2 The Licensing Sub Committee is permitted under section 52(4) of the Licensing Act 2003 ('the Act') having had regard to the representations, to take such steps as it considers appropriate for the promotion of the licensing objectives namely;
- a) to modify the conditions of the licence**
 - b) to exclude a licensable activity from the scope of the premises**
 - c) to remove the Designated Premises Supervisor**
 - d) to suspend the licence for a period not exceeding 3 months**
 - e) to revoke the licence.**
- 4.3 The Licensing Sub-Committee can also resolve to take no action, issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
- 4.4 Any such steps must be taken having regard to the statutory guidance issued by the Secretary of State and the Council's Licensing Policy.
- 4.5 Any remedial action taken should be directed at the cause of the concerns which the representations identify. The remedial action should always be directed at these causes and should be no more than an appropriate and proportionate response.
- 4.6 Where steps are taken in respect of a) or b) the Sub Committee may provide that the modification or exclusion is to have effect for only such a period (not exceeding 3 months) as it may specify. If the Sub Committee determines this course of action, it is important that any detrimental financial impact that may result from the decision is appropriate and proportionate for the promotion of the licensing objectives.
- 4.7 Any determination of the application for the review of a premises licence shall not have effect-
- a) Until the end of the period given for appealing against the decision.
 - b) If the decision is appealed against, until the appeal is disposed of.
- 4.8 The applicant, the licence holder and other persons who made relevant representations in relation to the application have a right of appeal to the Magistrates' Court should they disagree with the Licensing Sub Committee's decision. The appeal must be made within 21 days of the Committee's decision being notified (in writing) to the appellant.

5. Financial Implications

- 5.1 No fees are payable upon application for a review of a premises licence. However, both the applicant and licence holder have the right of appeal to the Magistrates' Court against the decision. The Court is however, less likely to award costs against the Council if it is satisfied that the Council had acted honestly, reasonably and properly and on grounds which appeared to be sound.

5.2 Should the Premises Licence be revoked, then the annual fee of £180 due in November each year would not be payable to the Council.

6.

Annexes Attached	<p>Annex 1 The Application for Review of the Premises Licence by Staffordshire Police.</p> <p>Annex 2 Confidential documents and witness statements contained within the Application for Review of the Premises Licence.</p> <p>Annex 3 Map of the premises location.</p> <p>Annex 4 Copy of an email of representation from Staffordshire County Council Trading Standards Department dated 5 March 2014.</p>
7. Determination Required	<p>Members are asked to determine what action may be required in order to ensure that the licensing objectives are met at the Roebuck, Stafford Road, Cannock, Staffs, WS11 2AG, having due regard to the requirements of legislation, the 4 Licensing Objectives, the Council's Licensing Policy and Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The 4 licensing objectives are:</p> <ul style="list-style-type: none"> • the Prevention of Crime & Disorder • Public Safety • the Prevention of Public Nuisance • the Protection of Children from Harm