

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

27 December 2018

Report title	Licensing Act 2003 - Application for Review of a Premises Licence and Review of Interim Steps in respect of The Talisman, Wildtree Avenue, Wolverhampton WV10 8LL	
Wards affected	Fallings Park	
Accountable director	Ross Cook, City Environment	
Originating service	Licensing Services	
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Recommendations for decision:

The Statutory Licensing Sub-Committee is recommended to:

1. Consider the application from West Midlands Police for a full Review of a premises licence in respect of The Talisman, Wildtree Avenue, Wolverhampton WV10 8LL.
2. Review the interim steps imposed on 6 December 2018.

1.0 Purpose

- 1.1 The Licensing Sub-Committee is required to consider the application for a review application applied for by West Midlands Police and review interim steps taken on Thursday 6 December 2018.

2.0 Background

- 2.1 Summary reviews of premises licenses were introduced by the Violent Crime Reduction Act 2006 from the 1st October 2007. They provide a quick process for licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both) and the Licensing Authority considering whether interim steps are necessary in respect of a licence pending determination of a full review.
- 2.2 A Superintendent of Police or above must provide a certificate that in their opinion the premises is associated with serious crime or serious disorder or both.
- 2.3 Where such an application for review is made the licensing authority must, within 48 hours of the time of its receipt, consider whether it is necessary to take interim steps pending the determination of the review of the premises licence and within 28 days after the day of its receipt, review the licence.
- 2.4 The Current licensing permissions held by the Talisman are for the sale of alcohol, provision of live music and provision of recorded music. The hours which are covered by their current entitlement are from 1000 hours daily. The conclusion of the entitlements for all three activities are Monday to Thursday until 0100 hours; Friday and Saturday until 0200 hours and until 0000 hours (midnight) on Sundays. The full detail of the licensable activities are included at **Appendix 1**.

Premises History

- 2.5 The premises have previously been the subject of an expedited review on the grounds of Crime and Disorder.
- 2.6 The circumstances of that expedited review were that on 8 March 2016, West Midlands Police submitted an expedited review application on the grounds of serious crime taking place at the premises. This was as a direct result of a drugs warrant being executed on the premises.
- 2.7 On 9 March 2016, the Licensing Sub Committee determined that interim steps were necessary and resolved to suspend the premises licence pending the full review hearing.
- 2.8 On 31 March 2016, the Licensing Sub-Committee heard the full review hearing and resolved to modify the premises licence by the addition of further conditions. This was in order to promote the crime and disorder licensing objective.

3.0 Summary Review Application

- 3.1 In this case, the application was received from the Chief Officer of Police for West Midlands Police on 4 December 2018 for a Summary (Expedited) Review of the Premises Licence in respect of this premises.
- 3.2 A Licensing Sub-Committee hearing was held on 6 December 2018 to determine whether interim steps were to be applied to the Premises Licence pending the full summary review hearing. The Licensing Sub-Committee at its 6 December meeting, resolved to suspend the Premises Licence until the review hearing was heard. The applicant, through their Barrister, agreed with this decision and did not oppose this step being implemented.
- 3.3 It is necessary to consider the interim steps and review these at the full review hearing to determine whether they are appropriate to promote the licensing objectives, consider any relevant representations and to determine whether to withdraw or modify the interim steps taken. The reviewed steps then apply until the period for appealing the full review decision has passed, or if it is appealed, until that appeal is disposed of or until the end of a period that the authority may determine which is no longer than the period specified above.
- 3.4 In considering and determining the application, the Sub-Committee must have regard to the Licensing Act 2003, The Secretary of States Guidance issued under s182 of the Licensing Act 2003 and the City of Wolverhampton Council's Statement of Licensing Policy.
- 3.5 The existing premises licence is attached at **Appendix 1**. The premises are situated in the Fallings Park ward and a location plan is attached at **Appendix 2**.
- 3.6 On the 4 December 2018, the Police submitted a certificate under section 53A(1)(b) of the Licensing Act 2003, for a Summary Review of The Talisman, Wildtree Avenue, Wolverhampton, WV10 8LL. The Summary Review was made on the grounds of serious crime and disorder. The interim steps were put into place at a hearing of the Sub-Committee on Thursday 6 December 2018.
- 3.7 In accordance with the legal requirements, the notice of review was properly served on all the Responsible Authorities. Additionally, appropriate notices have been placed on display at the premises and on the Council Website, when the application for summary review was made.
- 3.8 A copy of the summary review application and certificate can be found at **Appendix 3** of this report.
- 3.9 Representations have been received from the Licensing Authority and can be found at **Appendix 4** of this report.
- 3.10 Additionally three letters of support for the Talisman have been received. Although none of the content of these letters bears reference to any of the four licensing objectives, and

are therefore not formal representations, I have included these letters received in support of the premises for completeness. These may be found at **Appendix 5**.

- 3.11 Public Health have submitted a representation on the grounds of Crime and Disorder. This can be found at **Appendix 6**.
- 3.12 Supplementary evidence from West Midlands Police has been received and may be found at **Appendix 7**.
- 3.13 The applicant for review, the Premises Licence Holder, and all of those who have made representations have all been invited to attend the review hearing.

4.0 Legal implications

- 4.1 The Licensing Authority must consider the application for the review under Section 53A of the licensing act.
- 4.2 The Licensing Sub-Committee is asked to determine the review under Section 53A(2)(b) in accordance with Section 53C of the Act. The licensing authority must hold a hearing and consider the application for review and any relevant representations.
- 4.3 The Sub-Committee must consider what steps (if any) should be taken to secure the promotion of the licensing objectives.
- 4.4 The four licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance;
 - The protection of children from harm.
- 4.5 The steps that may be taken by the Sub-Committee on a full review are:
 - (a) Modify the conditions of the licence;
 - (b) Exclude a licensable activity from the scope of the licence;
 - (c) Remove the designated premises supervisor;
 - (d) Suspend the licence for a period not exceeding 3 months;
 - (e) The revocation of the Licence.
- 4.6 In addition, regard must be given to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and Wolverhampton City Council's Licensing Policy Statement.
- 4.7 Section 53D makes provision for the review of interim steps that have been taken by the Licensing Authority under section 53B, before a decision under section 53C comes into effect. Having considered whether interim steps are appropriate for the promotion of the licensing objectives and any relevant representations, the licensing authority can determine whether current interim steps should remain. [SH/19122018/A]

5.0 Financial implications

5.1 There are no direct financial implications associated with the recommendations in this report. No fee is levied for a Review application. The fees and charges in relation to the Licensing Act 2003 are set by the Secretary of State. This was noted by the Licensing Committee on 24 January 2018. [MK/20122018/M].

6.0 Equalities implications

6.1 This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in Section 4 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.

6.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others.

The First Protocol –

Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Councillors must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

7.0 Environmental implications

7.1 There are no environmental implications associated with this report.

8.0 Human resources implications

8.1 There are no human resources implications associated with this report.

9.0 Corporate landlord implications

9.1 There are no corporate landlord implications as a result of this report.

10.0 Schedule of background papers

10.1 The Licensing Act 2003;
The Secretary of State's s182 Guidance;
City of Wolverhampton's Statement of Licensing Policy
S53A Licensing Act 2003 Summary Review Guidance