

## REPORT TO LICENSING SUB-COMMITTEE



<b>DATE</b>	<b>Friday 20<sup>th</sup> November 2020</b>
<b>PORTFOLIO</b>	<b>Community &amp; Environment</b>
<b>REPORT AUTHOR</b>	<b>Karen Davies</b>
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Licensing Act 2003 Determination of interim measures in advance of a full Review of Premises Licence application under the Expedited (Summary) Review process

### PURPOSE

1. To advise members of the requirement to determine the request for interim measures to be imposed under the Expedited (Summary) Review process under Section 53 A-C of the Licensing Act 2003. There then will be a full Review Hearing for the Premises and this will be subject of a hearing within 28 days, and that will have all the usual relevant papers and reports circulated prior to that full hearing.
2. The premises is The Angel Inn, 80 Accrington Road, Burnley, BB11 4AU.

### RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by legislation.

Having considered all relevant facts, the interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

### REASONS FOR RECOMMENDATION

4. Members of the Licensing Committee are responsible for determining such applications.

## **SUMMARY OF KEY POINTS**

5. The Licensing Objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

This premises holds a Premises Licence issued by Burnley Borough Council, PLA 0002.

The Premises Licence Holder and the DPS is Jackie Davies, who resides at the same address as the Pub.

Jackie Davies also holds a Personal Licence which was issued by Burnley Council on the 11<sup>th</sup> November 2015.

A copy of the Premises Licence is attached at Appendix A.

6 At 3pm on the Wednesday 18<sup>th</sup> November 2020, the Licensing Authority received an application from PC Michael Jones, Lancashire Constabulary Licensing Unit, Burnley Police Station for an expedited (summary) review of the Angel Inn, Burnley.

This is attached at Appendix B

This was accompanied by a signed Certificate from a Senior Police Officer authorising the application, under section 53A(1)(b) of the Licensing Act 2003.

This is attached at Appendix C

The grounds for the application are outlined in the papers (Appendix B & C)

**The interim steps that the licensing authority must consider taking are:**

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

**The Police are requesting that the interim steps are that the Premises Licence is suspended pending the full licensing hearing.**

From the Licensing Authorities perspective :-

The premises have come to the adverse notice of the Licensing Authority on several occasions in the last few months and these have resulted in the below sanctions :-

On the 6<sup>th</sup> August 2020 Angela Davies was given a Community Protection Warning – this related to

***The failure to take reasonable steps to keep workers (including volunteers), customers and visitors safe during the COVID-19 pandemic by complying with the relevant government social distancing guidelines, on or at the premises as described above ('the premises').***

On the 22<sup>nd</sup> September 2020 Angela Davies was given a community Protection Notice which related to

***Despite being warned that your conduct on or at The Angel Inn ('the premises'), was having a detrimental effect on the quality of life of others in the locality and having been issued with a Community Protection Warning Notice by the Council on 6<sup>th</sup> August 2020, you have continued to:***

***Fail to take reasonable steps to keep workers (including volunteers), customers and visitors safe during the COVID-19 pandemic by complying with the relevant government social distancing guidelines, on or at the premises.***

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

7. None

## **POLICY IMPLICATIONS**

8. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy are relevant to this application:

1.10 We will endeavor to carry out our licensing functions in a way that:

- ensures public safety
- supports well managed premises where licence holders seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
- protects residents' quality of life.

3.10 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises and any

staff.

7.7 Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party (Since the introduction of the Policing and Crime Act 2009 the definition of "interested Parties" has been extended to include – "a member of the relevant Licensing Authority") has the ability to object to the issue or variation of a licence or request a review of an existing licence.

13.4 The holder of a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence. The Act does not require the presence of the DPS at all material times.

13.5 The DPS will be readily identifiable on the premises as a person in a position of authority. No sale or supply of alcohol may be made at a time when no DPS has been specified on the licence or at a time when the DPS does not hold a Personal Licence.

14.4 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.

14.5 A new power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

#### Human Rights Act Considerations

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

#### DETAILS OF CONSULTATION

9. The Premises Licence Holder and DPS Jackie Davies was made aware of the application on the same day as it was received and accepted by the Licensing Authority and she was advised to get urgent legal advice, and also was given the opportunity to make written representations for this hearing.

#### BACKGROUND PAPERS

10. [Burnley Borough Council Statement of Licensing Policy.](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)

[Summary Review Guidance – issued by the Home Office – Sec 53 A-C Licensing Act 2003](#)

**FURTHER INFORMATION**

**PLEASE CONTACT:**

**John Clucas ext 249061**