

**Manchester City Council
Report for Information**

Report to: Licensing Committee – 16 June 2014

Subject: Licensing (Premises) applications between 1 January and 31 March 2014

Report of: Head of Planning, Building Control & Licensing

Summary

To inform the Committee of decisions made in relation to applications managed by the Premises Licensing Team.

Recommendations

That Members note the report.

Wards Affected:

All

| Community Strategy Spine | Summary of the contribution to the strategy |
|---|---|
| Performance of the economy of the region and sub region | Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region. |
| Reaching full potential in education and employment | |
| Individual and collective self esteem – mutual respect | |

| | |
|--------------------------|--|
| Neighbourhoods of Choice | The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm. |
|--------------------------|--|

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents (available for public inspection):

The individual licence applications and associated documentation disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of these documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

1.0 Introduction

- 1.1 This report provides the Licensing Committee with information on the decisions taken in respect of premises licence applications. The information included within the report provides an overview in respect of the full range of premises licensing but the majority of the applications relate to premises involved in the sale of alcohol.

2.0 Background

- 2.1 The Licensing Premises Team is responsible for the administration of licence applications submitted in respect of the Licensing Act 2003 and the Gambling Act 2005.
- 2.2 Where a representation is made (and not withdrawn) against a licensing application under either of these Acts, Members are aware that it must be considered by a Sub-Committee, which acts under delegated authority from the Licensing Committee. If agreement is reached between the applicant for the licence and those persons who have made representations, the matter is passed to the Sub-Committee for determination in order to formalise the agreement. Where there is not unilateral agreement, the application is decided by the Sub-Committee following a public hearing.
- 2.3 When no representations are made against an application, legislation states the application must be granted as applied for and authority to do this is delegated to officers.
- 2.4 This report provides Members of the Licensing Committee with information on all applications considered not only by the different Licensing Sub-Committees but also those granted under delegated authority by officers.
- 2.5 The Premises Licensing Team dealt with a total of 820 applications during this quarter.

3.0 Licensing Act 2003

- 3.1 The Licensing Act 2003 covers premises providing the following licensable activities:
- The sale or supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment

New Premises Licences

- 3.2 Between January and March 2014, the Licensing Authority determined a total of 38 new premises licence applications. 31 of these resulted in licences being granted. 7 applications were refused.

- 3.3 Of the 31 granted licences, ten were granted by way of determination as agreement was reached between all parties. 21 licences were granted following decisions made by the Licensing Sub-Committee.
- 3.4 No appeals were made in respect of any of the above decisions.

Table 1 – Premises Licences (New)

| | |
|--------------------------|----|
| Total applications | 38 |
| Granted by Determination | 10 |
| Granted by LSC Decision | 21 |
| Granted by Officers | 0 |
| Refused by LSC Decision | 7 |
| Decisions Appealed | 0 |

Premises Licence Variations

- 3.5 A total of 50 applications for variation to licensable activities of premises licences were received during the quarter. 22 were ‘full’ variations under s34 of the Act and 28 were minor variations under s41a.
- 3.6 Of the full variations, six were granted by determination and seven were granted by decision of the Licensing Sub-Committee. Seven applications were granted under delegated authority by officers and two applications were refused by decision of the Licensing Sub-Committee.
- 3.7 No appeals were made in respect of any of the above decisions.
- 3.8 In respect of the 28 minor variation applications received, 27 were granted as it was considered that the variation proposed could not adversely impact upon the licensing objectives. One application was refused as it was considered that the variation proposed could adversely impact upon the licensing objectives.

Table 2 – Premises Licences (Variations)

| | |
|--------------------------|----|
| Total applications | 50 |
| Granted by Determination | 6 |
| Granted by LSC Decision | 7 |
| Granted by Officers | 7 |
| Refused by LSC Decision | 2 |
| Decisions Appealed | 0 |
| Minor Variations granted | 27 |
| Minor Variations refused | 1 |

Temporary Event Notices

- 3.9 A standard temporary event notice (TEN) must be submitted no later than ten working days before the event period begins, whereas a late TEN can be submitted no later than five working days, but no earlier than nine working days, before the day the event period begins.
- 3.10 Between January and March 2014, a total of 185 TENs were submitted to the Licensing team. Of these, 138 were standard TENs and 47 were late TENs.
- 3.11 Four of the standard TENs and three of the late TENs were withdrawn by the applicants before the event took place.
- 3.12 Objections were submitted by Greater Manchester Police against eight standard TENs and one objection was submitted by MCC Environmental Health against one standard TEN. Of this total of nine objections, six TENs were withdrawn by the applicants prior to the hearing, one objection was withdrawn prior to the hearing, allowing the event to take place, and one TEN was modified by Greater Manchester Police with the agreement of the premises user, also allowing the event to take place. Following a hearing before the Licensing Sub-Committee, a counter notice was served regarding the remaining TEN preventing the event from taking place.
- 3.13 Of the remaining 44 late TENs, six objections were received from Greater Manchester Police. There is no provision for a hearing when an objection is made against a late TEN. Counter notices were therefore served by officers thereby preventing the events from taking place.
- 3.14 A total of 132 standard TENs and 44 late TENs were acknowledged by the Premises Team on behalf of the Licensing Authority.

Table 3 – Temporary Event Notices

| | Standard TENs | Late TENs | Totals |
|--|---------------|-----------|--------|
| Total Notices received | 138 | 47 | 185 |
| Rejected not properly made | 6 | 3 | 9 |
| Notice withdrawn by applicant | 4 | - | 4 |
| Acknowledged by Officers | 132 | 44 | 176 |
| TEN modified | 1 | - | 1 |
| Counter Notice served | 1 | 6 | 7 |
| Conditions added by sub-committee | - | - | - |
| Counter Notice not served, no conditions | - | - | - |
| Notice withdrawn by applicant prior to hearing | 6 | - | 6 |
| Objection withdrawn prior to hearing | 1 | - | 1 |

Premises Licence Transfers

- 3.15 Between January and March 2014, a total of 45 applications to transfer a premises licence were received. 44 were granted by officers under delegated authority as no objections were received from Greater Manchester Police (one objection was received but was withdrawn by GMP prior to the hearing taking place).
- 3.16 An objection was made by Greater Manchester Police against one application and the application was refused by the Licensing Sub-Committee.

Variation of the Designated Premises Supervisor

- 3.17 Between January and March 2014, a total of 111 applications to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003 were received. All were granted by officers under delegated authority as no objections were received from Greater Manchester Police (one objection was received but was withdrawn by GMP prior to the hearing taking place).

Premises Licence Reviews

- 3.18 A Summary Review is a fast-track process under section 53A of the Licensing Act 2003 to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder or both. On receipt of an application the Licensing Authority must within 48-hours consider whether it is necessary to take interim steps pending determination of the review. The review hearing must be held within 28-days of receipt of the application.
- 3.19 There was one Summary Review of a premises licences during the quarter in respect of Red Rum, Basement, 346-348 Wilmslow Road, Manchester, M14 6AB, following an incident of assault at the premises.

| 1) Red Rum, Basement, 346-348 Wilmslow Road, Manchester, M14 6AB | |
|---|------------------------------------|
| Applicant for Review: | Greater Manchester Police |
| Review Type: | Summary Review of Premises Licence |
| Interim Steps Taken: | Suspension of licence |
| Summary of action taken: | Licence revoked |

- 3.20 An appeal has been lodged by the licence holder against the decision of the Licensing Sub-Committee to revoke the licence. Details in Section 6.5 below.
- 3.21 There was no review of a premises licence under section 51 of the Licensing Act 2003 during the quarter.

Surrendered / Lapsed Licences

- 3.22 Nine premises licences were surrendered by the respective licence holders between January and March 2014.
- 3.23 Three premises licences lapsed between January and March 2014 due to insolvency of the licence holders.

Personal Licences

- 3.24 Between January and March 2014, a total of 100 applications for personal licences were received. All were granted under delegated authority by officers as no objections were received from Greater Manchester Police.
- 3.25 Two personal licences were surrendered by the respective licence holders between January and March 2014, one because the holder was moving abroad and the other because the holder was joining Greater Manchester Police.

4.0 Gambling Act 2005

- 4.1 The Gambling Act 2005 came fully into force in September 2007. It introduced a new system of licensing and regulation for commercial gambling which, amongst other changes, gave licensing authorities new and extended responsibilities for licensing premises for gambling.

Premises Licences

- 4.2 Premises licences granted by the Licensing Authority may authorise the provision of facilities on:
- casino premises;
 - bingo premises;
 - betting premises, including tracks;
 - adult gaming centres; and
 - family entertainment centres.
- 4.3 Except in the case of tracks e.g. greyhound racing track such as Belle Vue (where the occupier of the track who gets the premises licence may not be the person who actually offers the gambling) premises licences may only be issued to people with a relevant gambling operating licence (issued by the Gambling Commission). For example, to obtain a bingo premises licence the applicant must hold a bingo operating licence. Premises licences are transferable to someone else holding a valid operating licence.

New Premises Licences

- 4.4 Two new licences for betting shops under the Gambling Act 2005 were granted during this quarter. One was granted at hearing by a Licensing Sub-

Committee and the other was granted under delegated authority by a licensing officer as no representations were received.

Premises Licence Variations

- 4.5 There was one application to vary a premises licence under the Gambling Act 2005 during this quarter, granted under delegated authority by a licensing officer as no representations were received.

Premises Licence Reviews

- 4.6 There were no reviews of any premises licences under the Gambling Act 2005 during this quarter.

Transfer of a Gambling Premises Licence

- 4.7 There were two applications to transfer a premises licence under the Gambling Act 2005 during this quarter. Both were granted under delegated authority by a licensing officer as no representations were received.

Surrendered / Lapsed / Revoked Licences

- 4.8 One Betting Premises licence was surrendered under the Gambling Act 2005 during this quarter as the premises ceased trading. No licences lapsed and no licences were revoked.

Permits / Notifications / Small Society Lotteries

- 4.9 The 2005 Act introduced a range of permits for gambling that are granted by licensing authorities. Permits are required when premises provide a gambling facility but either the stakes or prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.
- 4.10 Holders of alcohol-licensed premises gaming machine permits and club permits are required to comply with codes of practice, drawn up by the Commission, on the location and operation of machines.
- 4.11 The following are the various permits that the licensing authority is responsible for issuing:
- Part 24 – family entertainment centre gaming machine permits
 - Part 25 – club gaming permits and club machine permits
 - Part 26 – alcohol-licensed premises gaming machine permits
 - Part 27 – prize gaming permits
- 4.12 It is only possible to grant or reject an application for a permit as no conditions may be attached to a permit.

- 4.13 No applications for an Alcohol Licensed Premises Gaming Machine Permit were received during this quarter.
- 4.14 Licensing authorities are also responsible for receiving, from holders of alcohol-licensed premises (under the 2003 Act), notifications that they intend to exercise their automatic entitlement to two gaming machines in their premises under section 282 of the Act. Such applications are made to the authority upon the expiry of the 3-yearly permit issued under the previous licensing regime.
- 4.15 During the quarter, eight notifications under section 282 were received and acknowledged by the Premises Licensing team.
- 4.16 The Gambling Act 2005 requires the local authority to register non-commercial societies who wish to conduct fund-raising lotteries. It is possible to refuse a registration based on certain criteria as defined in the Act. One example is if the Authority is not satisfied the society in question cannot be deemed non-commercial.
- 4.17 Three registrations to conduct a small society lottery were received and granted during the quarter.

Table 4 – Permits and Notifications (GA2005)

| Permit Type | Total (granted) |
|---|-----------------|
| Alcohol Licensed Premises Gaming Machine Permit (more than 2 machines) (new permit) | 0 |
| Alcohol Licensed Premises Gaming Machine Permit (more than 2 machines) (variation to existing permit) | 0 |
| Alcohol Licensed Premises Gaming Machine Notification (1 or 2 machines) | 8 |
| Club Machine Permits | 1 |
| Club Gaming Permits | 0 |
| Family Entertainment Centre Gaming Machine Permits | 0 |
| Small Society Lottery Registration | 3 |
| Transfer of Licensed Premises Gaming Machine Permit | 0 |

5.0 Other miscellaneous licences

- 5.1 Other licences and permits granted during the quarter are listed below:

Table 5 – Other Permits and Licences granted

| Permit / Licence Type | Total (granted) |
|---|-----------------|
| Animal Boarding Establishment Licence (Renewal) | 4 |
| House to House Collection Licence | 9 |
| Hypnotism Licence | 1 |
| Juvenile Employment Licence - Modelling | 12 |
| Juvenile Employment Licence – Performance / Sports | 52 |
| Juvenile Employment Licence – Work Permit | 9 |
| Personal / Practitioner Registration (body piercing, tattooing, ear piercing, electrolysis) | 8 |
| Pet Shop Licence (Renewal) | 12 |
| Premises Registration (body piercing, tattooing, ear piercing, electrolysis) | 4 |
| Registration as a Skip Provider | 7 |
| Riding Establishment Licence (Renewal) | 1 |
| Scrap Metal Licence | 59 |
| Sex Establishment Licence (Renewal) | 6 |
| Skip Permit | 120 |
| Street Collection Permit | 46 |
| Street Trading Consent | 3 |
| Street Trading Licence | 1 |
| Tables and Chairs on the Highway (New) | 3 |
| Tables and Chairs on the Highway (Renewal) | 2 |

6.0 Appeals

6.1 Mayfield Depot, Fairfield Street, Manchester, M1 2QF -

6.2 As noted in the last quarterly report, five separate appeals were made in respect of one application; the decision of the Licensing Sub-committee to grant a licence for the Mayfield Depot, Fairfield Street, Manchester, M1.

6.3 The appeals were made by 5 separate objectors to the application and, therefore, the Council and the licence holder are joint-respondents in the matter.

6.4 There was a preliminary hearing on 20th February heard by Manchester Magistrates Court to deal with preliminary legal arguments and the matter is currently listed for a full appeal hearing, which is scheduled for a 4-day hearing commencing 21st July.

6.5 Red Rum, Basement, 346-348 Wilmslow Road, Manchester, M14 6AB –

6.6 An appeal has been lodged by the licence holder against the decision of the Licensing Sub-Committee to revoke the licence. A summary of the progress of the appeal is as follows –

6.7 The basis of the appeal is that the assault on 1st January 2014, which led to the review of the licence, did not occur at Red Rum.

6.8 At the preliminary hearing on 14/05/2014, the appellant's representative made an application to vacate the hearing as the appellant had new legal representatives and also had a recent personal bereavement which were cited as the reasons for his non compliance with directions. MCCs legal representative did not object to the application as given changes in representation it would not be possible for both sides to be ready by 9/10 June. The premises are currently closed due to the interim step of suspension of the licence having been imposed so the Licensing Authority is not prejudiced by the delay.

6.9 Philip Kolvin QC is to represent the appellant and is intending to obtain expert evidence in respect of how such premises should be managed.

6.10 The case was listed for a 2 day hearing on 15 and 16 September 2014. The following directions were made:

6.10.1 Mutual exchange of evidence to take place by 4pm on 31 July 2014.

6.10.2 If needed rebuttal evidence to be exchanged by 4 pm on 21 August 2014.

6.10.3 The Appellant's skeleton to be filed and served by 4 pm on 1 September 2014.

6.10.4 The Respondent's skeleton to be filed and served by 4 pm on 8 September 2014.

6.10.5 Agreed bundle to be filed by 4pm on 11 September 2014.

7.0 Contributing to the Community Strategy

7.1 Performance of the economy of the region and sub region

7.1.1 Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.

7.2 Reaching full potential in education and employment

7.3 Individual and collective self esteem – mutual respect

7.4 Neighbourhoods of Choice

7.4.1 The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm.

8.0 Key Policies and Considerations

8.1 Legal Considerations

8.1.1 All applications have to be processed in accordance with the requirements of their respective legislation. The Licensing Act 2003 and Gambling Act 2005 are prescriptive in terms of who should be consulted on applications, and the timescales that have to be applied.

9.0 Conclusion

9.1 The report provides the Committee with statistical information regarding premises licensing applications processed between 1 January and 31 March 2014. The information provides members with an update and overview of the number of applications being processed and the decisions made in respect of those applications.