



# REPORT FOR DECISION

Status: Publication

## **Subject: REVIEW OF PREMISES LICENCE FOLLOWING A CERTIFICATE AND APPLICATION - SECTION 53A THE LICENSING ACT 2003**

**Premises:** Infinity Restaurant & Bar, 1 Market Place, Middleton, M24 6AE

**Report to:** Licensing Sub-Committee

**Date:** 20<sup>th</sup> January 2020

**Cabinet Member:** Councillor Sara Rowbotham  
Cabinet Member for Health and Wellbeing

**Report of:** Mark Widdup  
Director of Neighbourhoods

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### **1 Purpose of Report**

- 1.1 The report provides information to the Sub-Committee to assist in the review of the Premises Licence in respect of the premises, Infinity Restaurant & Bar, 1 Market Place, Middleton, M24 6AE, which has been the subject of a Police certificate and application, in accordance with Section 53A of the Licensing Act 2003.

### **2 Recommendations**

- 2.1 Members are to review the facts and if applicable either:
- a) the modification of the conditions of the premises licence,
  - b) the exclusion of a licensable activity from the scope of the licence,
  - c) the removal the designated premises supervisor from the licence,
  - d) the suspension the licence for a period not exceeding three months, or
  - e) the revocation of the licence.

### **3 Reason for recommendation**

- 3.1 The Licensing Sub-Committee has delegated authority to determine reviews of Premises Licences in accordance with Section 53C of the Licensing Act 2003.

### **4 The Premises Licence**

- 4.1 Licence Holder: Mr Victor Shegun Adereni

#### **Designated Premises Supervisor**

Licence Holder: Mr Victor Shegun Adereni

## 4.2 Scope of Licence

The premises is situated in Middleton and has operated under a Premises Licence issued under section 17 of the Act to allow indoor sporting events, the performance of live music (indoors), the playing of recorded music (indoors), the performance of dance (indoors), facilities for dancing (indoors), the provision for making music (indoors), the provision of late night refreshment (indoors) and the sale by retail of alcohol for consumption on and off the premises.

The premises licence is attached as Appendix 1 of this report.

The location plan is attached as Appendix 2 of this report.

## 5 Legislation

Sections 53A – 53D of the Act deals with the provisions for summary review of premises licences on application from a Senior Police Officer.

### Section 53A states:

(1) The Chief Officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if –

- (a) the premises are licensed premises in relation to the sale of alcohol by retail; and
- (b) a senior member of that force has given a certificate that is his opinion that the premises are associated with serious crime or serious disorder or both; and that certificate must accompany the application.

(2) On receipt of such an application, the relevant licensing authority must –

- (a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
- (b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review.

### Section 53C states:

(1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under section 53A.

(2) The relevant licensing authority must -

- (a) hold a hearing to consider the application for the review and any relevant representations;
- (b) take such steps mentioned in subsection (3) (if any) as it considers appropriate for the promotion of the licensing objectives.

(3) Those steps are—

- (a) the modification of the conditions of the premises licence,
- (b) the exclusion of a licensable activity from the scope of the licence,
- (c) the removal of the designated premises supervisor from the licence,
- (d) the suspension of the licence for a period not exceeding three months, or
- (e) the revocation of the licence.

(4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.

### Section 53D states:

(1) At the hearing to consider an application for a review under section 53A, the relevant licensing authority must review any interim steps that have been taken by the relevant licensing authority under section 53B that have effect on the date of the hearing.

(2) In conducting the review under this section, the relevant licensing authority must—

- (a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;
- (b) consider any relevant representations; and
- (c) determine whether to withdraw or modify the interim steps taken.

(3) The power of the relevant licensing authority on a review under this section includes a power to take any of the following interim steps—

- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence;
- (d) the suspension of the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

## **6 Application for a Summary Licence Review**

### **6.1 The Certificate under section 53A(1) of the Licensing Act 2003**

The Superintendent, of Greater Manchester Police, served a Certificate and an Application for a review of the premises licence on the Licensing Authority on the 23<sup>rd</sup> December 2019 at 12.15 hours.

The certificate and application for review of the premises licence are attached as Appendix 3 of this report.

### **6.2 Interim steps pending review**

On receipt of the application on 23<sup>rd</sup> December 2019, the Licensing Sub-Committee had to consider within 48 hours whether it was necessary to take any interim steps pending determination of the review of the Premises Licence. The Licensing Sub-Committee hearing convened on 24<sup>th</sup> December 2019. The Licensing Sub-Committee held at the hearing to suspend the Premises Licence with immediate effect in the interim, pending review.

The Licensing Sub-Committee's notice of determination (24<sup>th</sup> December 2019) is attached as Appendix 4 of the report.

## **7 Relevant Representations**

### **7.1 Legislation**

Section 53(c) states;

(2) The relevant licensing authority must -

- (a) hold a hearing to consider the application for the review and any relevant representations;
- (b) take such steps ..... as it considers appropriate for the promotion of the licensing objectives.

### **7.2 Interested Persons Representations**

a) A representation was received on 7<sup>th</sup> January 2020 from Councillor Donna Williams in her capacity as a Ward Councillor.

In summary, Councillor Williams' concerns relate to the licensing objective, the prevention of crime and disorder. Councillor Williams states that there have been a substantial number of complaints from residents with regards to activities taking place at the premises. These activities have included alcohol being retailed to customers after the end of the premises licensable hours; alcohol being retailed to customers who were intoxicated; customers being violently attacked at the premises with those concerns being reported to the Police; the use of drugs at the premises and potential safeguarding concerns in respect of female customers at the premises.

The representation is attached as Appendix 5.

b) Representations were received on 8th January 2020 from Councillor Sara Rowbotham and Councillor Kallum Nolan in their capacity as Ward Councillors.

In summary, their concerns relate to the licensing objective, the prevention of crime and disorder. Their concerns echo Councillor Williams' representation.

Councillor Rowbotham's representation is attached as Appendix 6 and Councillor Nolan's representation is attached as Appendix 7.

## **8 Observations**

- 8.1 The Committee is obliged to determine this review with a view to promoting the licensing objectives.
- 8.2 In making its decision, the Committee is also obliged to have regard to National Guidance and the Council's own Licensing Policy.
- 8.3 Of course, the Committee must also have regard to the information provided by all parties today.
- 8.4 The Committee must take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives:
- a) the modification of the conditions of the premises licence,
  - b) the exclusion of a licensable activity from the scope of the licence,
  - c) the removal the designated premises supervisor from the licence,
  - d) the suspension the licence for a period not exceeding three months, or
  - e) the revocation of the licence.

And decide which interim steps cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

- 8.5 Nonetheless, this is a matter for the Committee to determine in the light of the above matters and any others it considers material.

<p><b>For further information</b> about this report or access to any background papers, please contact Jahangir Alom, Licensing Operational Manager in Neighbourhoods Service, Number One Riverside, Smith Street, Rochdale. OL16 1XU Telephone: 01706 924114.</p>
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