

**Application to/for:** Vary Designated Premise Supervisor

**Submitted by:** Ironmarket, 21 Ironmarket, Newcastle under Lyme,  
Staffordshire ST5 1RH

**Portfolio:** Safer Communities

**Ward(s) affected:** Town

### **Purpose of the Report**

An application has been received from Admiral Taverns Limited on behalf of the Ironmarket public house, to vary the designated premise supervisor into the name of Mr Alan Macintosh Morton.

### **Recommendations**

The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- (a) To take no further action.
- (b) To remove Mr Morton as the DPS.

## **1. Background**

An application to vary the DPS into the name of Mr Alan Macintosh Morton has been received from Admiral Taverns Limited. It was indicated on the application form that Admiral Taverns wished the application to have immediate effect under Section 38 of the Licensing Act and thus the application was processed during the 14 day representation period and a decision posted to Mr Morton on the 7<sup>th</sup> February 2014. On the 18<sup>th</sup> February 2014 a representation was received from Staffordshire Police objecting to grant of the licence.

## **2. Consultation**

On the 18<sup>th</sup> February 2014, Staffordshire Police forwarded a representation on the basis that to grant the licence would undermine the prevention of crime and disorder licensing objective. A copy of the letter is attached at appendix 1. The representation gives details of how, in March 2013, Mr Morton was arrested for the stabbing of a customer whilst he was the designated premise supervisor at the Moonraker, Three Bridges Road, Crawley, Sussex. Mr Morton was released with no further action being taken as the injured man did not wish to make a complaint. At the time of this arrest Mr Morton also confessed to recreational drug use. Following a meeting between Sussex Police and the Premise Licence holders, Home Counties Pub Company, the Moonraker was temporarily closed and Mr Morton was removed as the DPS.

## **3. Policy Considerations**

### Licensing Objectives

The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- i. the prevention of crime and disorder
- ii. public safety
- iii. the prevention of public nuisance
- iv. the protection of children from harm

The 2003 Act States:

“37 Applications to vary licence to specify individual as premise supervisor:

- 4 The holder of the premises licence must give notice of his application (inter alia) to:
  - (a) To the Chief Officer of Police for the police area in which the premises are situated.
  - (5) Where a chief officer of the police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why is so satisfied.
  - (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).”

“38 Circumstances in which Section 37 application given interim effect.

- (1) this section applies where an application made in accordance with Section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.

“39 Determination of Section 37 Application

- (2) subject to subsection (3), the relevant licensing authority must grant the application
- (3) where a notice is given under Section 37 (5) ....the authority must hold a hearing....

The guidance issued under Section 182 of the Licensing Act 2003 (amended 2013) at paragraph 4.26 says:

“4.26 The Police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The Police can object where for example, a DPS is first specified in relation to a particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns.”

## Policy Statement

### The Licensing Act 2003

The Licensing Act 2003 require the Council to publish a “Statement of Licensing Policy” that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Council made a number of policy decisions in its Statement of Licensing Policy. The following policy decision is relevant to the application:

- i. the prevention of crime and disorder – (paragraph 2.12)

Statutory Guidance relating to the Licensing Objectives relevant to the application:

- (i) Crime and disorder - (paragraphs 2.1-2.7 and 4.18-4.29)

Copies of the Council’s Statement of Licensing Policy and the Governments Statutory Guidance will be available at the Sub-Committee meeting.

#### **4. Comments.**

In making their decision on the application, the Sub-Committee are also obliged to have regard to Statutory Guidance and the Council's own statement of Licensing Policy. The Sub-Committee must also have regard to all the representations made and the evidence they hear. However, the Sub-Committee must disregard any objections that do not relate to the promotion of the relevant licensing objectives.

The Sub-Committee must take such of the following steps as they consider appropriate for the promotion of the licensing objectives as set out in the paragraph 3 (i) above:

- i. take no further action
- ii. remove Mr Morton as the DPS

The Sub-Committee are asked to note that they may not reject the application merely because they consider it desirable to do so. It must actually be appropriate in order to promote the relevant licensing objective.

Date of hearing: Monday 31<sup>st</sup> March 2014