

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – WEDNESDAY 1
NOVEMBER, 2023



Title of Report	APPLICATION FOR REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003	
Presented by	Tonya Cooper, Licensing Enforcement Officer	
Background Papers	<p>Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</p> <p>Licensing Act 2003 (legislation.gov.uk)</p> <p>Statement of Licensing Policy – Issue 7</p>	Public Report: Yes
Purpose of Report	<p>To determine an application for the review of a premises licence in respect of the premises The Chequered Flag, 32 Borough Street, Castle Donington, Derby, DE74 2LA.</p> <p>This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority’s Licensing Policy.</p>	
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.	

1.0 Background

1.1 Mr Robert Sandham is the holder of a current Chequered Flag premises licence (also known as “The Flag”) under the Licensing Act 2003. The premises licence was originally issued on 17 February 2014. The premises licence was transferred to Mr Sandham on 11 March 2015. The current premises licence is attached as **Appendix 1**.

- 1.2 Under the current premises licence, the Chequered Flag has the following timings, in which licensable activities can occur.

Licensable activity	Timings	
Supply by retail of alcohol	Sunday	12:00hrs - 21:00hrs
	Monday to Friday	16:00hrs - 22:30hrs
	Saturday	12:00hrs - 22:30hrs
	New Year's Eve	11:00hrs - 00:30hrs

- 1.3 An aerial view of the site is attached as **Appendix 2**. A map of the site is attached as **Appendix 3**.
- 1.4 On 14 September, Licensing applied to review the Chequered Flag premises licence. The application is attached as **Appendix 4**.
- 1.5 The licence was called for review due to five complaints, where Mr Sandham failed to provide cctv footage and therefore failed to comply with the premises conditions. The most recent complaint was on 8 June 2023, when licensing enforcement officers attended the premises following allegations of “out of hours” unlicensed activity. The licensing officer’s statement of fact is attached as **Appendix 5**. The photographic evidence from 8 June 2023 is attached as **Appendix 6**. Mr Sandham’s e-mail concerning his explanation for his failure to supply the required cctv footage is attached as **Appendix 7**. Mr Sandham attended a PACE interview (Police and Criminal Evidence Act 1984), a recorded interview under caution on 25 July 2023. The transcript of the interview are attached as **Appendix 8**. Officers requested the till receipt for the 8 June in the PACE interview. The till receipt is attached as **Appendix 9**.
- 1.6 The four previous complaints where Mr Sandham failed to provide cctv footage are attached as **Appendices 10 - 14**.

2.0 Historical

- 2.1 The premises was formally reviewed in 2019 by the Fire Authority. The premises review application is attached as **Appendix 15**. The minutes of the hearing are attached as **Appendix 16**. The decision notice is attached as **Appendix 17**.
- 2.2 Prior to Covid, the pavement licencing regime was under Leicestershire County Council’s (LCC) remit. During covid, it was then was placed under the Business and planning act, as a fast track process with applications determined at District level but the enforcement remains as LCC’s responsibility. In October 2022, Leicestershire County Council (LCC) were successful in obtaining the necessary order from the court that would prevent the Chequered Flag using pavement furniture and give LCC the requirements to seize and destroy, should they persist in placing any furniture on the highway. The flag did not challenge the request or order at the time, however despite this, Mr Sandham did continue to use Pavement furniture up until the

licensing visit on 8 June 2023. Licensing are not aware that pavement furniture has been used since this date.

- 2.3 In 2019, Robert Sandham did not respond to a series of demands from environmental health asking him to demonstrate he had taken steps to get rid of rubbish from the Chequered Flag premises. He then failed to pay a resulting £300 fine issued by North West Leicestershire District Council. Mr Sandham appeared at Leicester Magistrates Court on 4 September 2019 to plead guilty to a charge of failing to provide documents demonstrating he had made proper arrangements to get rid of controlled waste. Mr Sandham was fined £460 and ordered to pay a £46 victim surcharge and costs of £456.74. Mr Sandham said "I am not the best administrator. I'm a barman and I need to make my administration tighter."
- 2.4 Mr Sandham has provided the premises cctv footage on two previous occasions. Once, when requested for a noise complaint, for which the cctv footage was inconclusive. Secondly, Mr Sandham provided cctv footage (which was not requested by licensing in this instance), when his neighbour from the residence above, was seen to pour a liquid substance over the pavement in front of the Chequered Flag premises.
- 2.5 A further five complaints are enclosed. Whilst these complaints are considered relevant, the cctv was not requested by Licensing in these instances. The six complaints are attached as **Appendices 18 – 22**.

3.0 Representations

- 3.1 Each of the responsible authorities have been served a copy of the application, namely, the Police, Fire Authorities, Home Office, Health Authority, Licensing Authority and the District Council's Health and Safety and Planning Sections. Three representations were received as follows. Environment Protection raised a representation on the grounds of the prevention of public nuisance. The representation is attached as **Appendix 23**. Leicester County Council - Highways have also raised a representation on the grounds of Public Safety. This representation is attached as **Appendix 24**. Mr Robert Sandham raised a representation which is attached as **Appendix 25**. A comment was received from Planning and Development which is attached as **Appendix 26**.
- 3.2 The Licensing Authority must advertise the review application and invite representations from other responsible authorities and any other person. The review application was displayed on the Council's website. The notices were displayed outside the Chequered Flag premises on two lamp posts and on the outside of the premises. Licensing visited the premises on 28 September and 5 October and observed that the notices remained in place. Therefore, officers are satisfied that the premises licence review was advertised as required.

4.0 Statutory Guidance

4.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 1.1 to 1.5, 1.13, 1.16, 2.1 to 2.9, 3.1 to 3.2, 3.35, 8.80, 9.1, 9.31 to 9.44, 10.1 to 10.10, 11.1 to 11.23, 14.1 to 14.3 may have a bearing upon the application.

5.0 Statement of Licensing Policy

5.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 1.5, 2.1 to 2.3, 2.5, 4.1 to 4.4, 5.1 to 5.3, 16.0, 22.0, and 26.0 may have a bearing upon the application.

6.0 Observations

6.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

6.2 The Committee may take such of the following steps, if any, as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

6.3 An appeal may be made to the Magistrates' Court within 21 days of the licence holder being notified of the Licensing Authority's determination on the review. An appeal may be made by the premises licence holder, the applicant (Leicestershire County Council Trading Standards) and/or any other persons who have made relevant representations.

6.4 The decision of the Licensing Authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

Policies and other considerations, as appropriate	
Council Priorities:	Communities and housing – looking after our tenants and keeping our communities safe
Policy Considerations:	Statement of Licensing Policy – Issue 7
Safeguarding:	To determine the application in accordance

	with the Licensing Act 2003 objectives
Equalities/Diversity:	No Equality/Diversity issues raised, though this will be kept under review.
Customer Impact:	Not applicable
Economic and Social Impact:	Customers may be impacted by any decision made.
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Leicestershire Police, Leicestershire Fire and Rescue Service, The Home Office, Trading Standards, Health and Safety, Environmental Protection, Licensing Authority, Planning, Health Authority and members of the public/local businesses by way of notice at the premises, on the Council's website and at the Council Offices, Coalville.
Risks:	The risk of incurring costs arising from an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.
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