

## **REPORT OF THE DIRECTOR OF ECONOMY AND PLACE**

### **LICENSING SUB COMMITTEE – 31 OCTOBER 2017**

#### **DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003**

**IVY LEAF, 38A SUFFOLK STREET, SUNDERLAND, SR2 8JZ**

**Premises Licence Holder: Mr William Hunter**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1 The Sub-Committee are requested to consider the application and to take such steps as they consider appropriate for the promotion of the licensing objectives.

#### **3.0 INTRODUCTION/BACKGROUND**

- 3.1 An application under Section 51 of the Licensing Act 2003 ('the Act') has been received from Northumbria Police for a review of the above-mentioned premises licence on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm. The application is attached as Appendix 1.

#### **4.0 CURRENT POSITION**

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise the fact that a review is to take place and invite representations. Such notices were displayed for the statutory period of 28 days commencing on 11 September 2017.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received.

#### **5.0 REASONS FOR THE DECISION**

- 5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

#### **6.0 ALTERNATIVE OPTIONS**

- 6.1 None submitted.

## **7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS**

7.1 The provisions of sections 11.16 to 11.23 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter.

'The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the

cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence'.

## **8.0 GLOSSARY**

8.1 No acronyms or abbreviations have been used in this report.

## **9.0 LIST OF APPENDICES**

9.1 Appendix 1 - Application Form.

## **10.0 BACKGROUND PAPERS**

10.1 None.

# Appendix 1

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I Chief Inspector 7757 Christopher GRICE**

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Ivy Leaf Club 38a Suffolk Street, Sunderland. SR2 8JZ	
<b>Post town</b> Sunderland	<b>Post code (if known)</b> SR2 8JZ

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> William Hunter
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<b>Number of premises licence or club premises certificate (if known)</b> OOCMPREM 01216
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick ✓ yes

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Northumbria Police C/O Licensing Office, Southwick Police Station, Church Bank, Sunderland SR5 2DU
Telephone number (if any) <b>0191 2149548</b>
E-mail address (optional) William.sproates.5867@northumbria.pnn.police.uk

**This application to review relates to the following licensing objective(s)**

- Please tick one or more boxes ✓
- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

**Please state the ground(s) for review** (please read guidance note 2)

Northumbria Police as a responsible authority wish to review the premises licence of The Ivy Leaf Club 28A Suffolk Street Sunderland. The premises operate with a premises licence it previously operated with a club premises certificate but this changed on 24<sup>th</sup> April 2017.

The Premises Licence holder is William Hunter and the Designated Premises Supervisor from this date was Paul Thompson.

On Sunday 30<sup>th</sup> July 2017 at 18:46 Police officers responded to an anonymous call stating a number of youths were trying to break into the premises at the rear, and that they were trying to reach a cannabis farm in the loft. Uniformed Police Officers attended and whilst no intruders were evident the officers could smell a very strong cannabis odour coming from within, a few minutes later the owner of the club William Hunter turned up with keys the officers accompanied him into the premises and discovered five separate growing areas, including sleeping area, kitchen, the cannabis farm had sophisticated lighting and it appeared the electricity had been by passed.

The premises licence holder was detained and subsequently taken to Southwick Police Station where he was interviewed in relation to the discovery of the cannabis farm and for the offence of cultivation.

The Police called out an electrician from NEDL to make safe the electricity supply to the premises which had been by- passed (a separate E mail from a NEDL representative is attached to this report.

Tyne and wear Fire Service also attended a representation from them will be submitted when this review is acknowledged.

I have attached a copy disc to this report allowing the licensing committee to see for themselves the extent of this operation.

Cannabis grown on this scale constitutes a serious criminal offence and it appears that the cannabis crop has been grown, cultivated and harvested immediately prior to the

Police attending.

The committee may wonder what sanction Mr Hunter received, he admitted involvement having knowledge of the operation and as a result he was given a criminal caution for cultivating cannabis I have been told this reflects no previous criminality.

However make no mistake this type of cultivation is not only dangerous to our communities in terms of drug use/drug dependence it allows career criminals to make lots of money from a low risk activity to themselves.

Mr Hunter has not divulged who else was involved in this enterprise.

The danger posed by by passing electricity is very high and itself constitutes a criminal offence punishable at level 5 of Health and Safety Legislation which can impose a fine of £5,000.00 or six months imprisonment.

The fact a group of youths were attempting to gain access to this farm shows the danger of this amount of cannabis reaching young and vulnerable persons.

Northumbria Police have no other suggestion as to how this case should be finalised other than a revocation of the licence.

Licensing coordinator Bill Sproates spoke to the DPS Paul Thompson on Wednesday 16<sup>th</sup> August when Mr Thompson confirmed he had not visited the premises for months and had informed the council by telephone he did not wish to be considered as DPS it was pointed out that this needed to be officially carried out by written correspondence but to date he has not done so.

In view of this Northumbria Police wish to have the DPS removed from his position.

A criminal enquiry is still current in respect of others who may have been involved in operating this illegal cannabis farm.



**Please provide as much information as possible to support the application (please read guidance note 3)**

tick ✓ **yes**

Have you made an application for review relating to the premises before

**Please**

If yes please state the date of that application

Day Month Year

┆	┆	┆	┆	┆	┆	┆	┆
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**If you have made representations before relating to the premises please state what they were and when you made them**

tick ✓ yes

Please

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

*[Handwritten Signature]*

Date

*06/09/17*

Capacity

*Chief Inspector - Northumbria Police*

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6) William Sproates Licensing coordinator C/O Southwick Police Station, Church Bank, Southwick, Sunderland.SR5 2DU	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b> 0191 2149548	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.



**TO - Bill Sproates 5867**  
**FROM - 1655 Chris Pennock A1 City Centre Team**  
**RE - Ivy Leaf FWIN 974 30/07/17**

Bill,

On commencing duty at 0800 hours on Monday 31<sup>st</sup> July 2017 the A1 City Centre Team and I were made aware of a cannabis farm found at THE IVY LEAF CLUB, SUFFOLK STREET, SUNDERLAND. We attended and were made aware the building had been made safe and SOCO had attended and as such we began to strip the farm seizing what was left of the crop and disposing of all equipment as per force policy. There were five growing area however it had clearly recently been harvested.

Martin Hunter dob 27/05/1964 had been arrested by 24/7 at the time of offence. PC 8870 HOLT and I interviewed HUNTER wherby he admitted the offence of permitting the production of cannabis on the premises and was subsequently dealt with by way of a simple caution.

The Ivy Leaf was locked and secured and the keys were given back to HUNTER.

Many thanks

PC 1655 Chris Pennock  
F rota A1 Sunderland City NPT