

REPORT TO LICENSING SUB-COMMITTEE



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PORTFOLIO	ENVIRONMENT
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Licensing Act 2003 Determination of application for a premises licence

PURPOSE

1. To consider an application received from Imran Khan, 1 – 3 Ross Street, Brierfield, for the grant of a premises licence under Section 17 of the Licensing Act 2003.
2. The premises are Parliament Street Newsagents, 131 – 133 Parliament Street, Burnley.
The proposed designated premises supervisor (DPS) is Aatif Waris, 11 Livingstone Walk, Brierfield.

SUMMARY OF KEY POINTS

3. The application is for a premises licence under Section 17 of the Licensing Act 2003.
The licensable activities applied for are:
The sale of alcohol for consumption off the premises.
The proposed hours that the premises would be open for the sale of alcohol are:
07.00 to 22.00 Monday to Sunday

No representations from any of the responsible authorities have been received; however, 2 representations have been received from residents/businesses in the area. One of those representations from Sumitha Manchta, the proprietor of Amit Stores includes a petition signed by approximately 200 of her customers

The basis of her objections is that an additional off licence in the area would contribute to the alcohol related crime and disorder problems that already exist in the Burnley Wood area. She also states that there are already 9 retail outlets for the sale of alcohol in the Parliament Street area.

Members are reminded that representations are only relevant if they relate to one or more of the 4 licensing objectives shown above.

The Licensing Objectives are:

- PREVENTION OF CRIME & DISORDER
- PUBLIC SAFETY
- PREVENTION OF PUBLIC NUISANCE
- PROTECTION OF CHILDREN FROM HARM

If the Committee approves the application there are mandatory conditions that would be attached to the licence which are,

No supply of alcohol may be made under the premises licence -

- At a time when there is no designated premises supervisor in respect of the premises, or
- At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorized by a person who holds a personal licence.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

The applicants have, in their operating schedule, detailed what steps they intend to take to promote the four licensing objectives. Compliance with this schedule becomes a condition of any licence granted. Those steps are:

1. A CCTV system shall be installed and operated at all time the premises are open for licensable activities. Images shall be kept for a period of 28 days and the footage shall be made available to the Police and Authorised Officers of the Council upon reasonable request.
2. A register of challenges and refusals of alcohol sales will be maintained at the premises. The register will be made available to the Police and authorised Officers of the Council upon reasonable request.

The Licensing Authority has complied with the requirements of Section 51 (3) of the Licensing Act 2003 by advertising the application and inviting representations.

Notices of a hearing have been sent to the applicant and to the persons from whom the licensing authority has accepted representations.

RECOMMENDATION

- 4 Members are recommended to make a determination with a view to promoting the licensing objectives.
 - The prevention of crime and disorder
 - Public safety

- Prevention of public nuisance
- Protection of children from harm

The committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- Grant the application as asked.
- Modify the conditions of the licence, by altering, omitting or adding to them.
- Reject the whole or part of the application

REASONS FOR RECOMMENDATION

5. Members of the Licensing Committee are responsible for determining such applications.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

6. None.

POLICY IMPLICATIONS

7. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy agreed by Full Council on 16th December 2010 are relevant to this application:
 - 3.2 We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises.
 - 3.3 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.
 - 7.5 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.
 - 7.6 The hours requested by the applicant will normally be approved where the applicant can show in their risk assessment and operating schedule that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area or undermine one or more of the licensing objectives.

- 7.8 The onus to provide the evidence will always be on the person or organisation making the objection or review application. This burden of proof will not however apply should there be a special saturation policy in being in relation to the area where the premises are situated.
- 7.9 Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested, particularly involving entertainment, the imposition of further conditions may be appropriate.
- 8.7 When considering applications for premises licences, we will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. We expect applicants to seriously consider access arrangements for unaccompanied children.
- 9.2 Following proven objections or reviews, we will consider imposing realistic conditions appropriate to the circumstances of each individual case. The pool of conditions we will consider is illustrated at appendix 'D' of the Licensing Policy. These are model conditions of best practice approved by Parliament. We will also consider other conditions proposed by responsible authorities in any particular case.

CUMULATIVE IMPACT

- 5.1 We will not seek to limit the number of licensed premises simply because any interested party or responsible authority consider that there are enough licensed premises to satisfy demand. Need is a commercial decision for the applicant.
- 5.2 We will take note of representations from a responsible authority or interested party on the cumulative impact of a saturation of premises in a particular area undermining one or more of the licensing objectives by creating an area of exceptional problems of disorder or nuisance.
- 5.3 If such representations are made, we will consider adopting a special saturation policy after consultation. We do not at this time envisage a special saturation policy being imposed.
- 5.4 We will not otherwise impose quotas of licensed premises or artificially restrict trading hours in particular areas.
- 5.5 The onus will always be on the individual or organisation making the representation to provide sufficient evidence for the assertion that the addition of the premises in question would produce the cumulative impact on the licensing objectives. Once a special saturation policy is in existence, Section 3.19 of the statutory guidance creates a rebuttable presumption against the grant of a licence or a variation of a licence in that area.
- 5.6 We recognise that a potential cumulative effect of a proliferation of late night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night and this in turn may have a number of undesirable consequences, namely:
- An increase in crime against both property and persons in particular in

takeaway premises and taxi queues in the vicinity of licensed premises.

- An increase in noise causing disturbance to residents
- Traffic congestion and / or parking difficulties
- Littering and fouling

5.7 We recognise that only a minority of consumers will behave badly and that not all the anti-social conduct will be in the vicinity of premises or within direct control of the licensee. Licensing Policy is only one means of addressing these problems. Other mechanisms include:

- Planning controls
- The adoption by the local authority of a borough wide Designated Public Place Order (Criminal Justice and Police Act 2001) where alcohol may not be consumed publicly with powers of confiscation, aimed at tackling street drinking and its accompanied anti-social behaviour
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- Prosecution of personal licence holders who sell alcohol to people who are drunk
- Powers of the Police, responsible authorities or local residents or businesses to seek a review of a premises licence or club premises certificate

5.8 We will take into account:

- The character of the surrounding areas
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation
- The size of the premises subject to consideration

The following paragraphs contained in the Guidance issued under Section 182 of the Licensing Act 2003 are also relevant to this application.

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

13.19 “Cumulative impact” is not mentioned specifically in the 2003 Act. In this Guidance, it means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.

13.32 The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of

the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

DETAILS OF CONSULTATION

8. The statutory consultation has taken place

BACKGROUND PAPERS

9 Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.

FURTHER INFORMATION

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