

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 Pervaz Iqbal, 42 Fairfield Drive, Burnley, for the grant of a premises licence under Section 17 of the Licensing Act 2003.
2. The premises are The Happy Shopper, 74 to 78 Briercliffe Road, Burnley. The proposed designated premises supervisor (DPS) is also Pervaz Iqbal.

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:
06.00 to 23.00 Monday to Sunday

No representations from any of the responsible authorities have been received; however, a representation has been received from Jennifer Braddock, secretary to the Burnley Lane Residents Action Group on behalf of that Association. (app 1)

The grounds for the representation that fall within the licensing objectives are:

- a) The area already suffers a high level of anti-social behavior, much of which is fuelled by alcohol. There are many young families and a youth club in the area. There are groups of young people who congregate around the area and back streets, drinking and causing upset and distress to the local residents. There are many elderly, young and vulnerable people living locally who often feel intimidated and threatened by such anti-social behavior.
- b) Before this shop had their licence revoked some time ago, the area consistently suffered from a high level of people roaming through the streets causing havoc, upset and distress to local residents.

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 -

- (a) At a time when there is no designated premises supervisor in respect of the premises, or
- (b) 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 authorised 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. The licensed area of the premises shall be equipped with a Tamper Proof, Closed Circuit Tele-Vision system (CCTV), which should comply with the following criteria.
 - a) It will record to a Digital Video Recorder (DVR), with an evidential burn to Compact Disc (CD) or Digital Versatile Disc (DVD) with software facility.
 - b) The CCTV Digital Video Recorder (DVR) will always be connected to a colour monitor that will be maintained in good working order in order to facilitate the viewing of any CCTV recording at the premises by the Police or any member of staff from the local authority.
 - c) Staff members will be trained in how to download the images from the hard drive to disc.
 - d) The full CCTV operating system will be maintained in proper working order. Any faults will be rectified without delay.
 - e) It will be a colour system and will display on any recording the time and

date of the recording.

- f) The system will be operated during all hours the premises are open to the public.
 - g) Recordings will be held for 14 days; thereafter the DVR can be allowed to overwrite if desired.
 - h) Camera's shall be sufficient in number to view any area for licensable activity and any exit/entry and the area immediately outside the main entrance.
 - i) CCTV cameras will be robust and conspicuous in presence.
 - j) Clear signage deployed to indicate CCTV use both prior to entry and whilst within premises.
2. Training will be given to all members of staff that are responsible for the sale of alcohol.
3. The premises will operate a 'challenge 25' policy which means that any person who looks or appears to be under the age of 25 shall be asked to provide ID to prove that they are over the age of 18. Only the UK photo driving licence, passport or government approved PASS cards will be accepted as proof of age.

The premises to which this application relates have previously been licensed for the sale of alcohol and have been the subject of 3 review hearings.

The reasons for the previous reviews were in relation to the continued sale of alcohol to children under 18 years.

The licence holder at the time of those reviews is the brother of the applicant for the licence to which this report relates.

On Thursday 18th June 2009, a licensing review hearing in relation to two test purchase failures at these premises took place before Burnley Borough Council Licensing Committee.

They determined to suspend the premises licence for 4 weeks from 13th July and added conditions to the licence in respect of staff and management training, challenge 21, CCTV and refusals registers.

On 9th September 2009 a second review of the premises licence was held in relation to further underage sales that resulted in the Licensing Committee revoking the premises licence.

The premises licence holder appealed this decision and the Magistrates determined not to revoke the premises licence but imposed further conditions in relation to who could sell alcohol at the premises.

On 29th June 2010 a third review was held following further sale of alcohol to children and the Licensing Committee revoked the licence. Since that time no licence permitting the sale of alcohol has been granted.

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 person from whom the licensing authority has accepted a representation.

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:
- 7.1 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.
- 7.2 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.
- 7.3 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.

- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 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.
- 7.8 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.

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

PLEASE CONTACT:

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ALSO:

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