

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 James Mansfield, 11 Hopkinson Court, Bestwood Village, Nottingham, for the grant of a premises licence under the Licensing Act 2003.
The application is attached at Appendix 'A'.
2. The premises are The Beer Shack, 22 Manchester Road, Burnley.
The proposed designated premises supervisor is James Mansfield.

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 on and off the premises.
The proposed hours that the premises would be open to the public are:
12.00hrs to Midnight Monday to Thursday, 11.00hrs to Midnight Friday to Sunday
The proposed hours that the premises would be open for the sale of alcohol are:
12.00hrs to Midnight Monday to Thursday, 11.00hrs to Midnight Friday to Sunday
2 representations have been received in relation to this application.
The first from Frost and Co, Estate agents of 24 Manchester Road, Burnley, has

been withdrawn following a mediation meeting. The applicant has amended the application to include additional conditions and amended opening hours. The amendments put forward by the applicant and agreed by Frost & Co Estate agents are:

- No music whatsoever, live or recorded will be played on the premises
- No sales of keg/lager products excluding cask conditioned lager
- Hours premises open to the public and hours for the sale of alcohol to be amended from Monday to Sunday 11.00hrs to Midnight to Monday to Thursday 12.00 till Midnight, Friday to Sunday 1100hrs till Midnight.

The second is from Stuart Smith Solicitors, upper floors 22 Manchester Road, Burnley, who are objecting on the grounds of public nuisance, the details of which are contained in Appendix 'B'.

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

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

If this Committee approves the application the following mandatory conditions 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.

When a film is exhibited, admission of children to that part of the premises must be restricted in accordance with any recommendation made by the British Board of Film Classification in relation to that film.

Use of door supervisors.

Each individual in the premises who carries out a security activity must be licensed by the Security Industry Authority unless the premises or part of the premises where they are present is being used wholly or mainly as a restaurant or guest house, for theatrical performances or plays, or a Gaming Licence is for the time being in force in respect of those premises.

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of

encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

- (a) games or other activities which require or encourage, or are designed to\par require or encourage, individuals to
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or\par
 - (ii) the likelihood of anything occurring or not occurring;

- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

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 responsible person shall ensure that-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied

having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml;
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

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 each of the persons 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

are relevant to this application:

- Paragraph 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.
- 3.4 We will not deter an individual making an application and having that application judged on its individual merits.
- 3.5 We will not deter any person from making representations in respect of any application or seeking a review of a license.
- 3.6 The applicant for a premises licence will be required to demonstrate on the application and accompanying operating schedule, an active role in promoting and supporting the licensing objectives. We will take notice of a health and safety risk assessment submitted as an appendix to the application.
- Paragraphs 7.7 and 7.8 state, 'Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.
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.
- Paragraph 9.2 states, '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:****Peter Henderson 01282 425011 x 2612****ALSO:****John Yardley 01282 425011 x 2654**