

## REPORT TO LICENSING SUB-COMMITTEE



<b>DATE</b>	<b>19<sup>th</sup> June 2014</b>
<b>PORTFOLIO</b>	<b>ENVIRONMENT</b>
<b>REPORT AUTHOR</b>	<b>Peter Henderson</b>
<b>TEL NO</b>	<b>01282 425011 ext 7262</b>
<b>EMAIL</b>	<b>phenderson@burnley.gov.uk</b>

## Licensing Act 2003 Determination of application for a premises licence

## PURPOSE

1. To consider an application received from Michael Howard Waddington, 1 Camden Street, Barrowford, Nelson for the grant of a premises licence under the Licensing Act 2003.  
The application is attached at Appendix 'A'.
2. The premises are The Burnley College Campus, Princess Way, Burnley.

## 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 playing of live and recorded music.  
  
The proposed hours that the premises would be open to the public as amended are:  
  
10.00 to 23.00, Friday to Sunday and on Bank Holiday Monday's  
  
The proposed hours that Regulated Entertainment in the form of the playing of live and recorded music can take place as amended are;  
  
10.00 to 22.00 Friday to Sunday and on Bank Holiday Monday's.  
  
2 representations have been received in relation to this application.  
  
The first is from Burnley Borough Council Health and Safety which is a Responsible Authority under the Act. The details of their representation are

contained in Appendix 'B'.

The second is from Burnley Borough Council Environmental Health which is a Responsible Authority under the Act. The details of their representation are contained in Appendix 'C'.

The basis of both representations is that the applicant has failed to provide sufficient information to indicate how the licensing objectives of Public Safety and Prevention of Public Nuisance can be satisfied.

A mediation meeting facilitated by the Licensing Authority has taken place between the applicants and the 2 Responsible Authorities who have made representations. During that meeting suggestions and advice were given to the applicant and were followed up by emails and links to information which, if followed would have enabled the applicant to satisfy the requirements of the licensing objectives.

The position at the time of writing this report is that there are outstanding issues which prevent the responsible authorities from withdrawing their representations.

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 condition would be attached to the licence;

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 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 Sub 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**

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

#### **FURTHER INFORMATION**

**PLEASE CONTACT:**

**Peter Henderson 01282 425011 x 7262**

**ALSO:**

**John Yardley 01282 425011 x 7283**