

REPORT TO LICENSING SUB-COMMITTEE



DATE	29 th November 2012
PORTFOLIO	Environment
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Licensing Act 2003 Determination of an application for a review of a premises licence

PURPOSE

1. To advise members of the requirement to determine an application for review under Section 52 of the Licensing Act 2003.
2. The premises are The New Black Bull, 4 – 6 Mill Street, Padiham.

RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding three months; or
- e. to revoke the licence.

REASONS FOR RECOMMENDATION

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

SUMMARY OF KEY POINTS

5. The Licensing Objectives are:
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance

- Protection of Children from Harm

The premises currently has the benefit of a licence which authorises supply of alcohol by retail sale for consumption on and off the premises between the hours of 0900 and 0200 Monday to Sunday.

The full premises licence is attached at Appendix 'A' and details all timings for the numerous licensable activities included on the licence together with all current conditions.

The holder of the premises licence and designated premises supervisor is Mr Michael Metcalfe, 27 Colne Road, Brierfield, Nelson.

- 6 On the 3rd October 2012, the Licensing Authority received an application to review the Premises Licence from the Chief Officer of Police. This application is appended at Appendix 'B'

The grounds for this review as submitted by the Police are as follows;

Concerns have been raised over a period of time regarding the lack of control displayed over the premises by the management and their disregard and lack of understanding of the licensing objectives. The premises is run by a manager and not the DPS, Michael Metcalfe. Numerous calls have been made to the Police regarding patrons refusing to leave upon request and whilst we accept it is our duty in law to assist the licensee to remove unwanted patrons the frequency of these requests displays a lack of firmness and authority in so far as patrons are totally ignoring them resulting in unnecessary calls to the Police for assistance.

Several meetings have taken place with the management of the premises with a view to addressing the issues to no avail and there have been further incidents of crime and disorder accordingly. One such meeting was held on Wednesday 25th July 2012 where it was agreed that the premises would be better managed and firmer control would be held over the premises by the management.

However, on Friday 27th July (log LC-20120727-1875) a report was received of 40-50 fighting outside the premises with bottles and glasses being thrown because the manager could not manage them inside the premises due to their disorderly behaviour and chose to close the premises and leave them outside for somebody else to deal with. This caused problems around Padiham Town Centre as Officer's struggled to control their dispersal until the arrival of assistance from Burnley patrols. During the incident no contact could be made with anybody from the premises who refused to answer either the door or telephone despite some people still visible within the premises drinking.

The final incident which has left us with no option but to ask for a review of the premises licence occurred on Sunday 23rd September where a fight between 4 persons in the premises left one male in hospital with life threatening injuries due to head, facial and neck injuries where his head was stamped upon and repeatedly kicked. This incident was phoned through to the Police by the manager 5 minutes after the fight began.

The Police have tried to work with all concerned at the premises to alleviate the problems and have suggested the use of door supervisors to assist with the control of the premises which has gone unheeded. The premises licence holder has been given every opportunity to show he can maintain adequate control over the premises and has been informed that should he fail to do so we would have no option but to request a review of the premises licence and request additional conditions be added to the licence to achieve that control. The continued problems and escalation of violence shows a continued total lack of control over the premises which has now totally undermined the Licensing Objectives.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. None

POLICY IMPLICATIONS

8. 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:
- Paragraph 3.2 states, 'We will 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'
 - Paragraph 7.9 states, '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.'
 - 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

9. The statutory consultation has taken place

BACKGROUND PAPERS

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

FURTHER INFORMATION

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