

Subject: Licensing Act 2003
Determination –
Commercial Hotel,
Haslingden

Status: For Publication

Report to: Licensing Determination
Sub-Committee,
12th December 2006

Date: 12th December 2006

Section Head: Head of Legal & Democratic
Services

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Portfolio Holder: Leader of the Council

Key Decision: NO

1. PURPOSE OF REPORT

1.1 To advise members of a required determination of an application for review under Section 52 of the Licensing Act 2003.

2. RECOMMENDATION

2.1 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.

3. BACKGROUND

3.1 On the 1st August 2005, David Thompson and Anthony Riley made an application as individual applicants to convert an existing Justices Licence to a Premises Licence under the Licensing Act 2003. There were no objections from the Police and the conversion was granted. David Thompson also became the Designated Premises Supervisor.

3.2 At the same time the applicants applied to vary the Premises Licence, which attracted an objection from an interested party.

3.3 A Determination Hearing was held on Tuesday 27th September 2005 and the application was granted in its entirety.

3.4. The premises currently hold a licence which authorises them as follows:

To supply alcohol by retail sale for consumption on and off the premises;

The provision of regulated entertainment, indoors only, by means of films, indoor sporting events, live music, recorded music, performance of dance, anything of a similar description to the above, the provision of facilities for making music, dancing and anything of a similar description to making music and dancing and the provision of late night refreshment; between the hours of;

0700 hours and 0200 hours Monday to Thursday

0700 hours and 0300 hours Friday and Saturday

0700 hours and 0200 hours Sunday

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

3.5 The opening hours of the premises are as follows:

0700 hours and 0230 hours Monday to Thursday

0700 hours and 0330 hours Friday and Saturday

0700 hours and 0230 hours Sunday

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

3.6 There are also a number of conditions on the premises licence which were volunteered by the applicants at the time of their application and contained in their operating schedule.

1.

The premises shall be equipped with a CCTV system which covers the interior and the rear door. The system shall record and the data shall be kept for a minimum period of 21 days and made available to the authorities upon request.

2.

When the Designated Premises Supervisor is not present at the premises, another person shall be nominated by them to be the responsible person to manage the premises.

3.

The premises shall comply with the Fire Precautions (Workplace) Regs. 1997

4.

Where possible only glasses made of toughened / safety glass will be used.

5.

There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly

6.

At all times the DPS or other responsible person shall ensure the level of noise emitting from the premises is kept to a minimum.

7.

Persons who appear to be under the age of 21 years shall be required to produce proof of age by way of one of the following:

- A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS)
- Photo driving licence
- Passport
- Citizen card supported by the Home Office
- Official ID card issued by HM Forces or European Union bearing a photograph and birth of the holder

8.

Only persons of 18 years of age or over shall sell alcohol, with the exception of those on a government approved training scheme.

9.

Proof of age checks will be made by staff inside the premises whenever they have doubt about a person's age.

3.7 The full existing premises licence is appended at Appendix A.

3.8 Following problems at the premises over a period of months, a meeting was held on the 26th May 2006 at Haslingden Police Station with Constables Storey and Driver from the Police Licensing Unit; Sergeant Robertson from Haslingden Police; Constables Mulla and Haywood, Community Beat Managers from Haslingden Police Station; Susan Chadwick the Licensing Manager from Rossendale Borough Council and David Thompson and his advisor Gill Sherratt.

3.9 On the 8th October 2006, the Licensing Authority received an application to review the Premises Licence from the Chief Officer of Police. This application is appended at Appendix B

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

3.11 On the 7th November 2006, a joint representation was received by the Licensing Authority from a Michael Gallagher and Mary Lynch as Interested Parties. The representation relates to all four of the licensing objectives. The representation is appended at Appendix C

4. 3.11 Relevant extracts from the Statement of Licensing Policy are:

1.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.

- 1.15 *We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are not undermined.*
- 1.16 *Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the definitions of the Act, and the conditions attached to the various authorisations will be focused on matters which are in the control of applicants and licence holders. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Licensing law will however be a key aspect of a holistic approach to the management of the evening and night time economy in town centres.*
- 1.17 *We will therefore focus upon the direct impact of the activities taking place at or in the vicinity of licensed premises on members of the public living, working or engaged in normal activities in the vicinity of those places.*
- 3.1 *We will promote the 4 licensing objectives, namely*
- *the prevention of **crime and disorder***
 - ***public safety***
 - *the prevention of **public nuisance**; and*
 - *the **protection of children** from harm,*
- and all our decisions will reflect these objectives.*
- 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 behavior by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.*
- 3.5 *We will not deter any person from making representations in respect of any application or seeking a review of a licence.*
- 3.12 *Any conditions attached to premises licences and club premises certificates will reflect the Licensing Objectives and where appropriate, local crime prevention strategies*
- 3.14 *We will take account of other objectives such as the Community Health Action Plans and the Violent Crime Reduction Policies and action plans under our Crime and Disorder partnership.*
- 3.15 *We are committed to avoid duplication with other regulators and will not impose conditions upon licences which are already requirements under other legislation*
- 7.7 *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.

7.8 *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.*

4. LEGAL IMPLICATIONS ARISING FROM THE REPORT

- 4.1 Members are reminded that they must follow the rules of natural justice and they are bound by the Code of Conduct for Elected Members in licensing applications.
- 4.2 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).
- 4.3 Members are reminded that they should have read or should hear all the facts prior to making a determination.
- 4.4 Members are asked to make a determination and state the reasons for that determination.

5. COMMITTEE DECISION

- 5.1 The Committee should consider the application from the Police referred to at paragraph 3.9, the representation referred to at paragraph 3.11 and any representations which are made by or on behalf of the Licensee.
- 5.2 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.
- 5.3 With regard to the steps mentioned at a. and b. above, the modification or exclusion may take effect for a limited period (not exceeding 3 months).

6. WARDS AFFECTED

- 6.1.1 The premises are situated within the Worsley ward and no other ward is likely to be affected. The ward councillor(s) are not members of the sub committee.

7. SECTION 17 CRIME AND DISORDER ACT 1998

The decision of this Determination Hearing will have implications under this section of the Act.

Background documents-

Background Papers	
Document	Place of Inspection
Premises Licence	Appendix A
Application for Review of Premises Licence	Appendix B
Representation of Michael Gallagher/Mary Lynch	Appendix C

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