

Agenda



HYNDBURN

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Licensing Sub Committee

Thursday, 11 May 2023 at 3.30 pm,
Council Chamber, Town Hall, Accrington

Membership

Chair: Councillor Terry Hurn

Councillors Danny Cassidy and Jodi Clements

AGENDA

1. **Apologies for absence, Substitutions, Declarations of Interest and Dispensations**

2. **Minutes of the Last Meeting Held on 31st January 2023** (Pages 3 - 4)

The Minutes of the last meeting held on 31st January 2023 are submitted for approval as a correct record.

Recommended - **That the Minutes be received and approved as a correct record.**

3. **Licensing Hearing Procedure** (Pages 5 - 12)

To advise the Licensing Sub-Committee of the Council's Hearing Procedure to be used in relation to Hearings required under the Licensing Act 2003. The Procedure is attached.



4. Licensing Act 2003 Determination Hearing - Temporary Event Notice, Land at Biggins Farm, Accrington (Pages 13 - 42)

The Sub-Committee are requested to consider the Temporary Event Notice (TEN) submitted by Miss Holly Gaffney and the subsequent objection submitted by Sergeant Gary Hennighan on behalf of the Lancashire Constabulary.

In accordance with Section 105(2) of the Licensing Act 2003, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (i) Impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event). Members should note that this option isn't available on this occasion as the premises does not hold a licence and there are therefore no existing conditions.
- (ii) Determine that the event would undermine the licensing objectives and serve a counter notice.
- (iii) Allow the licensable activities to go ahead as stated in the notice.

Recommended - That the Sub-Committee consider the Temporary Event Notice by Miss Holly Gaffney and any representations and consider which of the steps to take, as set out above.

LICENSING SUB COMMITTEE

Tuesday, 31st January, 2023

Present: Councillor Terry Hurn (in the Chair), Councillors June Harrison and Bernard Dawson MBE

Apologies Councillor Jodi Clements

268 Apologies for absence, Substitutions, Declarations of Interest and Dispensations

An apology for absence was submitted on behalf of Councillor Jodi Clements. Councillor Dawson acted as a substitute for Councillor Clements. There were no interests or declarations of interest submitted at the meeting.

269 Minutes of the Last Meeting Held on 22nd March 2022

The Minutes of the last meeting held on 22nd March 2022 were submitted for approval as a correct record.

Resolved - **That the Minutes be received and approved as a correct record.**

270 Licensing Hearing Procedure

The Council's Licensing Hearing procedure to be used in relation to the hearing, required under the Licensing Act, was submitted for noting.

271 Licensing Act 2003 Determination Hearing - Nawaz Food Store & Off Licence, Eddleston Street, Accrington

In accordance with the Hyndburn Borough Council policy on the Conduct of Hearings and the Licensing Act 2003 (Hearings) Regulations 2005, the Licensing Manager (Mrs Redfern) advised the Licensing Sub-Committee of the details of an application to review a Premises Licence relating to Nawaz Food Stores and Off Licence, 1 Eddleston Street, Accrington, Lancashire, following the submission of an application under Section 51 of the Licensing Act 2003 ('the Act') by a responsible authority namely Lancashire Constabulary.

A copy of the Licensing Authority's Conduct of Hearings had been circulated prior to the meeting with the agenda.

The Licensing Manager provided the Committee with the historical background of Mr Nawaz' provision of a Premises Licence which was issued in 2005. She reported that Mr. Mohammed Nawaz was the Designated Premises Supervisor at the time of the application and still is currently. She reported that the premises benefited from the licensable activity of 'the Supply of alcohol for consumption off the premises. Monday to Saturday 0800 – 2300 and Sunday 0800 – 22.30'. She referred Committee to the appendices attached to the agenda:

Appendix 1 – current licence

Appendix 2 – review application

Appendix 3 – a representation from Lancashire County Council Trading Standards

The Licensing Manager advised the Committee on the steps that they could take after considering the application, as set out in 5.2 of the report.

Representatives of Lancashire Constabulary, PS Hennighan and PC Needham were present at the meeting and outlined the reasons why they had submitted the application for review of the licence.

A representative of Lancashire County Council Trading Standards was also present at the meeting and submitted their representations.

The representations received from Lancashire Constabulary and Lancashire County Council Trading Standards both outlined how alcohol and tobacco had been sold under the age of restriction. They outlined how continued attempts to work with Mr. Nawaz to improve standards had failed and that he had made no effort to undertake the necessary training or adhere to their advice. It was considered that there had been a serious failure to meet the licensing objectives relevant to the Protection of Children from Harm.

The Sub-Committee in considering the application, took into account representations made by Lancashire Constabulary and Lancashire County Council, Trading Standards. It also had regard to its own Licensing Policy and the statutory guidance, as mentioned in Section 52(4) of the Licensing Act 2003. The latest Home Office guidance was issued in December 2022 and referred to paragraphs 11.27 (the prevention of criminal activity), 11.28 (responsible authorities to use the review procedures effectively to deter such activities and crime and 11.29 (the persistent selling of alcohol to children).

Resolved

- **That, having taken into account Section 52(4) of the Licensing Act 2003 and after careful consideration of the representations made by Lancashire Constabulary, Lancashire County Council Trading Standards and the premises licence holder, the Licensing Sub-Committee expressed concern about the history of incidents at the licensed premises and the persistent failure to improve standards. The Committee determined to revoke the licence.**

Signed:.....

Date:

Chair of the meeting
At which the minutes were confirmed

HYNDBURN BOROUGH COUNCIL

LICENSING ACT 2003

PROCEDURE NOTE ON THE CONDUCT OF LICENSING HEARINGS

1. Application

- 1.1 Every hearing that is subject to the Licensing Act 2003 (Hearings Regulations) 2005 (“the Regulations) will be held in accordance with the Regulations and this procedure.
- 1.2 References in this procedure to the “ Licensing Committee” shall unless indicated to the contrary include a reference to a Licensing sub Committee.

2. Time of Hearing

- 2.1 Hearings will commence within the appropriate period of time stipulated in the Regulations, and where the hearing is scheduled to take place on more than one day, it will whenever possible, take place on consecutive working days.
- 2.2 Hearings will commence at a time to be appointed by the Licensing Authority.

3. Members of the Committee or Sub-Committee

- 3.1 Where the full Licensing Committee sit to hear an application, the full Committee will sit, with the exception of any member who is excluding from participation under paragraph 3.3 below.
- 3.2 Where a Sub-Committee sit to hear an application, it will consist of 3 members of the full Committee. The sub committee must not include any member who is excluded from participation under paragraph 3.3 below
- 3.3 A member may not sit on either the Licensing Committee or the Licensing sub committee if he / she
 - a) has sat on a Planning Committee which has determined a planning application relating to the premises that are the

subject of the licensing application under consideration and/or .

- b) has a personal and prejudicial interest in the licensing application and / or
- c) has agreed to represent or support either the applicant or any interested party prior to the hearing.

3.4 Members will act in accordance with the Licensing Act 2003. They will have received training under the Act and will also act in accordance with the relevant paragraphs of the Local Authority Co-ordinators of Regulatory Services Guidance on the Role of Elected Members in Relation to Licensing Committee Hearings under the Licensing Act 2003, the Hyndburn Borough Council Member codes of conduct and the requirements of the Standards Board for England and Wales.

4. Preliminaries

4.1 The Chair of the Committee will

- a) outline the purpose of the hearing and the person or premises to which the hearing relates.
- b) ask every person appearing before the Committee to introduce themselves and where appropriate state who they represent.
- c) refer the parties to the procedures that the Committee will follow at the hearing.

In particular the Chair will clarify that;

- the hearing will take the form of a discussion led by the Chair and cross-examination will not be permitted unless the Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
- members of the Committee may ask a question of any party or other person appearing at the hearing.

4.2 The Chair of the Committee will ask the Licensing Manager to indicate

- a) whether or not any parties who do not appear before the Committee have made any representations.
- b) whether or not any person referred to in paragraph 4.2 a) above has indicated that they intend to be represented.

- c) whether or not any representations have been withdrawn
 - d) whether or not any party has indicated that they consider a hearing to be unnecessary
 - e) whether or not any person has requested permission for other persons (other than a representative) to appear at the hearing, and the points upon which that person may be able to give information or assistance.
- 4.3 Where a party has given notice that they do not intend to attend or be represented, the Committee will consider whether they wish to proceed in the absence of that party.
- 4.4 Where a party has not given such notice and has failed to attend or be represented, the Committee will then decide whether it is necessary in the public interest to adjourn the hearing to a specified date or hold the hearing in the party's absence. The Chair of the Committee may invite representations from parties present on this issue before making their decision.
- 4.5 Where a party wishes to introduce any documentary or other information that they have not produced in advance of the hearing, the Chair of the Committee will ask all other parties whether they consent to that evidence or information being introduced. If any party does object, that documentary or other information should not be introduced.
- 4.6 The Committee will then consider any requests made to call other persons under Paragraph 4.2(e) above, and shall not unreasonably withhold any such permission, having ensured that Paragraph 4.3 above is not undermined by such persons.

5 Hearings to be Held in Public

- 5.1 Subject to this paragraph, the hearing shall take place in public although a member of the public, unless a party to the hearing a representative of a party, or a person mentioned under Paragraph 4.3(e) above, shall not be entitled to address the hearing.
- 5.2 The Chair of the Committee will invite any applications from parties present in relation to whether it is in the public interest to exclude the public from all or part of a hearing.
- 5.3 Where there are such representations, they will be heard in public and following these, the Committee will decide whether the public

interest in excluding the public outweighs the public interest in the hearing, or that part of the hearing taking place in public.

- 5.4 Where there are no representations under Paragraph 5.2 the hearing will take place in public. Where there are representations, the Committee's decision and reasons for it will be given in public, and the Committee will also state whether any party or any persons assisting or representing a party are to be treated as a member of the public for this purpose.

5. The Hearing

- 6.1 The Licensing Manager (who is not a party to the proceedings) will outline the facts of the application and summarise the nature of the relevant representations that have been received
- 6.2 The Applicant will be invited by the Chair of the Committee to present their application.
- 6.3 Any objectors present will be invited by the Chair of the Committee to present their objections.
- 6.4 At the discretion of the Chair of the Committee a party may be allowed to ask questions of any of any other party
- 6.5 At the discretion of the Chair of the Committee the Solicitor to the Licensing Committee may ask a question of any party.

7. Adjournment of Hearing

- 7.1 The Committee or Sub-Committee may adjourn a hearing to a specified date or arrange for the hearing to be held on specified additional dates where it considers this necessary to consider any representations or notice made by a party.

8. Determinations

- 8.1 At the conclusion of the hearing the Committee may decide to consider its decision in private. The Chair will then invite everyone (with the exception of the committee administrator) to retire from the meeting room.
- 8.2 The Committee may at any time during the consideration of its decision invite the Solicitor to the Licensing Committee to provide confidential legal advice.

8.3 The Committee or Sub-Committee will make its determination at the conclusion of the hearing but in restricted circumstances may make a determination within a period of 5 working days of the last day of the hearing.

9. Notice of Determination

9.1 The Chair to the Committee will issue a written notice of determination in accordance with the Regulations

Column 1		Column 2
Provision under which hearing is held.		Period of time within which hearing must be commenced.
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.
3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).
9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).

12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).
13.	Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order).	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.

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TITLE : LICENSING ACT 2003 DETERMINATION HEARING
TEMPORARY EVENT NOTICE – LAND AT BIGGINS FARM,
ACCRINGTON

TO: LICENSING SUB-COMMITTEE

DATE/TIME:
QE Room, Scaitcliffe House, Accrington

Objection from : SGT GARY HENNIGHAN, LANCASHIRE CONSTABULARY

STATUS : FOR PUBLICATION TO PARTIES TO THE HEARING ONLY

1. PURPOSE OF THE REPORT

Hearing held under Section 105(2)(a) of the Licensing Act 2003 following an objection from Sergeant Gary Hennighan on behalf of the Lancashire Constabulary.

In relation to:-

Temporary Event Notice – Land at Biggins Farm, Accrington, BB5 3SL

1.1 RECOMMENDATIONS

The Sub-Committee is requested to consider the Temporary Event Notices (TEN) submitted by Miss Holly Gaffney and the subsequent objection submitted by Sergeant Gary Hennighan on behalf of the Lancashire Constabulary

In accordance with Section 105(2) of the Licensing Act 2003, the Sub-Committee must take such of the steps set out in the conclusion of the report as it considers necessary for the promotion of the licensing objectives:

THE APPLICATION

2.1 On the 28th April a Temporary Event Notices (TEN) under Section 100 of the Licensing Act 2003 was served upon Hyndburn Borough Council by Miss Holly Gaffney in respect of a field on Biggins Farm, Accrington for an event to take place on 8th July 2023 from 1400 hours through to 9th July 2023 at 0200 hours:

A copy of the TEN is attached at **Appendix 1**.

2.2 The notice stated that during the requested times there would be regulated entertainment, the sale by retail of alcohol and the provision of late night refreshment

2.3 For members' information the premises does not currently benefit from any licence granted under the Licensing Act 2003

3.0 Details of the objection

On 3rd May 2023 in accordance with Section 104(2) of the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011, Gary Hennighan on behalf of the Lancashire Constabulary submitted an objection to the TEN's on the grounds that as the notice giver has not provided enough information the event could potentially impact on all four of the licensing objectives which are;

- The prevention of crime and disorder
- The Prevention of public nuisance
- Public safety
- The protection of children from harm

A copy of the objection is attached at **Appendix 2**.

3.1 Legal background to Objection

Under section 104(2) of the Licensing Act 2003, the Chief Officer of Police or a local authority exercising environmental health functions may object to a TEN on the basis that use of the premises in accordance with the notice would undermine any of the licensing objectives. Members will be aware that these are:-

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

If the police and/or local authority exercising environmental health functions believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premise user and the licensing authority an objection notice. The objection notice must be given within three working days of their receipt of the TEN.

If the licensing authority receives an objection notice from the police or local authority exercising environmental health functions that is not withdrawn, it must hold a hearing to consider the objection (unless all parties agree that this is unnecessary) within 7 working days beginning with the day after the end of the period within which a chief officer of police or the local authority exercising environmental health functions may give a notice under section 104(2)

3.2 THE LICENSING ACT 2003

The Licensing Act 2003 requires you to have regard to the representation and only consider elements of representations that are about the likely effect of the event going ahead on the promotion of the Licensing Objectives

3.3 Members are referred the relevant sections relating to all four of the licensing objectives in Hyndburn Licensing Authority's Statement of Licensing Policy which are set out below:-

13.0 Protection of Children from Harm

13.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so in order to protect them from physical, moral or psychological harm. Equally, no premises will be obliged to allow access by children.

13.2 The Licensing Authority is greatly concerned about the impact of children consuming alcohol both in terms of the consequent risks that can result to themselves and the nuisance and anti-social behaviour in the local community which often results

13.3 The Licensing Authority expects all applicants and licence holders to consider the potential harms to children which may arise from their licensable activities and put in place, and keep under review, appropriate safe guards to prevent such harms. Applicants and licence holders should be aware that the Licensing Authorities' Committee will impose conditions or revoke licences where they consider this is appropriate in order to protect children from harm.

13.4 If relevant representations are received in relation to limiting access to children, the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:-

- where entertainment of an adult or sexual nature is provided
- where there is a strong element of gambling taking place (but not, for example, the simple presence of a small number of cash prize gaming machines)
- with a known association with drug taking or dealing
- where there have been convictions of current members of staff for serving alcohol to those under 18
- with a reputation for under age drinking

13.5 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.

13.6 The options available for limiting access by children would include:-

- a limit on the hours when children may be present
- a limitation or exclusion when certain activities are taking place
- the requirement to be accompanied by an adult
- access may be limited to parts of the premises but not the whole
- an age limitation (for under 18s)

13.7 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club.

13.8 Under the Act, certain “responsible authorities” must be notified of and are entitled to make representations about applications for premises licences or club premises certificates or major variations of such licences or certificates, or to ask the licensing authority to review a licence or certificate. Applicants for premises licences and club premises certificates are required to send details of their applications to these bodies. In connection with the protection of children the Licensing Authority considers the local Area Child Protection Committee to be the responsible body to which applications should be copied.

13.9 Where a large number of children are likely to be present on any licensed premises, for example a children’s show or disco, the applicant may wish to consider including in the operating schedule arrangements for the presence of an appropriate number of adult staff to ensure public safety and the protection of the children from harm. The applicant should also consider whether employees working at the premises for such events and having unsupervised contact with children should have an enhanced Disclosure and Barring Service check.

13.10 Children may also be present at an event as entertainers, and where they are not accompanied by a parent or guardian, the applicant may wish to consider nominating an adult responsible for such child performers at such performances. The applicant should also consider whether a nominated adult should have had an enhanced DBS check.

13.11 Applicants may wish to include in their operating schedules arrangements to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself. The Act provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

13.12 The following matters will also be considered in relation to the protection of children from harm:

- Whether access of children to any gaming machines is restricted
- Where appropriate, the procedures for ensuring that any customer coming onto the premises is over the age of 18
- The steps taken to ensure that, where appropriate, all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to protect children from harm

13.13 **Premises licensed for the sale of alcohol/entertainment**

The following matters will also be considered in relation to the protection of children from harm

- Arrangements to prevent children from acquiring or consuming alcohol;
- Arrangements for the appropriate instruction, training and supervision of staff to prevent children from acquiring or consuming alcohol;

- Arrangements to prevent children from being exposed to gambling (gaming machines on licensed premises);
- Steps to prevent children from being exposed to entertainment of an adult or sexual nature;
- Arrangements for appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm;
- Means for ensuring that persons supervising children are suitable and where necessary, disclosures obtained from the Disclosure and Barring Service.

Proof of Age Schemes

The Licensing Authority considers preventing children from obtaining alcohol from licensed premises to be of great importance in protecting them from harm. Applicants must, therefore, be able to demonstrate that they have in place, satisfactory arrangements to prevent sales of alcohol to children including a recognised or appropriate proof-of-age scheme. The Licensing Authority would be supportive of arrangements, which include using the following documents to verify the age of customers

- Photo Card driving licence issued in the European Union
- Proof of Age Standards Scheme Card (PASS)
- Official ID card issued by the HM Forces or by a European Union country bearing a photo and date of birth of holder

The Licensing Authority supports the PASS accreditation system, which aims to approve and accredit various proofs of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. Staff should have received suitable training in relation to the proof of age scheme to be applied upon the premises and records evidencing this should be kept.

13.15 Applicants may wish to indicate in the operating schedule how the protection of children from harm will be addressed. The above items are not intended to be exhaustive, and the applicant should have considered all relevant aspects of the protection of children from harm applicable to the particular premises.

13.16 It is the view of the Licensing Authority that children should not be exposed to entertainments of a sexual nature or to strong language at a too early age. Conditions may be imposed, if representations are received, aimed at preventing such exposure either intentionally or accidentally. In some premises entertainment of an adult nature may be occasional or restricted to certain times of the day. In these cases, any restrictive conditions to protect children will apply only at these times. When submitting an application, if no reference is made to the provision of adult entertainment or services within an operating schedule at "Box N", then the Authority will interpret this to mean that such entertainment will not be provided and a condition to this effect will be applied to the licence.

13.17 **Sexual exploitation of children**

The risks will vary from premises to premises depending on the type of licensing activity and the age of the children, therefore the Licensing Authority encourages licence holders and operators of licensed premises to:

- ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and
- raise the awareness of their staff about the issues of child sexual exploitation to enable them to provide intelligence to the appropriate authorities about any concerns they may have about suspicious behaviour of this nature.

Care must be taken when staff are appointed, to ensure that individuals are not placed in an environment where they can exploit their position.

14.0 Prevention of public nuisance

14.1 The most obvious aspect of public nuisance is noise. The primary source of noise is amplified music, either uncontained outdoors or emanating from premises, which do not have sufficient measures in place to contain the sound. Late at night or in the early hours of the morning, individuals shouting in the street or groups of people talking in an animated fashion generate a substantial level of noise and in some cases this is aggravated by offensive language.

14.2 As customers leave licensed premises, the sound of their conversation can disturb residents. Potentially greater problems arise when customers congregate or accumulate outside the licensed premises. However, it is clear that the person in control of the premises has a responsibility to ensure that disturbance to residents and businesses are kept to a minimum.

14.3 In considering licence applications where relevant representations are received, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and disorder having regard to all the circumstances of the application. When addressing public nuisance, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent public nuisance, taking account of the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule and may include:

- The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, noise limitation devices and keeping windows closed during specified hours.
- The steps taken to ensure that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent public nuisance
- The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises, for example warning signs at exits, and warning announcements within the premises, and the use of door supervisors to pass on the message

- The steps the applicant has taken or proposes to prevent queuing, or if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise manage and monitor the queue to prevent disturbance of obstruction, and to prevent patrons congregating outside the premises.
- The implementation of a last admission time, and how the last admission time relates to the closing time of the premises
- The steps the applicant has taken or proposes to take to manage queues so that patrons who will not gain admission before any last admission time are advised accordingly
- The steps the applicant has taken to reduce queuing outside the premises and to minimise the length of time people have to queue at the premises
- The steps the applicant has taken to advise patrons that they will not be admitted if they are causing a disturbance, and the steps taken to implement a procedure for banning patrons who continually leave or arrive at the premises in a manner which causes a public nuisance or disturbance.
- The arrangements made or proposed for parking by patrons and the effect of parking on local residents.
- The arrangements the applicant has made or proposes to make for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents.
- Whether there is sufficient provision for public transport for patrons, for example the provision of a free phone taxi service or other arrangements with taxi companies, and whether information is provided to patrons about the most appropriate routes to the nearest transport facilities.
- Whether taxis and private hire vehicles serving the premises or traffic flow from the premises are likely to disturb local residents.
- Whether routes to and from the premises pass residential premises.
- Whether other appropriate measures to prevent nuisance have been taken, such as the use of CCTV or the employment of an adequate number of licensed door supervisors.
- The measures proposed to prevent the consumption or supply of illegal drugs, including any search and disposal procedures.
- The procedures in place for ensuring that no customer leaves with bottles or glasses
- If the applicant has previously held a licence within the area of the Council, the history of any enforcement action arising from those premises.
- Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- The steps the applicant has taken or proposes to take in order to ensure that standards of public decency are maintained in any entertainment provided at the premises.
- If appropriate, whether music is played at a lower level towards the end of the evening in a “wind down period”.
- The applicant’s proposals for the length of time between the last sales of alcohol, and the closing of the premises
- The steps the applicant has taken to prevent noise and other public nuisance from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking e.g. a street or pavement adjacent to the premise

The above list is not intended to be exhaustive, and the applicant should consider all aspects of the operation that may affect public nuisance.

- 14.4 Premises already in receipt of complaints should seek an early remedy to any confirmed problem, if necessary by engaging the services of a private consultant. The Licensing Authority can act as arbiters in situations where the complaint is disputed or where the nature of the problem needs to be better defined. The organisers of temporary events should pre-empt potential nuisance, especially when complaints have previously arisen at the same venue.
- 14.5 Where the provision of existing legislation proves inadequate or inappropriate for control purposes, the licensing authority will consider imposing licensing conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder, and designated premises supervisor.
- 14.6 Ultimately, if conditions or other legislation cannot adequately address the issues of nuisance, an application may be refused or a licence revoked.
- 14.7 Since the introduction of the Health Act 2006 the requirement for patrons to go outside a premises to smoke has caused an increase in the number of noise and anti-social behaviour complaints received by this and other Councils. It is therefore expected by the Licensing Authority that the management of licensed premises will ensure that adequate provision is made to supervise those patrons who leave the premises for a short time to smoke, having regard to the health and safety of their staff. In certain cases some form of regular engagement between businesses and residents can lead to better understanding of the needs of each party and inspire a degree of trust.
- 14.8 The cumulative effects of litter around premises carrying on licensable activities can amount to public nuisance. The Licensing Authority requires that any premises that can cause litter, be it from a take away food establishment or cigarette debris left by its customers, must remove it at regular intervals. At the end of trading, management of the premises should arrange for a final check of the area immediately outside the premises, to ensure that no litter, spilled food or cigarette debris is left. In some cases it may be appropriate to impose conditions on licences for take away premises which require litter bins to be provided or for litter dropped around of the premises to be collected and removed at regular intervals at the licence holder's expense including washing away to the gutter any spilled food.

15.0 The prevention of crime and disorder

- 15.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.
- 15.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.

- 15.3 In order to improve the quality and effectiveness of CCTV recorded images and thereby promote the licensing objectives, the Licensing Authority encourages all applicants for the grant of premises licences in Hyndburn who include the provision of CCTV in their operating schedule, to consult with Lancashire Constabulary with regard to the installation and maintenance of equipment which will meet a minimum specification that will provide recorded images of evidential value. Failure to refer to this specification in the operating schedule could lead to Lancashire Constabulary making a representation.
- 15.4 The risk assessment approach remains fundamental. Licence holders and applicants are strongly recommended to work closely with the Police, and Council's Licensing Section in bringing into effect appropriate control measures to either overcome established or potential problems. A combination of short and longer term strategies may need to be deployed by the licence holder to sustain and promote the prevention of crime and disorder.
- 15.5 Any premises which require door supervisors by virtue of the Private Security Industry Act 2001 must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.
- 15.6 The Licensing Authority will expect new applicants, existing licence holders and organisers of temporary events to adopt recognised good practices in whatever area of operation they are engaged.
- 15.7 The Licensing Authority encourages relevant businesses to participate in local Pub Watch schemes or similar forums where it is set up, and where this helps secure and/or promotes the licensing objective(s)
- 15.8 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.
- 15.9 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:
- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
 - Use of metal detection or other search equipment or procedures
 - Crime and disorder risk assessment in relation to the proposed activities
 - Measures to prevent the use or supply of illegal drugs and procedures for searching customers
 - Ensuring that all staff are appropriately trained
 - Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder

- Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of door staff required for the particular premises.
- Ensuring that a register of door staff and their working times is maintained
- Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
- Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
- Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
- Adopting the “Night Safe Initiative” and “Safer Clubbing Guide” as statements of best practice
- Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
- Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
- Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
- Maintaining an incident log
- The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.

16.0 The promotion of public safety

16.1 The Act complements but does not seek to duplicate the statutory requirements of other legislation, which affect those who have responsibility for the conduct of licensed premises. However licence holders should be mindful of the requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes but not exclusively:-

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Health Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work Act 1974
- The Equality Act 2010

16.2 One of the things which the licensing system can provide is agreement in advance on a standard layout for furniture, location of stage, placing of linked seats etc. so that licensees can be confident about their practical arrangements, provided that they stick to that way of doing things. With other legislative controls, there may be no official inspection of the arrangements made, unless there is an investigation when something has gone wrong.

- 16.3 As a consequence of the many common features of leisure businesses, such as the operation of door policies, competition for taxis and the interaction with people on the street late at night, individual premises necessarily function as part of a network of businesses, sharing information on crime and disorder issues which affect them all.
- 16.4 The Licensing Authority recognises that participation in forums such as Pub Watch and the proper use of network radios are key to the safe operation of the majority of leisure businesses. It may be appropriate for an operating schedule to include these practical matters.
- 16.5 Fire safety requirements are determined principally by specific fire safety legislation. The overall standard of fire safety is an important consideration in determining the suitability of premises for licensable activities.
- 16.6 The Licensing Authority will not use the licensing process to secure routine compliance with fire safety requirements, which arise from other legislation. Nevertheless in circumstances where fire safety inadequacies indicate that premises pose a risk to the health and safety to those who enter them and where specific fire safety enforcement does not provide a sufficient or sufficiently rapid remedy, the Licensing Authority will take appropriate steps to ensure that the risk is removed including, where appropriate, and where a review of the licence is requested, revocation of the licence.
- 16.7 In addition the Licensing Authority will also consider and deal with the introduction of further hazards to public safety which may be introduced to the premise as part of an event. The Licensing Authority may exercise controls over occupancy at such event so that premises can be cleared safely and efficiently, in the event of an emergency.
- 16.8 Where an applicant identifies an issue with regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should indicate in the operating schedule the steps which will be taken to ensure public safety. Depending on the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided, the following issues may be of relevance:
- The maximum capacity of the premises, and the arrangements for ensuring that a capacity limit is not exceeded and for monitoring capacity. This applies to the premises as a whole and to different rooms or levels within the premises.
 - Steps taken to ensure that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to ensure the safety of the public
 - The design of the premises and in particular the capability of the structure to bear the likely loads to be imposed at maximum occupancy.
 - The structural condition of the premises and state of repair.
 - The condition of the electrical and gas services, and arrangements for temporary electrical installations.
 - The lighting, heating and ventilation systems.
 - The fire resisting and fire separation properties of the premises.
 - The means of escape from the premises.

- The adequacy of the sanitary arrangements.
- The use of flame retardant materials on fixtures and fittings.
- The protection and safety of the audience, particularly at any indoor sporting event or boxing or wrestling entertainment.
- The availability of qualified first aiders when the premises are open.
- The protection and safety of performers of entertainment.

The Licensing Authority will expect the applicant to have carried out a risk assessment on these matters in producing the operating schedule. The above list is not intended to be exhaustive, and the Licensing Authority will expect the applicant to have considered all relevant aspects of the safety and suitability of the premises which are not dealt with under other legislation, and which are within the control of the applicant.

4.0. LEGAL IMPLICATIONS

4.1 Members are reminded that they should:

- follow the rules of natural justice and the code of conduct for elected members in licensing applications.
- have read or should hear all the facts prior to making a determination.
- Give consideration to the Human Rights Act 1998, in particular:
 - the right to peaceful enjoyment of possessions;
 - the right to a fair and public hearing within a reasonable time;
 - respect for private and family life; and
 - the right to freedom of expression.

5.0 Conclusion

In accordance with Section 105(2) of the Licensing Act 2003, the Sub-Committee should consider the representation and must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (i) impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event). Members should note that this option isn't available on this occasion as the premises does not hold a licence and there are therefore no existing conditions.
- (ii) determine that the event would undermine the licensing objectives and serve a counter notice
- (iii) allow the licensable activities to go ahead as stated in the notice.

The matter for decision, therefore, is which of these steps should be taken.

Miss Gaffney has been invited to attend this hearing and he has been advised of his rights to be represented.

6.0 A copy of the Licensing Authorities Conduct of Hearing Procedures is set out at **Appendix 4.**

Appendix 1 Submitted Temporary Event Notices

Appendix 2 Existing Premise Licence

Appendix 3 Representation received

Appendix 4 Licensing Authorities Conduct of Hearing Procedures

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Good afternoon,

Please consider this correspondence as the police objection to the TEN submitted by Holly Gaffney for Biggins Farm on 8th July 2022.

The reason for this is that I do not feel there is enough information to make a reasonable objective decision. As such this undermines the promotion of all four of the licensing objectives.

The application simply refers to a charitable music event. However, I spoke with the applicant who confirmed that this will be a fund-raising dance music event until 2am.

I asked the applicant to provide suitable Risk Assessments for the event, along with more detail, prior to the deadline for the TEN to show what they would be doing to promote the licensing objectives.

This has not been forthcoming so I feel I have no choice but to object due to the lack of tangible information.

Kind regards

Gary

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