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TITLE :	LICENSING ACT 2003 DETERMINATION HEARING The Walmsley Arms, Great Harwood
TO:	LICENSING SUB-COMMITTEE
TIME:	QER room, Scaitcliffe House, ACCRINGTON
BY :	WENDY REDFERN, LICENSING MANAGER
STATUS :	PUBLIC

1. PURPOSE OF THE REPORT

- 1.1 To advise elected members of the details of an application for a variation of a Premises Licence and a determination required under Section 35 of the Licensing Act 2003.

2. RECOMMENDATIONS

- 2.1 That the Sub-Committee make a determination at the end of the hearing or within 5 working days of the last day of this hearing as required by Regulation 26(2) Licensing Act 2003 (Hearings) Regulations 2005

3. REPORT OF THE LICENSING MANAGER

THE APPLICATION

- 3.1 Star Pubs and Bars Limited, the Premises Licence Holder, has made an application to this Licensing Authority for the variation of a Premises Licence for The Walmsley Arms which is situated at 26 Queens Street, Great Harwood. A copy of the application and plan is attached at **Appendix A** to this report.

- 3.2 The application is to vary the premise licence to:-

Amend the licensing hours for the sale of alcohol, recorded music and late night refreshment to 0100 daily, and the closing hours to 0130 daily.

To remove the condition attached to the licence relating to door supervisors which is set out below:-

When the premises are open for the purpose of carrying on licensable activities after 2300 hours on Friday there must be at least one SIA registered door supervisor on duty from 2300 hours until the close of business.

When the premises are open for carrying out licensable activities after 2300 hours on a Saturday there must be at least two SIA registered door supervisors on duty from 2300 hours until close of business.

The door supervisors shall carry out a regular check of the perimeter of the premises.

To remove the condition from the licence relating to last entry to the premises which is set out below:-

The premise shall operate a last entry policy. On a Thursday and Sunday last entry or re-entry into the premise shall be 0100 hours and on a Friday and Saturday the last entry or re-entry into the premises shall be 0200 hours. This effectively means that on those days there will be no entry into the premise in the hour before the last permitted sale of alcohol.

To amend the opening hours to 0800 daily, for the provision of the non-licensable activities e.g. sale of tea/coffee/breakfast.

- 3.4 The current licence was granted on conversion in November 2005 and has been subject to various changes of supervisors and premise licence holders over the years. The license allows for the following licensable activities:

Activity	Day	Hours Permitted
Late Night Refreshment	Monday to Wednesday	2300 - 0000
	Thursday	2300 - 0200
	Friday & Saturday	2300 - 0300
	Sunday	2300 - 0200
Supply of alcohol – consumption on and off the premise	Monday to Wednesday	1000 - 0000
	Thursday	1000 - 0200
	Friday & Saturday	1000 - 0300
	Sunday	1000 - 0230
Bar in Beer Garden	Monday to Thursday	1000 - 2300
	Friday to Sunday	1000 - 0000
Performance of Live Music (Indoors)	Monday to Sunday	1000 - 2300
Playing of Recorded Music (Indoors)	Monday to Wednesday	1000 - 0000
	Friday & Saturday	1000 - 0300
	Sunday	1000 - 0200
Playing of Recorded Music (Outdoors)	Monday to Sunday	1000 - 2300

- 3.5 Hours Premises are to be open to the public

Day	Hours Permitted
Monday to Wednesday	1000 - 0030
Thursday	1000 - 0230
Friday & Saturday	1000 - 0330
Sunday	1000 - 0230

There are none standard timings on all activities, from the end of New Year's Eve permitted hours until permitted hours on New Year's Day

The current licence is attached at **Appendix B** to this report.

- 3.6 For members information the premise licence was subject to review in June 2017 following an application to review which was submitted by a local resident on the grounds of public nuisance. The conditions relating to last entry and door supervisors were attached to the licence by the Licensing sub-committee following the review. At the time of the review the premise licence holder was John Yeoman and he was also the Designated Premise Supervisor (DPS), although the premise was owned by Star Pubs and Bars.
- 3.7 On 18th January 2018 the premise licence was transferred to Star Pubs and Bars and at the same time a change of DPS was submitted and a new DPS was put in place at the premise.
- 3.8 Throughout 2018 the premise was very problematic with numerous complaints being submitted by local residents relating to nuisance and noise. The licensing enforcement officer also witnessed various breaches of licence conditions. The Council considered reviewing the premise licence, however at the beginning of 2019, with licensing officers working jointly with Star Pubs and Bars, the problem was resolved as the DPS was removed from the premise and it was closed in January 2019 and it is still closed at the time of writing this report.

4. THE REPRESENTATIONS

- 4.1 It has been determined that this is a valid application for a variation of Premises Licence, and all notices have been properly displayed.
- 4.2 During the 28 day mandatory consultation period 4 valid representations were received. Three of the representations are from local residents and one representation is from the Hyndburn Borough Council Environmental protection officer in his capacity as responsible authority.

The representations are illustrated in full at **Appendix C** of this report.

- 4.3 The issues raised by the representations relate to the following licensing objective –
- The prevention of public nuisance
 - The prevention of crime and disorder

THE LICENSING ACT 2003

- 5.1 The Licensing Act 2003 requires you to:
- A) have regard to the Representations and only consider elements of representations that are about the likely effect of the grant of the premises licence on the promotion of the Licensing Objectives
 - B) take only such of the steps as you consider appropriate for the promotion of the Licensing Objectives.
- 5.2 The steps you may take are:-
- (a) to modify the conditions of the licence.
 - (b) to reject the whole or part of the application.

5.3 Members are also advised that you should take account of the Statutory Guidance to the Act which sets out in relation to live and recorded music in alcohol licensed premises as set out below:-

As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

Members should note that conditions relating to live and recorded music can only be re applied following an application for a review of the premise licence.

5.4 Members are also referred to Hyndburn Licensing Authority's Statement of Licensing Policy

6. LEGAL IMPLICATIONS

6.1 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.

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

Appendix A Application for a variation of a Premise Licence

Appendix B Current Licence

Appendix C Representations received

Appendix D Licensing Authorities Conduct of Hearing Procedures

