



# HYNDBURN

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**TITLE :** LICENSING ACT 2003 DETERMINATION HEARING  
The Topsy Cow, Great Harwood

**TO:** LICENSING SUB-COMMITTEE

**TIME:**

**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 Lynette Toon, the Premises Licence Holder, has made an application to this Licensing Authority for the variation of a Premises Licence for The Topsy Cows which is situated at 2 Church 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:-

Include the cellar in the licensed area to be used as a private Karaoke booth on a Friday and Saturday during the premises normal operating times.

3.4 The current licence was granted on conversion in March 2018. The license allows for the following licensable activities:

<b>Activity</b>	<b>Day</b>	<b>Hours Permitted</b>
Supply of alcohol – consumption on and of the premises	Sunday to Thursday Friday and Saturday	1000 - 2300 1000 - 0100
Performance of Live Music (Indoors)	Friday and Saturday	2300 - 0100
Playing of Recorded Music (Indoors)	Friday and Saturday	2300 - 0100

3.5 Hours Premises are to be open to the public

<b>Day</b>	<b>Hours Permitted</b>
Sunday to Thursday	1000 - 0000
Friday and Saturday	1000 - 0200

**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.

#### **4. THE REPRESENTATION**

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 a valid representations was received. from the Lancashire Fire and Rescue Service in their capacity as responsible authority.

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

4.3 The issues raised by the representations relate to the following licensing objective –

- Public Safety

#### **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

