



**TITLE :** LICENSING ACT 2003 DETERMINATION HEARING  
Bees Knees, Accrington

**TO:** LICENSING SUB-COMMITTEE

**DATE/TIME:** Tuesday 20<sup>th</sup> February – 09:30  
QE Room, Scaitcliffe House, Accrington

**Objection from :** Paul Thwaites, Environmental Protection Manager, Hyndburn  
Borough Council

**STATUS :**

**1. PURPOSE OF THE REPORT**

Hearing held under Section 105(2)(a) of the Licensing Act 2003 following an objection from Simon OHara on behalf of Environmental Protection, Hyndburn Borough Council.

*In relation to:-*

**Temporary Event Notice – Bees Knees 89-97 Blackburn Road, Accrington**

**1.1 RECOMMENDATIONS**

The Sub-Committee is requested to consider the Temporary Event Notices (TEN) submitted by Miss Jey Chloe Gregory and the subsequent objection submitted by Simon OHara on behalf of the Environmental Protection Team, Hyndburn Borough Council

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 7<sup>th</sup> February a Temporary Event Notices (TEN) under Section 100 of the Licensing Act 2003 was served upon Hyndburn Borough Council by Miss Jey Chloe Gregory in respect of Bees Knees, Accrington for an event to take place on 31<sup>st</sup> March – 1<sup>st</sup> April 2024 between the hours of 0000 and 0300.

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

- 2.2 The notice stated that it was submitted to facilitate late supply of alcohol and extended opening hours for the Bank Holiday weekend. The activities requested during the extended hours are the sale by retail of alcohol for consumption on the premises and the provision of late night refreshment. There was no request for the provision of regulated entertainment.
- 2.3 For members' information the premises already has the benefit of a premises licence issued under the Licensing Act 2003. A copy of the licence is attached at **Appendix 2**. The premises licence permits regulated entertainment, the provision of late night refreshment and the sale by retail of alcohol as set out below:-

Activity	Day	Permitted Times
Exhibition of Films	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100
Indoor Sporting Event	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100
Performance of Live Music (Indoors)	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100
Playing of Recorded Music (Indoors)	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100
Performance of Dance (Indoors)	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100
Late Night Refreshment (Indoors)	Monday – Wednesday	2300 – 0100
	Thursday – Saturday	2300 – 0300
	Sunday	2300 - 0100
Supply of alcohol for consumption on and off the premises	Monday – Wednesday	1000 – 0100
	Thursday – Saturday	1000 – 0300
	Sunday	1000 - 0100

### **3.0 Details of the objection**

On 8<sup>th</sup> February in accordance with Section 104(2) of the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011, Paul Thwaites on behalf of Environmental Protection, Hyndburn Borough Council, submitted an objection to the TEN's on the grounds of:

- The Prevention of public nuisance

A copy of the objection is attached at **Appendix 3**.

### **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**

- 3.1 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
- 3.2 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:-

#### **4.0 Prevention of public nuisance**

- 4.1 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.
- 4.2 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.
- 4.3 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.

- 4.4 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.
- 4.5 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.
- 4.6 Ultimately, if conditions or other legislation cannot adequately address the issues of nuisance, an application may be refused or a licence revoked.
- 4.7 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.
- 4.8 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.

## **5.0. LEGAL IMPLICATIONS**

- 5.1 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.

## 6.0 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
- (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.

6.1 When making the decision members should pay particular attention to the relevant section of Councils own Policy which relates to Public Nuisance and is set out within this report.

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

6.2 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 Licence

**Appendix 3** Representation received

**Appendix 4** Licensing Authorities Conduct of Hearing Procedures



