



**TITLE :** LICENSING ACT 2003 DETERMINATION HEARING  
Opium & Voodoo Lounge, Willow Street, Accrington

**TO:** LICENSING SUB-COMMITTEE

**DATE/TIME:** Friday 5<sup>th</sup> January 2018  
QE Room, Scaitcliffe House, Accrington

**Objection from :** JASON MIDDLETON, 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 Jason Middleton on behalf of the Lancashire Constabulary.

*In relation to:-*

**Temporary Event Notice(s) – Opium & Voodoo Lounge, Accrington**

1.1 **RECOMMENDATIONS**

The Sub-Committee is requested to consider the Temporary Event Notices (TEN) submitted by Mr Richard Stansfield and the subsequent objection submitted by Jason Middleton 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 21<sup>st</sup> December 4 Temporary Event Notices (TEN's) under Section 100 of the Licensing Act 2003 were served upon Hyndburn Borough Council by Mr Richard Stansfield in respect of the premises known as Opium & Voodoo Lounge, Willow Street, Accrington for events to take place on:

6<sup>th</sup> and 7<sup>th</sup> January 2018 from 00.00 to 05.00 and 23.30 and 00.00 on 6<sup>th</sup> January and from 00.00 to 05.00 on 7<sup>th</sup> January.

**13<sup>th</sup> and 14<sup>th</sup> January:** From 00.00 to 0.500 and 23.30 to 00.00 on 13<sup>th</sup> January and from 00.00 to 00.500 on 14<sup>th</sup> January.

**20<sup>th</sup> and 21<sup>st</sup> January:** From 00.00 to 05.00 and 23.30 to 00.00 on 20<sup>th</sup> January and from 00.00 to 05.00 on 21<sup>st</sup> January.

**27<sup>th</sup> and 28<sup>th</sup> January:** From 00.00 to 05.00 and 23.30 and 00.00 on 27<sup>th</sup> January and from 00.00 to 05.00 on 28<sup>th</sup> January.

The TEN's are 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 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 and the sale by retail of alcohol as set out below:-

<b>Activity</b>	<b>Day</b>	<b>Permitted Times</b>
Performance of Live Music	Monday – Sunday	12.00 – 05.00
Playing of Recorded Music	Monday – Sunday	12.00 – 05.00
Entertainment of a similar description	Monday - Sunday	12.00 – 05.00
Performance of dance	Monday - Sunday	12.00 – 05.00
Late Night Refreshment	Monday – Sunday	23.00 – 05.00
Supply of alcohol – consumption on and off the premise (j)	Monday – Sunday	23.00 – 05.00

- 2.4 Members may recall that the premise licence was subject to a review hearing on 14<sup>th</sup> December 2017 following an application from the Executive Director of Legal and Democratic services, representing the Council in its role of responsible authority. The premise licence was revoked, however members should be aware that the licence holder does have 21 days to appeal the decision following receipt of the decision notice, and during that time the premise licence can still be used.
- 2.5 On the 15<sup>th</sup> December an email was sent to Richard Stansfield and cc'd to the licensing manager from Michael Cookson who holds the premise licence for Opium & Voodoo stating that the licence could not be used by Mr Cookson if he intended to carry out the drinks promotions that led to the revocation of the licence. A copy of the email is attached at **Appendix 3**.
- 2.6 The fact that the TEN's have been submitted to eliminate the requirement to use the premise licence could indicate that the intention is to carry out the irresponsible drinks promotions which led to the revocation of the licence. The premise is still advertising the 'Limitless' drinks promotions on Facebook. Members should be aware that the TEN's would not be subject to any of the licensing conditions unless they are applied following a hearing.

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

On 27<sup>th</sup> December 2017 in accordance with Section 104(2) of the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011, Jason Middleton on behalf of the Lancashire Constabulary submitted an objection to the TEN's on the grounds of the Prevention of Crime and Disorder.

A copy of the objection is attached at **Appendix 4**.

### **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:

- a) 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 section relating to Crime and Disorder in Hyndburn Licensing Authority's Statement of Licensing Policy which is set out below:-

### **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.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

- 15.10 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person’s known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.

#### **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)
- (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.

Mr Stansfield 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

