

LICENSING ACT 2003 SUB COMMITTEE

Thursday, 31st October, 2019
10.00 am





LICENSING ACT 2003 SUB COMMITTEE

Thursday, 31st October, 2019 at 10.00
am

AGENDA

1) *Appointment of Chair*

To consider the appointment of Chair for the meeting

2) *Apologies for Absence*

To receive any apologies for absence

3) *Minutes of the last Meeting*

5 - 6

To approve as a correct record the Minutes of the last Licensing Act 2003 Sub Committee meeting held on 18th October 2019.

4) *Additional Items of Business*

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency

5) *Declaration of Interest*

In accordance with the Regulations, Members are required to declare any personal or personal and prejudicial interests they may have and the nature of those interests in respect of items on this agenda and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.

6) *Exclusion of the Public*

To determine during which items, if any, the public are to be excluded from the meeting

7) *Determination of an Application to vary a Premises Licence- change DPS at the Turf Hotel*

7 - 10

To determine an application to vary a Premises Licence to change the Designated Premises Supervisor (DPS) at the under the Licensing Act 2003 at the Turf Hotel, 49 Yorkshire Street, Burnley, BB113BW.

a) *Appx 1 - Premises Licence*

11 - 20

b) *Appx B- Vary DPS Application*

21 - 24

c) *Appx C- Lancashire Police Objection*

25 - 26

8) *Licensing Act 2003 Conduct of Hearing*

27 - 34

MEMBERSHIP OF COMMITTEE

Councillor Ivor Emo (4th Member)
Councillor Peter Gill

Councillor Lorraine Mehanna
Councillor Jeff Sumner

PUBLISHED

Wednesday, 23RD October 2019

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BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Friday, 18th October, 2019

PRESENT

MEMBERS Councillor Jeff Sumner

Councillors F Cant and I Emo

OFFICERS

Emma Barker	– Principal Legal Officer - Litigation & Regulation
John Clucas	– Licensing and Compliance Officer
Eric Dickinson	– Democracy Officer

24 Appointment of Chair

Councillor Jeff Sumner was appointed as Chair for this meeting.

25 Minutes of the last Meeting

The Minutes of the last meeting held on the 29th January 2019 were agreed as a correct record and signed by the Chair.

26 Exclusion of the Public

That the determination of a review of the premises licence under the Licensing Act 2003 relating to the A to Z Off Licence, 91 Raglan Road, Burnley, BB11 4LB be held in public.

27 Determination of an application for a Review of a Premises Licence - Raglan Road Off Licence

John Clucas reported on a review of a premises licence at A to Z Off Licence, 91 Raglan Road, Burnley, BB11 4LB and presented a report on behalf of the Licensing Authority relating to Regulation 26 (1) of the Licensing Act 2003.

Sam McConnell from Lancashire County Council (LCC) presented the case on behalf of LCC Trading Standards.

David Lawson of Donald Race & Newton presented the case on behalf of Kamran Arshad who is the Premises Licence Holder and the Designated Premises Supervisor of A to Z Off Licence.

DECISION AND REASON FOR DECISION

Decision

That having considered all the representations the Sub Committee has decided not to revoke the premises licence for A to Z Off Licence but to impose the following conditions agreed between LCC Trading Standards and A to Z Off Licence;

- (1) Strict check 25 policy;
- (2) Documented records in an A4 binder containing a refusals register, a signed check 25 policy and records of all staff employed at the premises
- (3) 28 day CCTV coverage
- (4) That Qaiser Mohammed, Ali Mahmood and Aioun Shah not enter the premises of A to Z Off Licence.

Also, if Amran Arshad was to appear before the Licensing Committee again regarding A to Z Off Licence, then a more strict approach may be taken.

Reason For Decision

Based on the evidence presented, to further the Licensing objective of the prevention of crime and disorder.

REPORT TO LICENSING SUB-COMMITTEE



DATE	Thu 31st October 2019
PORTFOLIO	Governance, Law & Regulation
REPORT AUTHOR	John Clucas
TEL NO	0114 3999061
EMAIL	jclucas@burnley.gov.uk

Licensing Act 2003 Determination of an application for a review of a premises licence

PURPOSE

1. To advise members of the requirement to determine an application to vary a premises licence to change the DPS at the Turf Hotel, Yorkshire Street, Burnley to Bobby CARTER.
2. The applicant is MGB (Burnley) Ltd which are the Premises Licence holders.

The objection has come from PC Michael Jones, Police Licensing Unit, Lancashire Constabulary

RECOMMENDATION

3. Members are recommended to make determinations as required by Regulation 26(2) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to either grant the applications or, having regard to the Police objection notice, reject the applications if it considers it necessary for the promotion of the crime prevention objective to do so

REASONS FOR RECOMMENDATION

4. Members of the Licensing Committee are responsible for determining such applications.

SUMMARY OF KEY POINTS

5. The Licensing Objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

The premises currently hold a licence which authorises the supply of alcohol for consumption ON and OFF the premises Sunday to Wednesday from 10.00 am to 1.30am and on Thursday to Saturday 10am to 2am. A copy of the current premises licence is attached at Appendix A

The holder of the premises licence is MGB (Burnley) Ltd and the existing Designated Premises Supervisor is Joshua Daniel GREENWOOD-SUTTON.

On the 26th September 2019, the Licensing Authority received an application from MGB (Burnley) Ltd to vary the premises licence to change the DPS to Bobby CARTER. The applications to vary the DPS had immediate effect. A copy of the application is attached at Appendix B

A copy of the application was sent to the Lancashire Constabulary, and on 7th October 2019 an objection to the application was made by PC Jones from the Police Licensing Unit on behalf of the Chief Officer of Police – the objection was based on crime and disorder.

A copy of the grounds for objection are attached at appendix C

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

6. None

POLICY IMPLICATIONS

7. The following paragraph from Burnley Borough Council's Statement of Licensing Policy agreed by Full Council are relevant to this application:

3.7 Under the Crime and Disorder Act 1998, the authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder. Where its discretion is engaged, the authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Lancashire County Council Community Safety Action Plan and any local community safety priorities or emerging threats identified Burnley Community Safety Delivery Group (MATAC)

The following paragraphs from the Section 182 Home Office Guidance published in April 2018 are also relevant to this application:

4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

8.98 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

8.99 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

DETAILS OF CONSULTATION

8 No consultation is required under this legislation for this particular matter.

BACKGROUND PAPERS

- 9 Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.

Home Office Guidance issued under Section 182 of the Licensing Act 2003

FURTHER INFORMATION

PLEASE CONTACT:

**John Clucas ext 249061
Karen Davies ext 249058**



Burnley Borough Council

Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence

PLA0165

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Turf Hotel

49 Yorkshire Street, Burnley, Lancashire, BB11 3BW.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		
C. Indoor sporting event	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		
E. Performance of live music (Indoors)	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		

Licensing Act 2003

Premises Licence

PLA0165

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
F. Playing of recorded music (Indoors)	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		
G. Performance of dance (Indoors)	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		
I. Late night refreshment (Indoors)	Sunday to Wednesday	11:00pm	1:30am
	Thursday to Saturday	11:00pm	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 2300 to 0200 Christmas Eve from 2300 to 0200		
J. Supply of alcohol for consumption ON and OFF the premises	Sunday to Wednesday	10:00am	1:30am
	Thursday to Saturday	10:00am	2:00am
	Non Standard Timings:		
	From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day Sunday prior to a Bank Holiday Monday 1000 to 0200 Christmas Eve from 1000 to 0200		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Wednesday	10:00am	1:30am
Thursday to Saturday	10:00am	2:30am
Non Standard Timings:		
From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day		

Licensing Act 2003

Premises Licence

PLA0165

THE OPENING HOURS OF THE PREMISES continued ...

Description	Time From	Time To
Sunday prior to a Bank Holiday	Monday 1000	to 0230
Christmas Eve	from 1000	to 0230

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

MGB Burnley Ltd Fleece House, 213 Accrington Road, Burnley, Lancashire, BB11 5ES.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

MGB Burnley Ltd 5135164

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Joshua Daniel GREENWOOD-SUTTON Turf Hotel, 49 Yorkshire Street, Burnley, Lancashire, BB11 3BW.

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. 19/01329 Issued by Stockport

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

No supply of alcohol may be made under the premises licence -

- (a) At a time when there is no designated premises supervisor in respect of the premises, or
 - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

When a film is exhibited, admission of children to that part of the premises must be restricted in accordance with any recommendation made by the British Board of Film Classification in relation to that film.

Use of door supervisors.

Each individual in the premises who carries out a security activity must be licensed by the Security Industry Authority unless the premises or part of the premises where they are present is being used wholly or mainly as a restaurant or guest house, for theatrical performances or plays, or a Gaming Licence is for the time being in force in respect of those premises.

Licensing Act 2003

Premises Licence

PLA0165

ANNEXES continued ...

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Licensing Act 2003

Premises Licence

PLA0165

ANNEXES continued ...

The responsible person shall ensure that-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

ANNEX 2 - Conditions consistent with the Operating Schedule

The premises shall be equipped with a CCTV system that covers internally and externally. The data recorded by the system shall be kept for 21 days and shall be available for inspection by the Police or other responsible authority.

On occasions when Burnley FC are playing a category 'C' game the premises will close at the request of the Police for a specified period.

On occasions when Burnley FC are playing a category 'C' game only plastic glasses shall be used

Fire fighting equipment shall be checked annually

All members of staff shall be aware of the location of fire fighting equipment and how to use it

Pre opening safety checks shall take place prior to the opening of the premises to the public

Signage shall be prominently displayed at all exits to the premises asking people to leave quietly at the end of the evening.

At all times the DPS or other responsible person nominated by him shall ensure that the level of noise emitting from the premises shall be kept to a minimum by regulating the noise from within the premises.

Any DJ employed at the premises shall ask customers to leave quietly at the end of the evening

Any person who looks or appears to be under the age of 21 years shall be asked to provide identification that they are over the age of 18years. The following are the only forms of identification acceptable; UK photo driving licence, Passport, PASS card (proof of age standards scheme)

ANNEX 3 - Conditions attached after a hearing by the licensing authority

None

ANNEX 4 - Plan of Premises

The official plan of the premises is attached and endorsed



Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence

PLA0165

Licensing Act 2003
Premises Licence Summary **PLA0165**

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Turf Hotel
 49 Yorkshire Street, Burnley, Lancashire, BB11 3BW.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

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Licensing Act 2003

Premises Licence Summary

PLA0165

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

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Licensing Act 2003
Premises Licence Summary **PLA0165**

THE OPENING HOURS OF THE PREMISES continued ...

Description	Time From	Time To
Sunday prior to a Bank Holiday	Monday 1000	to 0230
Christmas Eve	from 1000	to 0230

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

MGB Burnley Ltd Fleece House, 213 Accrington Road, Burnley, Lancashire, BB11 5ES.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

MGB Burnley Ltd 5135164

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Joshua Daniel GREENWOOD-SUTTON

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Restricted by Section 145 Licensing Act 2003

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Appx B

Details entered: 27 September 2019 at 14:46 by Lisa Tempest
 Date requested: Reason:
 Date received:
 Appointment date: Appointment time:
 Result: OK Result Date:
 Name: Number:
 Date commences: Date expires:
 Notes:

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We MGB (BLW) LTD
(full name(s) of premises licence holder)
 being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number
PLA 0165

Part 1 - Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description
TURF HOTEL
49 YORKSHIRE ST

Post town: BURNLEY ; Post code (if known): BB11 3BW

Telephone number (if any):

Description of premises (please read guidance note 1)

PUBLIC HOUSE

Details entered: 27 September 2019 at 14:46 by Lisa Tempest
Date requested:
Date received:
Appointment date:
Result: OK
Name:
Date commences:

Reason:
Appointment time:
Result Date:
Number:
Date expires:

Notes:

Part 2

Full name of proposed designated premises supervisor

BOBEY CARTER

Nationality

BRITISH

Place of birth

BURNLEY

Date of birth

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

PA1105

Full name of existing designated premises supervisor (if any)

MR JOSH GREENWOOD SUTTON

Please tick yes

would like this application to have immediate effect under section 36 of the Licensing Act 2003 (Please read guidance note 2)



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

I have made or enclosed payment of the fee



I will give a copy of this application to the chief officer of police (Please read Guidance note 3)



I have enclosed the consent form completed by the proposed premises supervisor



I have enclosed the premises licence, or relevant part of it or explanation



I will notify the existing premises supervisor (if any) of this application (Please read guidance note 4)



I understand that if I do not comply with the above requirements my application will be rejected



Details entered: 27 September 2019 at 14:46 by Lisa Tempest
 Date requested: Reason:
 Date received:
 Appointment date: Appointment time:
 Result: OK Result Date:
 Name: Number:
 Date commences: Date expires:

Notes:

IT IS AN OFFENCE, UNDER SECTION 158 OF THE UK VISAS ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24(1) OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS.

THOSE WHO EMPLOY AN ADULT WITHOUT A VALID LEAVE TO ENTER OR REMAIN IN THE UK OR AN ADULT WHO IS SUBJECT TO CONDITIONS WHICH WOULD PREVENT THAT PERSON FROM TAKING UP EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED BY VIRTUE OF THEIR IMMIGRATION STATUS.

Part 3 - Signatures: (please read guidance note 5)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note D). If signing on behalf of the applicant please state in what capacity.

Signature

Date 26 - Sept - 19

Capacity Director

For joint applicants signature of 2nd applicant 2nd applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8)
 MGB (BLN) LTD
 PALFEE HOUSE
 215 ACCRINGTON RD

Post town BURNLEY Post Code BB11 5ES

Telephone number (if any)

If you would prefer to be contacted with you by e-mail your e-mail address (optional)

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**Lancashire
Constabulary**

police and communities together

7th of October 2019

Licensing Unit
Burnley Borough Council

**Police Objection to the application for the DPS variation at The Turf Hotel, 49
Yorkshire Street, Burnley**

Please accept this as the police representation to the application received for a DPS variation for THE TURF HOTEL, 49 YORKSHIRE STREET, BURNLEY to BOBBY CARTER.

The police are formally objecting to the application as we have concerns that the crime prevention licensing objective will be undermined if the DPS variation is granted.

The grounds for concern are:

The previous DPS Josh Sutton has confirmed that he left the premises about 12 weeks ago and was told that he would be contacted when a new DPS was identified but to date has not had any contact.

Since that time the premises have been run by Bobby Carter and Police records have shown a significant rise in incidents, namely 18 which accounts for 44% of incidents for the last 12 months.

All the incidents bar 1 relate to violence and public order offences directly linked to the premises and 1 male was tasered by the officers attending. During the latter incident the male had assaulted an innocent male customer, attempted to take cash from a male attending to a gambling machine, and started another fight with another male which continued outside in the street. The male was allowed to re-enter the premises and was allowed access to the private area whether with the consent of Carter or through fear of the male, who has previously caused issues in the premises. Carter would not provide a statement to the Police concerning the events and did not call the Police himself and was unaware who had contacted us. This mirrors a previous incident when a male was arrested for Affray after throwing furniture around the premises. The case was not progressed as Carter would not provide a statement which gives customers the message that they can commit offences without fear of any consequences.

Whilst CCTV has been provided, this was also released by Carter to the suspect who has distributed over Social media, attracting in excess of 250 negative comments towards the Police, aside to potentially jeopardising the investigation. Carter appears to have limited knowledge around this aspect and following a licensing check had little knowledge of his responsibilities. Previous calls to the premises have highlighted that Carter has appeared to be under the influence of substances, no one could operate

the CCTV system, broken glass was found both inside and outside the premises and no door staff were present. The Pub was closed on the advice of the attending officers as it was deemed to be unsafe.

The Turf Hotel is not part of the Town Centre Pub scheme due to a previous breach of confidential information and as such the premises have become a magnet for people banned from other premises.

There have recently been reports of 15 years drinking inside the premises and people getting so drunk that they have reported being assaulted, only for other CCTV to prove that they have fallen over through their drunkenness but not being able to recall the events.

Bobby Carter is only 20 years old and has only held his personal licence since the 31st of July 2019 and I believe that he lacks the experience and knowledge to run The Turf Hotel which has a reputation as a troublesome premises.

From Police records, the Turf has the highest number of incidents,(43) over the last 12 months compared to similar premises in the town centre, the next being 24 incidents. and 10 times the incidents of neighbouring premises.

These concerns and incidents reinforce my belief that Carter is unfit to be granted the DPS as I feel this undermines the promotion of certain licensing objectives – namely the prevention of crime and disorder.

It would also undermine the other licensing objectives, namely public safety, the prevention of public nuisance and the protection of children from harm.

Further, I reserve the right to bring further evidence to any hearing should any arise between now and then.

Regards

Pc 2623 Michael Jones
Licensing Officer– East Division



BURNLEY BOROUGH COUNCIL

LICENSING ACT 2003

THE CONDUCT OF HEARINGS

1. Application

- 1.1 All hearings subject to the Licensing Act 2003 (Hearings Regulations) 2005 will be held in accordance with this procedure. Schedule 1 details the hearing which are subject to this procedure.

2. Time of Hearing

- 2.1 Hearings will commence within the times illustrated in Column 2 of Schedule 1, and where the hearing is scheduled to take place on more than one day, it will take place on consecutive working days.
- 2.2 Hearings will normally take place from 2-5pm or 6-9pm on the day of the hearing, but hearings may take place at the discretion of the Committee or Sub-Committee appointed to hear the matter in exceptional circumstances.

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, excluding a member who:
- a) has sat on a Development Control hearing in respect of the premises subject to, or concerned in the Licensing Act 2003 application and/or
 - b) is affected by the application e.g. to be assessed on a case by case basis when a Member is a Member for the Ward or a nearby Ward in which the premises are situated

- c) has become an interested party by representing the applicant or any interested party prior to the hearing.

3.2 Where a Sub-Committee sit to hear an application, it will consist of 3 members of the full Committee and will exclude a member who:

- a) has sat on a Development Control hearing in respect of the premises subject to, or concerned in the Licensing Act 2003 application and/or
- b) is affected by the application e.g. to be assessed on a case by case basis when a Member is a Member for the Ward or a nearby Ward in which the premises are situated
- c) has become an interested party by representing the applicant or any interested party prior to the hearing.

3.3 Members will act in accordance with the Licensing Act 2003, be aware 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 and the requirements of the Standards Board for England and Wales.

4. Opening of a Hearing and Identifying Parties to the Hearing

4.1 The Chair of the Committee or Sub-Committee will introduce the members of the Committee or Sub-Committee.

4.2 The Licensing Manager or Legal Advisor will advise the Committee or Sub-Committee but will not make recommendations or be part of the determination process. They will not retire with the Committee or Sub-Committee members for the purposes of a determination but the Legal Advisor may be asked by the Committee or Sub-Committee to give advice.

4.3 At the commencement of proceedings the Legal Advisor will identify in turn, each party to the hearing who is present, and in relation to that party, whether they are represented, and if so, by whom.

4.4 The Legal Advisor will identify in turn each party to the hearing who is not present at the hearing and in relation to that party will clarify;

- a) whether there is evidence that they were given Notice of the Hearing

- b) whether that party has given notice that they intend to attend or be represented
 - c) whether that party has given notice that they consider a hearing to be unnecessary
 - d) whether that party has given notice that they wish to withdraw their representation
- 4.5 Where a party has given notice that they do not intend to attend or be represented, the Committee or Sub-Committee will state whether they intend to proceed in the absence of that party.
- 4.6 Where a party has not given such notice and has failed to attend or be represented, the Committee or Sub-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 Committee or Sub-Committee may invite representations from the other parties present on this issue before making their decision.
- 4.7 The Committee or Sub-Committee, should it decide to proceed must subsequently consider the application, representation or notice made by a party who does not attend, attaching the appropriate weight of evidence to it.

5. Hearings to be held in public

- 5.1 Unless the Committee determine otherwise following consideration of representations, if any, from the parties present, the hearing shall take place in public. A member of the public, unless a party to the hearing or a person granted permission to address the hearing by the Committee or Sub-Committee at the request of one of the parties, shall not be entitled to address the hearing.
- 5.2 Where representations are made under 5.1 above, such parts or the hearing as the Committee or Sub-Committee in their absolute discretion determine shall be held in private.
- 5.3 The decision at paragraph 5.2 and the reasons for it will be given in public, and the Committee or Sub-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.

6. Commencement of the Hearing

- 6.1 The Legal Advisor will explain the procedures that the Committee or Sub-Committee will follow at the hearing. In particular the Legal Advisor will clarify that;:
- a) the hearing will take the form of a discussion led by the Committee or Sub-Committee and cross-examination will not be permitted unless the Committee or Sub-Committee considers that cross examination is required for it to consider the representations, application or notice as the case may require.
 - b) Members of the Committee or Sub-Committee may ask a question of any party or other person appearing at the hearing.
 - c) Members of the Committee or Sub-Committee may take into account documentary or other information produced to the authority before the hearing in support of their application, representation or notice. These will have been provided to the Committee or Sub-Committee members by the Licensing Manager prior to the meeting and the substantive content of the documents need not be repeated verbally at the hearing.
 - d) Members of the Committee or Sub-Committee may take into account any new documentary or other information produced to the authority on the day of the hearing with the content of all other parties (if any) and the substantive content of any such documents need not be repeated verbally at the hearing.
 - e) Parties will be allowed a maximum equal period to exercise their rights, such period to be determined by the Committee or Sub-Committee.
 - f) Parties will be allowed to clarify points upon which they wish to support their application.
 - g) Parties may seek permission to question any other party subject to Paragraph a) above.
 - h) Parties may seek permission to address the Committee or Sub-Committee.

7. Procedure

- 7.1 The Licensing Manager or other appointed officer of the Licensing Authority are not a party to the hearing. The Manager will outline the facts of the application and relevant representations received from parties.

- 7.2 The Licensing Manager will then outline the legislation under which a determination is required.
- 7.3 The Licensing Manager will outline;
- a) Relevant parts of the Act
 - b) Relevant subordinate legislation
 - c) Relevant sections from the statutory guidance made under Section 182 of the Act
 - d) Relevant paragraphs of the Statement of Licensing Policy made under Section 5 of the Act.
 - e) The time limit which the Committee or Sub-Committee must make a determination under the law.
- 7.4 Each party to the hearing present will then in turn provide information supporting or clarifying of their representations – commencing with the Responsible Authorities, followed by any interested party and then the applicant.
- 7.5 The Committee or Sub-Committee may advise all the parties of details of representations they have received from parties not present.
- 7.6 Thereafter each party, commencing with the Responsible Authorities, followed by any interested party and finally the Applicant, will be given an opportunity to summarise their representations. No new evidence will be allowed to be introduced by any party during the course of any such summation.
- 7.7 The Committee or Sub-Committee will disregard any information given by a party or any other person to whom permission to appear at the hearing has been given which is no relevant to;
- a) Their application, representation or notice or in the case of another person, the application, representation or notice of the party requesting their appearance, and
 - b) the promotion of the Licensing Objectives or in the case of a hearing to consider a notice given by a chief officer of the police, the crime prevention objective only.
- 7.8 The Committee or Sub-Committee will satisfy themselves that they have heard all the relevant information and retire to make their decision in private.

8. Persons behaving in a disruptive manner

- 8.1 The Committee or Sub-Committee may require any person attending the, hearing who in their opinion are behaving in a disruptive manner to leave the hearing and may;

- a) refuse to permit that person to return, or
- b) permit them to return only on such conditions as the Committee or Sub-Committee may specify

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

9. Adjournment of Hearing

- 9.1 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.
- 9.2 It will not adjourn a hearing in such a way to create an effect on the requirements of granting or rejecting an application under Schedule 8 of the Act or a review under Section 167 of the Act.

10. Determinations

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

11. Notice of Determination

- 11.1 The Licensing Manager will issue a notice of determination forthwith to all parties. Such notice will include the reasons for the determination and details of the right of any party to appeal against the decision.

12. Record of Proceedings

- 12.1 The Democracy Team Officer will provide for a record of the hearing to be taken in a permanent and intelligible form and kept for 6 years from the date of determination.

SCHEDULE 1

Column 1		Column 2
Provision under which hearing is held.		Period of time which hearing must be commenced.
1.	Section 18(3)(a) (determination of application for premises license)	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 39(3)(a) (determination of application to vary premises license).	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 license 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 license).	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 an 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 during 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 during 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 during 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 received 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 a chief officer of police may give a notice under paragraph 25(2) of Schedule 8