

LICENSING ACT 2003 SUB COMMITTEE

Monday, 2nd July, 2018
10.00 am





LICENSING ACT 2003 SUB COMMITTEE

Monday, 2nd July, 2018 at 10.00 am

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

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 Meetings on 5th and 6th June 2018.*

5 - 8

To approve as a correct record the Minutes of the last Licensing Act 2003 Sub Committee meetings held on 5th and 6th June 2018.

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 a Transfer of a Premises Licence - M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA.*

9 - 16

To determine the Transfer of a Premises Licence under the Licensing Act 2003 relating to M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA.

MEMBERSHIP OF COMMITTEE

Councillor Ida Carmichael
Councillor Anne Kelly

Councillor Ann Royle
Councillor Bill Brindle - 4th Member

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BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Tuesday, 5th June, 2018

PRESENT

MEMBERS

Councillors I Carmichael, A Royle and C White

OFFICERS

Eric Dickinson – Democracy Officer
David Talbot – Senior Solicitor

1 Appointment of Chair

Councillor Ann Royle was appointed as Chair for this meeting.

2 Minutes of the last Meeting

The Minutes of the meeting held on 15th March 2018 were agreed as a correct record and signed by the Chair.

3 Exclusion of the Public

That the determination of a Premises Licence under the Licensing Act 2003 relating to Sycamore Convenience Sytore, 5 Anglesey Avenue, Burnley, BB1 6AY be held in public.

4 Determination of a Premises Licence Application-Sycamore Convenience Store on Anglesey Avenue, Burnley.

John Yardley reported on an application for a Premises Licence at Sycamore Convenience Store, 5 Anglesey Avenue, Burnley, BB1 6AY under the Licensing Act 2003 and presented his case on behalf of the Licensing Authority.

Rick Wilson, and Lauren Manning, presented their case on behalf of Lancashire County Council Trading Standards Service.

Anthony Edwards, and John Horner as his Licensing Consultant, presented their case on behalf of the applicant.

Members and the relevant parties set out above asked questions regarding the review.

Decision.

That a premises licence be granted under the Licensing Act 2003 in respect of Sycamore Convenience Store , 5 Anglesey Avenue, Burnley, BB1 6AY for the sale of alcohol from 0700 hours to 2100 hours Monday to Friday inclusive and from 0900 hours to 2100 hours on Saturday to Sunday inclusive subject to the following conditions;

- (1) That all staff serving alcohol must complete training every 6 months regarding Challenge 25;
- (2) That within 3 months of the premises licence being granted that Anthony Edwards and Shawni Edwards shall have obtained a personal alcohol licence to sell alcohol at the premises;
- (3) That there be no involvement of Humera Zafar and Maryam Mursaleen in the business;and
- (4) That Humera Zafar, Maryam Mursaleen, Shamrais Ansar, and Rafeqat Habid never to be on the premises.

Reason for Decision.

The conditions were necessary for the promotion of the prevention of crime and disorder and the protection of children from harm licensing objectives.



BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Wednesday, 6th June, 2018

PRESENT

MEMBERS

Councillors B Brindle, A Kelly and A Royle

OFFICERS

Eric Dickinson	– Democracy Officer
Peter Henderson	– Principal Licensing Officer
David Talbot	– Senior Solicitor

5 Appointment of Chair

Councillor Anne Kelly was appointed as Chair for this meeting.

6 Exclusion of the Public

That the determination of a review of the Premises Licence at M&M Food Store, Athol Street South, Burnley under Section 52 of the Licensing Act 2003 be held in public.,

7 Determination of a Premises Licence Application-Review of M&M Food Store, Athol Street South, Burnley,

John Yardley, on behalf of the Licensing Authority, informed the Committee that the Premises Licence for M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA had been transferred yesterday from Arshad Mahmood to his wife Rehanna Iqbal with immediate effect and that representations from the police objecting to the transfer had been received by the Council.

Gill Sherratt, accompanied by Laura Thomasson, on behalf of the applicant confirmed that the transfer to Rehanna Iqbal had taken place and requested that the review of the premises licence be adjourned until after any hearing on the transfer.

Rick Wilson, accompanied by Lauren Manning and Dawn Robinson and Suzanne Parkinson, on behalf of Lancashire Trading Standards, also requested an adjournment of the review hearing.

Decision

That the review hearing for the Premises Licence for M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA be adjourned to the earliest available date not less than 7 days after the date of the hearing of the application for the transfer of the Premises Licence or the date when it is determined that no such hearing is necessary.

Reason for Decision

To allow the decision making process to progress appropriately.

REPORT TO LICENSING SUB-COMMITTEE



DATE	2nd July 2018
PORTFOLIO	Regulation
REPORT AUTHOR	John Yardley
TEL NO	01282 425011 Ext 249067
EMAIL	jyardley@burnley.gov.uk

Licensing Act 2003 Determination of applications to transfer premises licence and to specify a new premises supervisor

PURPOSE

1. To advise members of a requirement to determine applications to transfer a premises licence under Section 44 of the Licensing Act 2003 and to specify a new Designated Premises Supervisor (DPS) under Section 37 of the Licensing Act 2003

The premises are M&M Food Store, 67-69 Athol Street South, Burnley

RECOMMENDATION

2. 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

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

SUMMARY OF KEY POINTS

4. The premises currently hold a licence which authorises the supply alcohol by retail sale for consumption off the premises.

On the 17th April 2018, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of M&M Food Store, 67-69 Athol Street South, Burnley. The grounds for the application being that the licensing objectives relating to the Prevention of Crime and Disorder are not being observed at the premises. The premises licence holder and DPS at this time was Arshad

Mahmood.

5. On the 5th June 2018, the Licensing Authority received an application from Mrs Rehana Iqbal; the wife of Arshad Mahmood to transfer the premises licence into her name and to specify herself as the new DPS. The applications to transfer and vary the DPS had immediate effect, replacing Arshad Mahmood as premises licence holder and DPS.

On the 6th June 2018 a hearing took place to consider the review application submitted by Lancashire Trading Standards. The committee determined to adjourn the review hearing until after the date of this hearing.

6. On the 5th June 2018 the Chief Officer of Police objected to both applications on the grounds of Crime & Disorder on the basis of new information provided by Lancashire Trading Standards Service relating to the impending prosecution of Rehana Iqbal. Details of this objection are appended at Appendix 'A' of this report.
7. The review application submitted by Lancashire Trading Standards will be the subject of a hearing to be held on 11th July 2018.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

8. Nil

POLICY IMPLICATIONS

9. 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 2017 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

10. None

BACKGROUND PAPERS

11. Burnley Borough Council Statement of Licensing Statement of principles.
Licensing Act 2003.
Guidance to the Licensing Act 2003 issued under Section 182.

FURTHER INFORMATION

PLEASE CONTACT:

John Yardley Ext 249067

ALSO:

Lisa Tempest Ext 249060

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Lancashire Constabulary

police and communities together

Licensing Office

Burnley police Station

Parker Lane

Burnley

5th June 2018

Re – M & M Food Store, 67-69 Athol Street South, Burnley BB11 4PA

The Lancashire Constabulary at this time objects to any transfer of the Premises Licence and Varying the DPS of M & M Off Licence, 67-69 Athol Street South, Burnley BB11 4PA on the grounds of Crime & Disorder on the basis of the new information provided by Lancashire Trading Standards Service in relation to the impending prosecution of Rehana Iqbal.

A handwritten signature in black ink, appearing to read 'John Clucas'.

John Clucas

Licensing Officer

Burnley Police station

01282 472035

John.Clucas@Lancashire.Pnn.Police.uk

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(Magistrates' Courts Act 1980, s1)

SUMMONS

To the Accused: REHANA IQBAL (D.o.B 13/01/1969)

Of: 528 Colne Road, Burnley, Lancashire, BB10 2LD

**You are hereby summoned to appear at 9.45 am on Thursday 26th July 2018
before the Magistrates' Court at **Parker Lane, Burnley****

to answer to the information(s) of which particulars are given in the schedule hereto

Prosecutor: Amanda Luci Maxim, Trading Standards Manager acting for and on behalf of
Lancashire County Council

Address: Trading Standards Service
Lancashire County Council
4th Floor
Lancashire Point
County Hall
Preston, PR1 0LD

Tel: 01772 533624

**Date of
Information:** 23rd May 2018

SCHEDULE

Alleged Offences x 5

- 1) Between 21 November 2011 and 30 October 2017 you did conceal, convert or transfer criminal property, namely credits to the value of £133,283.62 into to your Yorkshire Bank account 050353 – 66884740, contrary to section 327(1) of the Proceeds of Crime Act 2002.
- 2) Between 8 November 2011 and 9th June 2017 you did conceal, convert or transfer criminal property, namely cash deposits to the value of £172,610 to your HSBC bank account held jointly with Arshad Mahmood 401517 - 31793314, contrary to section 327(1) of the Proceeds of Crime Act 2002.
- 3) Between 23 April 2012 and 1 August 2016 you did conceal, convert or transfer criminal property, namely cash deposits to the value of £10,840 to a Young Savers child bank account you held for Miss Sonia Arshad 401517 - 51798359, contrary to section 327(1) of the Proceeds of Crime Act 2002.
- 4) Between 28 December 2011 and 29 August 2017 you did conceal, convert or transfer criminal property, namely cash deposits to the value £8,810 to a Future Saver child bank account you

Summons: **All communications should be addressed to:**
The Designated Officer
c/o Preston Magistrates Court, PO Box 52
Lawson Street, Preston, PR1 2QT

(DX: 318201 Preston 33)
Email: lancsmagslisting@hmcts.gsi.gov.uk

Date of Hearing: Thursday 26th July 2018

To the Accused: Rehana Iqbal

SCHEDULE (continued)

Alleged Offences x 5

held for Miss Saira Arshad 401517 - 81848224, contrary to section 327(1) of the Proceeds of Crime Act 2002.

- 5) On 11 August 2017 at 528 Colne Road, Burnley in the County of Lancashire you did have possession of criminal property, namely £17,125 in cash contrary to section 329(1) of the Proceeds of Crime Act 2002.