

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