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App B

The Principal Licensing Officer
First Floor, Parker Lane Offices
Parker Lane
Burnley
BB11 2BY

Burnley Taverns Ltd
17 Claremont Avenue
Clitheroe
BB7 1JN

December 2 2019

Dear Sirs

William's Lounge Bar
New Application for a Premises Licence No 040166

All references are to the Licensing Act 2003.

We write to make representations in respect of the above on the following grounds –

- 1) The legality of the application in that the manner of the advertising thereof does not comply with the Act or the requirements of Burnley Borough Council.
- 2) The applicant has not met the licensing objectives (a) the prevention of crime and disorder, (b) public safety and (c) the prevention of a public nuisance.
- 3) The operating schedule conflicts with the conditions set out in the planning permission, granted by Burnley Borough Council, in respect of the premises.

We are the owners of 16 Ormerod Street, Burnley BB11 1EP, a property previously known as Yorke House, Posh and Rum Jungle, which property is immediately adjacent to that of the applicant. We have been granted planning permission (FUL/2019/180) to convert these premises into self contained flats and building work is presently in progress. Accordingly, we are an interested party (sec 13 (3)) to the application.

We note that, under the Act, Burnley Borough Council requires a public notice to be affixed to the premises, which notice to set out the proposed licensable activities and the days on which and times between which these activities are to take place. This is required in order to bring the application and its contents to the notice of interested parties likely to be affected by the same (sec 17 (5) (a) (ii)). However, in this case, the applicant has only listed those days and times which might be considered to be 'standard'. The applicant has failed to disclose to interested parties her intention to open on 'non standard' days and times. Only by conducting further research can an interested party discover that, on certain days, the applicant proposes to extend the times at which licensable activities can take place from midnight until 4.00 am. We note that the applicant has held a personal licence for some 14 years and must therefore be fully conversant with the requirements of the Act.

We submit that interested parties, including those proposing to live in residential accommodation immediately adjacent to the licensed premises, should have been informed of the whole of the applicant's intentions, since the proposed 'non standard' hours, if granted, will have a significant effect on their comfort and well being.

The public notice was affixed to the premises on Friday November 1. On the following day it fell off and was off continuously until lunchtime on Tuesday November 5. Photographs were taken. The notice was eventually replaced that afternoon. We are given to understand that, in these

circumstances, the 28 day period allowed for representations recommences again upon replacement. We calculate that the new public notice should have stated that interested parties must lodge representations before 5.00 pm on Wednesday December 4. Instead, the new notice stated that representations must be lodged 'before December 3' i.e. on or before December 2. The applicant thus reduced the period for representations to be lodged by two full days.

We submit that the application should be rejected on the grounds that the applicant has failed to comply with the provisions of the Act and the requirements of Burnley Borough Council with regard to the advertising of the application.

We have noted that the applicant is presently advertising, on social media and outside the premises, the fact that she intends to provide a fire for her customers in the first floor bar. Many would consider that a fire or stove is a busy town centre bar, late at night, to be a threat to public safety. This is of particular concern to ourselves, as the owners of a residential development immediately adjacent to the premises concerned. We further note that this proposed fire was not disclosed on the plans of the premises which were submitted for approval to Lancashire Fire & Rescue Service and to Health & Safety, Environmental Health, Burnley Borough Council.

The responsible authorities may wish to consider whether, as public safety is at issue here, the applicant should be required to install a sprinkler system and also whether the first floor bar should be provided with a fire exit.

We submit that the application should be rejected until Lancashire Fire & Rescue Service and Health & Safety, Environmental Health, Burnley Borough Council can provide assurances that the fire to be provided will not compromise the licensing objectives.

We note that the applicant's operating schedule sets out requested opening hours which are identical with the requested hours for the supply of alcohol. Thus the applicant has not requested any 'drinking up time'. Alcohol is to be supplied until the very moment that the doors are to be closed and the public is required to leave the premises. Experience has shown that this situation is most undesirable. The effect is that customers finish their drinks in a hurry and under pressure to leave. This results in disorder, the creation of public nuisance and impacts on public safety. In this particular case, the problem is compounded by the fact that these premises are advertised as a 'gin bar'. Gin is up to ten times as strong as beer and as a consequence, it is most unwise for a potential licensee to create a situation whereby customers are encouraged to drink high alcohol products at speed. The result is likely to be 'binge drinking'.

It will be recalled that the issue of 'drinking up time' has always been a contentious issue in the licensed trade. Very many years ago the licensing bench and the police agreed on a ten minutes 'drinking up time' in order to alleviate the problems discussed above. Experience found that this was inadequate and it was later extended to twenty minutes. Today, it is common practice for an applicant to set their own 'drinking up time' by requesting a time for the cessation of alcohol sales up to one hour before closing time.

We submit that the application for the times requested for the supply of alcohol be rejected on the grounds that these are likely to result in 'binge drinking' and the consequent likely impact on disorder, public safety and public nuisance.

We submit that the time for the cessation of the supply of alcohol be set one hour/half an hour prior to the closing time of the premises for the purpose of promoting the licensing objectives.

We note that the applicant has requested the hours for the playing of recorded music to cease at 3.30 am on Thursday to Saturday. This is the same time as the closing time of the premises and also the time that the supply of alcohol ceases. It is good practice in the licensed trade to stop the playing of music when the supply of alcohol also ceases i.e. at the beginning of 'drinking up time'. The reason for this is that if the music stops, then the public is made aware that the premises are closing and they leave quietly on their own volition. If music is continued to be played until closing time, then customers are tempted to linger and it is much more difficult to empty the premises promptly and safely.

We submit that the time for the playing of recorded music be set in accordance with the time permitted for the supply of alcohol and that both should be subject to 'drinking up time', as discussed above, for the purpose of promoting the licensing objectives.

On September 20 2019 the applicant was granted planning permission for a 'gin bar' (FUL/2019/0371). Planning permission was only granted subject to condition 8 (copy enclosed) which reads 'customers shall only be permitted on the premises between the following hours: Mondays to Saturdays 8.00 – 1.00 on the following morning and on Sundays between 9.00 and 00.00 midnight'. The reason for the condition is stated as 'to protect the amenities of nearby residents in accordance with SP5 of Burnley's Local Plan/2018'.

There are 32 licensed public houses and night clubs in Burnley town centre as well as the one subject to this application. None of the others are located immediately adjacent to residential accommodation. Hence the need by the Development Control Committee of Burnley Borough Council to limit the opening hours of the applicant's premises. Despite the conditions laid down in her planning permission, the applicant is now requesting opening hours, hours for the supply of alcohol and hours for the playing of recorded music which exceed the hours already permitted by Burnley Borough Council.

We submit that the licensing authority, when determining this application, should not be inconsistent with decisions already taken by the Development Control Committee of Burnley Borough Council.

It will be noted that the Development Control Committee refers specifically to 'customers shall only be permitted on the premises.....'. Thus customers must be removed from the premises and the doors closed by 1.00 on the following morning on Mondays to Saturdays and by midnight on Sundays. It therefore follows that, as discussed above, the latest times allowed for the supply of alcohol and the playing of recorded music, be set sufficiently earlier than the closing time so that customers can finish their drinks in comfort and leave the premises quietly and safely before the doors are closed at 1.00 am or midnight, as appropriate.

We submit that the time for the cessation for the supply of alcohol and the playing of recorded music be set one hour/half an hour prior to the closing time of the premises, as determined by the Development Control Committee, for the purpose of promoting the licensing objectives.

It will be noted that the Development Control Committee, when granting planning permission with conditions, makes no reference to 'non standard hours'. It is clear that the Committee intend the amenities of nearby residents be protected on Sundays preceding a bank holiday, Good Friday, Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day as well as on all the other days of the year.

We submit that the application for 'non standard' hours should be rejected on the grounds that the application is for days and hours not allowed under the applicant's planning permission and for the further purpose of promoting the licensing objectives.

It is difficult to understand why the applicant, in full knowledge of the Act and of her planning permission, should apply for days and hours under the Act which are inconsistent with the days and hours already determined. We must point out that, if the application is approved, then she could be tempted to comply with the hours set by the licensing authority and to ignore those set by the Development Control Committee. This would be most undesirable. In addition, she could also be tempted to submit a new planning application, seeking longer hours, using the precedent of the decision of the licensing authority. This would be equally undesirable. No applicant should be in a position to play off one committee of Burnley Borough Council against another.

We submit that, when the licensing authority considers this application, they make no determination which conflicts with condition 8 of the applicant's planning permission.

Our objective in making this representation is to protect the residents of the flats, which we are currently building in the property immediately adjacent to that of the applicant, from noise, disorder and public nuisance. As previously noted, if the applicant's premises is granted a licence, then it will be the only public house in Burnley town centre which is located immediately adjacent to residential accommodation. We regard it as essential that, if a licence is granted, then the days and hours determined should be appropriate to the neighbourhood, should be considerate to local residents and would thus promote the licensing objectives.

Your, faithfully

RI Snodden
Director

Planning Permission



Mr Darrell Stockburn
Unit 2, Reedley Business Centre
Redman Road
BURNLEY
BB10 2TY
ENGLAND

Mr Neil Crossley
7 Yorke Street
Burnley
BB11 1HD

Part 1 Particulars of Application: FUL/2019/0371 received 23rd July 2019

Proposal: Proposed change of use of sandwich shop and nightclub to retail use (Class A1) or gin bar (Class A4) and install new shop frontage

Location: 7-9 Yorke Street Burnley Lancashire

Part 2 Particulars of Decision:

The Council gives notice under the Town and Country Planning Act 1990 (as amended) that Planning Permission has been **Granted** for the carrying out of the development in accordance with the application and plans submitted, referred to in Part 1 above, and subject to the following conditions and reasons:

- 1 The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

- 2 The development shall be carried out in accordance with the approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

- 3 Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To safeguard the amenities

- 4 No combustion of any materials likely to result in smoke or other nuisance by atmospheric pollution shall take place on the site.

Reason: In order to not significantly pollute the environment in accordance with policy NE5 of the adopted Local Plan.

- 5 The development hereby approved shall be used solely for purposes falling within Class A1 and/or Class A4 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

- 6 Prior to any work on the shopfront, full and precise joinery details (at a scale of no more than 1:20 as appropriate) shall be submitted to and approved in writing by the Local Planning Authority. The joinery details should carefully match patterns and profiles traditional to the area. Once approved by the Local Planning Authority the shopfront should be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason: As insufficient information has been submitted and in order to ensure a satisfactory appearance to the development and to protect the character and appearance of the Conservation Area in accordance with Policies TC8, HE2 and SP5 of Burnley's Local Plan (July 2018).

- 7 Prior to the removal of any existing window frames on the building precise details of replacement windows including scaled elevation and profile plans of the new windows at 1:20; detailed window sectional plans at 1:5 and full scale 1:1 details showing any moulding details shall be submitted to and approved in writing by the Local Planning Authority. Once approved by the Local Planning Authority the windows shall be installed in accordance with the approved details and shall be retained as such thereafter.

Reason: As insufficient information has been submitted and in order to ensure a satisfactory appearance to the development and to protect the character and appearance of the Conservation Area in accordance with Policies HE2 and SP5 of Burnley's Local Plan (July 2018).

- 8 Customers shall only be permitted on the premises between the following hours: Mondays to Saturdays 08:00 - 01:00 the following morning and on Sundays between 09:00 and 00:00 midnight.

Reason: To protect the amenities of nearby residents, in accordance with SP5 of Burnley's Local Plan (2018).

- 9 Prior to the permitted Class A4 use being first commenced, soundproofing shall be carried out and completed in accordance with a scheme of soundproofing which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of nearby residents, in accordance with SP5 of Burnley's Local Plan (2018).

Article 35 Statement

Hand Delivered

2/12/19

CONFIDENTIAL

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The Principal Licensing Officer
Fort Howard, Parker Lane Offices

Parker Lane

BURNLEY

BAH 204
