

REPORT TO LICENSING SUB-COMMITTEE

DATE	Fri 20th March 2020
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 for review under Section 52 of the Licensing Act 2003.
2. The premises is MODE nightclub, 77 Hammerton Street, Burnley BB11 1LE

RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding three months; or
- e. to revoke the licence.

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 a copy of which is attached at Appendix 'A'

The holder of the premises licence and Designated Premises Supervisor is Rebecca McQuoid and she holds a Personal Licence which was issued by Chorley Borough Council.

Rebecca McQuoid is also the DPS at Projekt nightclub, 13-17 Hammerton Street, Burnley and that club holds a Premises Licence issued by Burnley Holdings A Ltd, and Rebecca McQuoid is the sole director of that company. That premises operates in the evenings at weekends basically close to the same times that MODE is open.

As a result of a Licensing Hearing held on the 12th December 2017 at Burnley Town Hall when the club was trading under the name of Vogue (but was still operated by Rebecca McQuoid with her both the Premises Licence Holder and DPS) a number of stringent licensing conditions were added to the Premises Licence.

The decision notice from that hearing stated

At a meeting of the Licensing Sub-Committee held on Tuesday, 12th December 2017, after considering the review and all representations the Committee decided to accept the conditions and hours proposed by the Police and Vogue Night Club on the 6th December 2017 (as per attached document), which replace the existing conditions set out in Annex 2 of the licence.

The Police's approach for them to be proactive and to review the licence again should that be relevant was agreed to.

The reason for the decision was having regard to the prevention of crime and disorder licensing objective.

6 On the 31st January 2020, the Licensing Authority received an application from the Lancashire Constabulary to review the Premises Licence of MODE nightclub.

The grounds for the application that the licensing objectives relating to the prevention of crime and disorder, the Protection of Children from harm and Public Safety are not being observed

The Lancashire Constabulary say that it has received reports of a disproportionately high number of incidents, some involving people under 18 years of age and there was a lack of care afforded to customers who have left the premises or who were ejected from the premises.

The review application submitted by the Lancashire Constabulary is appended at Appendix 'B'.

The Licensing Authority has received two other representations one from the Lancashire County Council – Public Health A copy of this is attached as Appendix 'C'.

The second is from Burnley Borough Council Streetscene, and a copy of this is attached as Appendix 'D'.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. None

POLICY IMPLICATIONS

8. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy are relevant to this application:

1.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

1.10 We will endeavor to carry out our licensing functions in a way that:

- ensures public safety
- supports well managed premises where licence holders seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
- protects residents' quality of life.

1.12 We will have regard to how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources and police resources impact on the licensing objectives.

1.17 We will therefore focus upon the direct impact of the activities taking place at or in the vicinity of licensed premises on members of the public living, working or engaged in normal activities in the vicinity of those places.

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)

3.15 If relevant representations are made, the authority will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.

3.23 Issues about access of children to premises may give rise to concern:

- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
- where there have been convictions of the current management for serving alcohol to minors;
- where the premises have a reputation for allowing under-age drinking;
- where requirements of proof of age is not the norm;
- where premises have a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises; and
- where the supply of alcohol consumption on the premises is the exclusive or primary purpose of the services provided.

3.27 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, this authority favours the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the authority determines the licence application.

3.29 In keeping with the Secretary of State's Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales.

7.9 Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested, particularly involving entertainment, the imposition of further conditions may be appropriate.

9.1 The authority may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being

considered.

9.2 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.

9.7 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.

10.2 We expect that Designated Premises Supervisors and Personal Licence Holders will ensure that all their staff, including door supervision staff, will be fully trained in the law relating to the rights of entry of authorised persons. We will view obstruction of authorised persons by staff or employed agents of the licensee as a serious matter.

14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.

14 Following an application for review of a premises licence or objection, we will encourage the parties to a review to mediate via the Licensing Officers in order that appropriate conditions on a licence may be volunteered in a revised operating schedule prior to a hearing by the Licensing Committee or sub committee wherever possible. Representations can be withdrawn in accordance with the Regulations.

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

9. The statutory consultation has taken place. Two Representations have been received within this statutory period and these are detailed earlier in this report.

BACKGROUND PAPERS

10. 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**

