

## REPORT TO LICENSING SUB-COMMITTEE



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PORTFOLIO	RESOURCES
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## Licensing Act 2003 Determination of application for a premises licence

## PURPOSE

1. To consider an application received from Hunters Oak Limited, 3 The Moorings, Burnley BB12 0TP for the grant of a premises licence under the Licensing Act 2003.

The operating schedule and plan of the premises contained in the application are attached at Appendix 'A'.

2. The premises are land adjacent to Hunters Oak Farm, Ightenhill Park Lane, Burnley BB12 0RW

The proposed designated premises supervisor is Derek Lea Thompson

## SUMMARY OF KEY POINTS

3. The application is for a premises licence under Section 17 of the Licensing Act 2003

The licensable activities applied for, all of which are for indoors and outdoors are:

The sale of alcohol for consumption on and off the premises.

The performance of a play

The exhibition of films

The performance of live music

The playing of recorded music

Performances of dance

Anything of a similar description to the performance of live music, the playing of recorded music or the performance of dance.

The proposed hours that the premises would be open to the public are:

10.00am to Midnight Monday to Sunday

The proposed hours for all the licensable activities detailed above are:

11.00 to 11.00pm Monday to Sunday

4. Members are reminded that representations are only relevant if they relate to one or more of the 4 licensing objectives which are

- PREVENTION OF CRIME & DISORDER
- PUBLIC SAFETY
- PREVENTION OF PUBLIC NUISANCE
- PROTECTION OF CHILDREN FROM HARM

If this Committee approves the application the following mandatory conditions would be attached to the licence;

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.

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\par 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.

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: pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml;
  - (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

The Applicants have, in their operating schedule which details what steps they will take to promote the 4 licensing objectives, stated that there will only be one function per year described as 'Drop the Beat' festival where more than 350 patrons are in attendance.

There will be an additional seven occasions per year where less than 350 patrons may be in attendance.

If this application is granted all the measures contained in Section 'M' will become conditions on the licence.

The Licensing Authority has complied with the requirements of Section 51 (3) of the Licensing Act 2003 by advertising the application and inviting representations.

A total of 29 representations have been received in relation to this application, one of which is a petition containing 50 names, although some of those who have signed the petition have also submitted individual representations.

24 of the 29 received have been deemed to be 'relevant representations' the remainder having been rejected for a variety of reasons including, not received by the Licensing Authority within the 28 day consultation period, failure to address the four licensing objectives and failure to make the representation in accordance with legislative requirements.

Copies of all relevant representations are contained in Appendix 'B'

Notices of a hearing have been sent to the applicant and to each of the persons from whom the licensing authority has accepted a representation.

## **RECOMMENDATION**

5. Members are recommended to make a determination with a view to promoting the licensing objectives.

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Having considered all relevant representations and having taken account of the licensing policy and Home Office guidance, the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives.

The steps are;

- To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
- To impose additional relevant conditions to such an extent as is considered appropriate for the promotion of the licensing objectives;
- To exclude any of the licensable activities to which the application relates
- To amend the times for all or some of the licensable activities;
- To refuse to specify a person in the licence as the premises supervisor

- To refuse the application

#### **REASONS FOR RECOMMENDATION**

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

#### **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:
- Paragraph 1.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.
  - Paragraph 1.15 We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are met.
  - Paragraph 3.2. We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises.
  - Paragraph 3.3 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.
  - Paragraph 3.4 We will not deter an individual making an application and having that application judged on its individual merits.
  - Paragraph 3.5 We will not deter any person from making representations in respect of any application or seeking a review of a license.
  - Paragraph 3.16 The authority will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
  - Paragraph 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.

- Paragraph 9.2 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.
- Paragraph 9.3 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.

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

#### **BACKGROUND PAPERS**

10. Burnley Borough Council Statement of Licensing Policy.  
Licensing Act 2003.

#### **FURTHER INFORMATION**

**PLEASE CONTACT:**

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**ALSO:**

**John Yardley 01282 425011**