

REPORT TO LICENSING SUB-COMMITTEE

DATE	12th December 2017
PORTFOLIO	Governance, Law & Regulation
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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 are 'Vogue Night Club, 77 Hammerton Street, Burnley.

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 which authorises the supply alcohol for consumption ON the premises and the playing of recorded music Monday to Sunday from 0900hrs to 0800hrs. The opening hours of the premises are Monday to Sunday 0900hrs till 0800hrs

The holder of the premises licence and Designated Premises Supervisor is Rebecca McQuoid.

The following mandatory conditions are 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 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 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: ½ pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and

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

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price

Conditions Imposed in Accordance with the Operating Schedule & Under Paragraph 18(4) & 18(5) Schedule 8 Licensing Act 2003

CCTV shall be installed in the premises and shall record both internally and externally. Must be recording at all times the premises is open to the public. A Staff member who is conversant with the operation of the CCTV system will be on the premises at all times that licensable activities are taking place. The footage is to be retained for a period of 28 days and any footage must be presented to the police upon request.

Prior to each occasion that licensable activities take place at the premises a risk assessment will be carried out to determine whether or not door supervisors are necessary. An appropriate number of door supervisors will be utilised in accordance with said risk assessment, which will be documented and made available to an authorised officer upon request.

As a minimum, at least two door supervisors will be utilised at the premises whenever licensable activities are taking place from 22.00 hours until thirty minutes after the last customer has left the premises. When on duty, door supervisors will ensure that no customers leave the premises with open containers.

A record shall be kept on the premises by the DPS of every person employed on the premises as a door supervisor. The record shall contain the following details: name, address, date of birth and SIA number and signing in and out for each door supervisor. The record shall be available for inspection, on demand, by an authorised officer of the Council, Police or SIA.

The premises licence holder shall have a written policy in relation to drugs which will include search, seizure and disposal of drugs and weapons. The policy will be available for inspection on demand by an authorised officer of the Council, Police or SIA.

The premises will operate a last entry time of 06.30am, whereby no persons will be allowed entry or re-entry into the premises after this time.

Door staff shall wear high visibility clothing with the premises being situated on a busy road. This also allows CCTV to spot the door staff for personal safety.

An ID scanner shall be utilised at the premises.

All staff involved in the sale of alcohol will receive training in relation to the licensing objectives so as to reduce crime and disorder, promote public safety, prevent public nuisance and promote the protection of children from harm. The Training will be documented and will be made available to an authorised officer upon request.

All persons who appear to be under the age of 25 years shall be required to produce proof of age by way of the following:

- A recognised proof of age card accredited under the British retail consortiums proof of age standards scheme (PASS)
- Photo driving licence
- Passport
- Citizen card supported by the Home Office
- Official ID card issued by HM Forces or European Union member state bearing a photograph and date of birth of the holder.

A notice or notices shall be displayed in the premises where they can be clearly seen and read and shall indicate that it is unlawful for persons under the age of 18 to purchase alcohol or for any person to purchase alcohols on behalf of a person less than 18 years of age.

An incident log shall be kept on site and shall be maintained to record all challenges and refused sales.

The premises shall give a minimum of fourteen days written notice to Lancashire Constabulary Licensing Department of any function targeted predominantly at persons under the age of eighteen.

The full existing premises licence is appended at Appendix 'A'.

- 6 On the 23rd October 2017, the Licensing Authority received an application to review the Premises Licence of Vogue Night Club from Lancashire Constabulary the grounds for the review being that there are a disproportionately high number of reported incidents of crime and disorder associated with the premises and that the licensing objective of the prevention of crime and disorder is being seriously undermined at the premises.

Concerns relate to all times the premises are trading however there are specific concerns in relation to the running of the premises after 5am when there's a noticeable increase in incidents of crime and disorder which can be associated with the premises. After this time most of the incidents can be described as alcohol-related involving drunken people.

There are also concerns regarding a number of the premises licence conditions not being adhered to and they can also evidence difficulty in accessing evidential CCTV footage from the premises which has had implications on the effective investigation of a significant number of crimes & incidents at the premises.

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

The Licensing Authority has received representations from Lancashire Trading Standards with regards to the application submitted by Lancashire Police. Details of these representations are contained in the witness statement of Lauren Manning from Lancashire County Council Trading Standards Service which is appended at Appendix 'C'.

The Licensing Authority has received a further representation from the Public Health and Wellbeing with regards to this application. Details of these representations are contained in the statements of Clare Platt and Doctor Sakthidharan Karunanithi. These are appended at 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.

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)

3.8 If relevant representations are made in relation to a premises licence or club premises certificate, the council 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 impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.

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.

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-Appx E.

Home Office Guidance issued under Section 182 of the Licensing Act 2003-Appx F

Licensing Act Conduct of Hearings-Appx G

FURTHER INFORMATION

PLEASE CONTACT:

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ALSO:

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