

REPORT TO LICENSING SUB-COMMITTEE

DATE	11th July 2018
PORTFOLIO	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 M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA

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 of alcohol for consumption OFF the premises Monday to Saturday from 8.00am to 11.00pm and Sunday 10am till 10.30pm.

The holder of the premises licence and Designated Premises Supervisor is Arshad Mahmood.

Conditions attached to the licence:

ANNEX 1 – Mandatory conditions

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

ANNEX 2 - Conditions consistent with the Operating Schedule

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises

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

- 6 On the 17th April 2018, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of M&M Food Store, 67-69 Athol Street South, Burnley. The grounds for the application being that the licensing objectives relating to the Prevention of Crime and Disorder are not being observed at the premises.

Trading Standards will say that Illicit tobacco products have been purchased, or seized, by Trading Standards officers on 12 separate occasions since September 2008. Trading Standards say that a decade of prolific illegal activity at the premises, despite repeated enforcement action, represents a flagrant and systematic disregard for the relevant licensing objectives.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for M & M Food Store.

A previous review hearing on the 6th June 2018 was adjourned to this date after an application to transfer the premises licence and vary the Designated Premises Supervisor was submitted on the 5th June 2018 by Mrs Rehana Iqbal. These applications took immediate effect but were objected to by the police on the grounds of Crime & Disorder. A hearing to consider the matter has been fixed for 2nd July and the outcome will be reported to members.

The review application submitted by Trading Standards is appended at Appendix 'B'.

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

1.10 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)

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.

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

FURTHER INFORMATION

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