

**Subject: Licensing Act 2003 Determination**

**Status:**

**For Publication.**

**Mace Off Licence**

**63-65 Burnley Road East,  
Waterfoot**

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**Report to:  
Licensing Determination Sub-Committee.**

**Date:  
25<sup>th</sup> January 2007**

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**Section Head:  
Head of Legal & Democratic Services.**

**Report Author:  
Daniel G. Dobson.  
Senior Licensing Enforcement Officer.**

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**Portfolio Holder: Leader of the Council.**

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**Key Decision: No.**

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## **1. PURPOSE OF REPORT**

- 1.1 To advise members of a required determination of an application for review under Section 52 of the Licensing Act 2003.

## **2. RECOMMENDATION**

- 2.1 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.

## **3. BACKGROUND**

- 3.1 On the 14<sup>th</sup> June 2005, Adrian Charles Watts and Caroline Watts jointly made application to convert an existing Justices Off Licence to a Premises Licence under the provisions on the Licensing Act 2005. There were no objections from the Police and the conversion was granted under the Act's transitional arrangements.
- 3.2 There was no application to vary the conditions of the licence and the Premises Licence was granted on the 30<sup>th</sup> July 2005. Adrian Charles Watts became the Designated Premises Supervisor.
- 3.3 The current premises licence authorises the sale of alcohol as follows:  
The sale by retail of alcohol for consumption off the premises:  
Between 0800 hours and 2300 hours Monday to Saturday.  
Between 1000 hours and 2230 hours Sunday  
Between 0800 hours and 2230 hours Good Friday  
Between 1200 hours and 1500 hours and between 1900 hours and 2230 hours on Christmas Day.

- 3.4 A copy of the Premises Licence is appended at Appendix A. There are some standard conditions attached to the licence that were carried over from the old Justices Licence.
- 3.5 On Saturday 3<sup>rd</sup> June 2006, police officers conducted a test purchase exercise at the premises. The Designated Premises Supervisor, Adrian Charles Watts, sold alcohol to a child under 18 years of age. He was interviewed and given an £80 fixed penalty ticket for the offence.
- 3.6 Constables Driver and Story from the Police Licensing Unit subsequently visited the premises and left advice and notices in respect of the Challenge 21 initiative
- 3.7 On Friday 20<sup>th</sup> October 2006, police officers conducted a further test purchase exercise at the premises. The Designated Premises Supervisor, Adrian Charles Watts, again sold alcohol to a child under 18 years of age. He was interviewed and given an £80 fixed penalty ticket.
- 3.8 On the 5<sup>th</sup> December 2006, the Licensing Authority received an application to review the Premises Licence from the Chief Officer of Police. This application is appended at Appendix B
- 3.9 The Licensing Authority has complied with the requirements of Section 51(3) of the Licensing Act 2003 by advertising the application and inviting representations.
- 3.10 Relevant extracts from the Statement of Licensing Policy are:
- 3.1 We will promote the 4 licensing objectives, namely
- the prevention of crime and disorder  
public safety  
the prevention of public nuisance; and  
the protection of children from harm,  
and all our decisions will reflect these objectives.
- 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.
- 3.3 Licensing law is not a mechanism for the general control of anti-social behavior by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.
- 3.5 We will not deter any person from making representations in respect of any application or seeking a review of a licence.

- 3.14 We will take account of other objectives such as the Community Health Action Plans and the Violent Crime Reduction Policies and action plans under our Crime and Disorder partnership.
- 7.7 The onus to provide the evidence will always be on the person or organisation making the objection or review application. This burden of proof will not however apply should there be a special saturation policy in being in relation to the area where the premises are situated.
- 8.3 We will have particular concern in respect of children where;
- entertainment or services of an adult or sexual nature are commonly provided;
  - there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - there are premises with a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); or
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 8.12 We will take extremely seriously any offence under Section 146 of the Act (selling or supplying alcohol to a child under 18 years) Section 150 (allowing a child under 18 years to consume alcohol on premises) Section 151 (delivering alcohol to children) or Section 153 (unsupervised sales by a person under 18 years).
- 8.13 We emphasise the extended definition of premises from that of a 'bar' under the 1964 Act. Our enforcement protocol will encourage test purchasing by both the police and trading standards, targeting premises in areas of alcohol- related anti-social behaviour.

#### **4. LEGAL IMPLICATIONS ARISING FROM THE REPORT**

- 4.1 Members are reminded that they must follow the rules of natural justice and they are bound by the Code of Conduct for Elected Members in licensing applications.
- 4.2 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).
- 4.3 Members are reminded that they should have read or should hear all the facts prior to making a determination.
- 4.4 Members are asked to make a determination and state the reasons for that determination.

**5. COMMITTEE DECISION**

5.1 The Committee should consider the application from the Police referred to at paragraph 3.8, the representation referred to at paragraph 3.10 and any representations which are made by or on behalf of the Licensee.

5.2 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.

5.3 With regard to the steps mentioned at a. and b. above, the modification or exclusion may take effect for a limited period (not exceeding 3 months).

**6. WARDS AFFECTED**

The premises are situated within the Whitewell ward and no other ward is likely to be affected. The ward councillor(s) are not members of the sub committee.

**7. SECTION 17 CRIME AND DISORDER ACT 1998**

The decision of this Determination Hearing will have implications under this section of the Act.

**Background documents-**

<b>Background Papers</b>	
<b>Document</b>	<b>Place of Inspection</b>
Appendix A	Premises Licence
Appendix B	Application for Review

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