

**Subject:** Determination Hearing – The  
Crown Inn (Bacup)

**Status:** For Publication

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**Report to:** Licensing Committee

**Date:** 28<sup>th</sup> August 2008

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**Report of:** Licensing Manager

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## 1. PURPOSE OF REPORT

- 1.1 To advise members of an application to vary a premises licence under section 34 of the Licensing Act 2003, to which representations have been received.
- 1.2 To request that members determine the application in accordance with the provisions of the Licensing Act 2003.

## 2. THE LICENSING OBJECTIVES

- 2.1 Members are reminded of the licensing objectives as follows:
  - a. The prevention of crime and disorder
  - b. Public Safety
  - c. The prevention of public nuisance
  - d. The protection of children from harm

## 3. THE APPLICATION

- 3.1 The application is to vary a premises licence held under the Licensing Act 2003 and is appended at Appendix A.
- 3.2 The application, received by the licensing authority on 8<sup>th</sup> July 2008, seeks to remove all current conditions on the licence and replace them with those offered in the operating schedule.
- 3.3 The application seeks additional licensable activities and an extension to hours on some of the licensable activities.
- 3.4 The application proposes the following:
  - a. **Films (Indoors)**
  - e. **Live Music (Indoors)**
  - f. **Recorded Music (Indoors)**
  - g. **Performances of dance (Indoors)**

- h. **Anything of a similar description to that falling within (e), (f) or (g) (Indoors)**
  - i. **Provision of facilities for making music (Indoors)**
  - j. **Provision of facilities for dancing (Indoors)**
  - k. **Provision of facilities for entertainment of a similar description to that falling within i or j (Indoors)**
  - m. **The supply of alcohol (On & off consumption)**  
 Between 1100 hours and 2400 hours Sunday to Thursday.  
 Between 1100 hours and 0130 hours Friday and Saturday.  
 From the start of permitted hours on New Year's Eve to the end of permitted hours on New Years day.  
 On December 1<sup>st</sup> to January 2<sup>nd</sup>, between 110 hours and 0130 hours.
  - l. **Late night refreshment (Indoors)**  
 Between 2300 hours and 0030 hours Sunday to Thursday  
 Between 2300 hours and 0200 hours Friday and Saturday.
  - o. **Opening hours of the premises**  
 Between 1100 hours and 0030 hours Sunday to Thursday.  
 Between 1100 hours and 0200 hours Friday and Saturday.
- 3.5 Members are reminded that the provision of late night refreshment is not licensable between the hours of 5am to 11pm.
- 3.6 The steps that the applicant intends to take to promote the four licensing objectives are detailed on page 19 of the application as appended at Appendix A.

#### 4. **BACKGROUND**

- 4.1 On 3<sup>rd</sup> August 2005, an application to convert and vary a licence was received by the licensing authority.
- 4.2 The application to convert a Justices Licence was granted and representations were received in respect of the simultaneous application to vary the licence.
- 4.3 The interested party referred to at 6.1 made representation in respect of the application to vary a licence.
- 4.4 The interested party referred to at 6.5 made representation in respect of the application to vary a licence.
- 4.5 A determination hearing was held on 27<sup>th</sup> September 2005 and the licence was granted subject to additional conditions.
- 4.6 With the exception of some designated premises supervisor (DPS) changes, there has been no other change to the licence since granted and varied on 27<sup>th</sup> September 2005.
- 4.7 A copy of the current licence is appended at Appendix B.

- 4.8 On 18<sup>th</sup> September 2007, the Licensing Unit received a complaint from the interested party at 6.6 regarding the front of the premises being used by patrons for the purposes of smoking.
- 4.9 The Licensing Unit has received no other complaints regarding these premises.

## **5. RELEVANT REPRESENTATIONS**

- 5.1 There have been no representations from the responsible authorities.

## **6. INTERESTED PARTIES**

- 6.1 A resident from Coal Pit Lane has made a representation on this application to vary a premises licence. The representation is appended at Appendix C.
- 6.2 This interested party has previously made a representation on the licence. The original representation was made on the application to vary the premises licence once the conversion had been granted. Refer to 4.2 and 4.3.
- 6.3 This representation appears to be made on the basis that the variation will undermine the following licensing objectives:
- a. The prevention of public nuisance
  - b. The protection of children from harm
- 6.4 The representation is not wholly irrelevant or apparently frivolous and I have no evidence that the representation is vexatious.
- 6.5 Members are reminded that parking issues and location are a matter for development control and do not fall within the Licensing Act 2003.
- 6.6 A second resident from Coal Pit Lane has made a representation on this application to vary a premises licence. The representation is appended at Appendix D.
- 6.7 This interested party has previously made a representation on the licence. The original representation was made on the application to vary the premises licence once the conversion had been granted. Refer to 4.3 and 4.4.
- 6.8 The representation is not wholly irrelevant or apparently frivolous and I have no evidence that the representation is vexatious.
- 6.9 Members are reminded that premises location is a matter for development control and does not fall within the Licensing Act 2003.
- 6.10 The interested party has submitted a copy of the details of reports as reported by them to the Lancashire Constabulary and Out of Hours Noise Nuisance line. This is appended at Appendix E.

## **7. ASSOCIATED PAPERS**

- 7.1 As a representation has made reference to noise complaints, an incident log of all noise complaints received by the Environmental Health department has been requested and is appended at Appendix F.
- 7.2 A copy of the police logs relating to noise complaints from the premises has also been requested. This is appended at Appendix G.
- 7.3 To assist members with the determination, a summary of the current licence vs the proposed variation is appended at Appendix H.

## **8. POLICY CONSIDERATIONS**

- 8.1 The relevant extracts from the Statement of Licensing Policy made from 7<sup>th</sup> January 2008 to 6<sup>th</sup> January 2011 are detailed below and are numbered as they appear in the Statement of Licensing Policy document.

### **2. LICENSING OBJECTIVES**

- *the prevention of crime and disorder*
- *public safety*
- *the prevention of public nuisance; and*
- *the protection of children from harm*

- 2.1 *The licensing objectives are of equal importance and are the only matters which may be taken into account by the licensing authority.*

- 2.2 *In executing our functions, we will consider the Licensing Act against a backdrop of other legislation, which may impact on the promotion of the licensing objectives.*

*This will include the,*

- *Crime and Disorder Act 1998 as amended by the Police Reform Act 2002*
  - *Human Rights Act 1998*
  - *Health & Safety at Work Act 1974*
  - *Environmental Protection Act 1990*
  - *Anti-Social Behaviour Act 2003*
  - *Race Relations Act 1976*
  - *Race Relations (Amendment) Act 2000*

- 2.3 *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.*

- 2.4 *We recognise that the leisure industry is a significant contributor to the economy, cultural development, jobs and tourism within the licensing*

*authority area. We seek to create a licensing policy which does not drive a wedge between the industry and enforcement authorities. We intend that co-operation and partnership remain the best method of promoting the licensing objectives.*

- 2.5 *Subject to the promotion of the licensing objectives, we will encourage facilities to allow people to lawfully enjoy their leisure time in the manner and at the time they wish to. We wish to encourage licensees to provide a wide range of entertainment activities, promote live music, dance, theatrical activity etc., for the wider cultural benefit of the community.*
- 2.6 *The Licensing Authority will actively encourage and promote a broad range of entertainment, recognising the wider cultural benefits for local communities.*
- 2.9 *The Guidance requires that a Licensing Authority considers such applications from a neutral standpoint. If relevant representations are made, for example by local residents or the Police, they will be considered fairly. Those making representations genuinely aggrieved by a positive decision in favour of the Local Authority will generally be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision.*
- 2.10 *We will endeavor to carry out our licensing functions in a way that*
- o ensures public safety*
  - o supports well managed premises where licence holders actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses*
  - o protects residents' quality of life*
- 2.11 *We will have regard of how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources and police resources impact on the licensing objectives.*
- 2.12 *We will discharge our functions with integrity and objectivity. We will work in partnership with the leisure industry, responsible authorities, residents and local businesses to promote the licensing objectives.*
- 2.14 *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.*
- 2.15 *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 not undermined.*
- 2.16 *Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the definitions of the Act, and the conditions attached to the various authorisations will be focused on matters which are in the control of applicants and licence holders. Licensing law is not the primary mechanism for the general control of nuisance and anti-social*

*behaviour by individuals once they are away from licensed premises. Licensing law will however be a key aspect of a holistic approach to the management of the evening and night time economy in town centres.*

2.17 *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. LICENSABLE ACTIVITY**

3.1 *This policy relates to licensable activities. They are:*

- *The sale of alcohol by retail anywhere*
- *The supply of alcohol by or on behalf of a club to members of the club and their bona fide guests*
- *The provision of regulated entertainment, namely,*
  - *The performance of a play*
  - *The exhibition of a film*
  - *An indoor sporting event*
  - *boxing or wrestling entertainment outdoors*
  - *The performance of live music*
  - *The playing of recorded music (excluding incidental background music)*
  - *The performance of dance*
  - *Entertainment of a similar description to live music, recorded music or dance*

*where the entertainment takes place in the presence of the public or a section of the public.*

- *The provision of hot food or hot drink at any time between 11 pm and 5 am for consumption on or off the premises.*

3.3 *The provision of hot food or hot drink may take place at any time, but we will only be able to regulate such activity between 11pm and 5am. The provision outside these times is not licensable activity under the Act.*

3.4 *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.*

3.5 *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.*

- 3.6 *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.*
- 3.7 *We will not deter an individual making an application and having that application judged on its individual merits.*
- 3.8 *We will not deter any person from making representations in respect of any application or seeking a review of a license.*
- 3.10 *We will also seek to discharge our responsibilities by linking to Government and Council strategies and policies so far as they impact on the licensing objectives.*
- 3.11 *We will in particular reflect upon;*
- o The Crime and Disorder Reduction Strategy*
  - o Existing Enforcement Concordats*
  - o The National Alcohol Harm Reduction Strategy*
  - o Safer Clubbing*
  - o The designated premises supervisor's ability to control and supervise customer behavior.*
  - o The number of people attending the premises*
  - o The customer age profile*
  - o The nature of drinks promotions*
  - o The nature of licensable and other activities provided*
  - o Any evidence of drug or/and alcohol abuse*
  - o The design, character and layout of the premises*
- 3.14 *The licensing authority will integrate licensing policy with crime reduction, crime and disorder, planning, transport, tourism, cultural strategies and the Public Health North West Alcohol Strategy Group by open dialogue. The Licensing Committee will receive reports from and deliver reports to the relevant bodies.*
- 3.15 *Any conditions attached to premises licenses and club premises certificates will reflect the Licensing Objectives and where appropriate, local crime prevention strategies*
- 3.16 *We will monitor the impact of licensing on regulated entertainment, in particular live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be imposed on such events, and this policy will be reviewed if there is evidence that licensing requirements are deterring local cultural events, investment or employment in the area. Liaison with the Executive and Overview and Scrutiny Committees will assist this monitoring process.*
- 3.17 *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.*

- 3.18 *We are committed to avoid duplication with other regulators and will not impose conditions upon licenses which are already requirements under other legislation*
- 6.1 *The operational regulatory functions of the Planning, Environmental Health and Licensing functions of the Council will be separated to avoid duplication, inefficiency and theoretical conflicts of interest which may be open to legal challenge. We will not allow licensing applications to be a re-run of planning applications.*
- 7.5 *The hours requested by the applicant will normally be approved where the applicant can show in their operating schedule that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area or undermine one or more of the licensing objectives.*
- 7.6 *Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.*
- 7.12 *We ask applicants to note that in the case of the sale by retail of alcohol (or supply of alcohol by or on behalf of a club to, or to the order of, a member of a club) for consumption on the premises, “consumption” of alcohol is not a licensable activity.*

## **8. CHILDREN**

- 8.1 *We recognise the law is applicable to the whole of licensed premises rather than that of a bar only under the repealed 1964 Act. This will include beer gardens and other areas not being viewed as part of the premises as under former legislation.*
- 8.2 *We will not generally restrict child access to premises beyond that stated in the Act or Regulations unless to prevent physical, moral or psychological harm to children in individual premises. We will consider the individual merits of each application and the style in which premises trade.*
- 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.*



- 8.4 *We will consider alternatives for limiting access to children and will not impose a right of access for children in licensed premises, this remaining a discretionary matter for the licensee.*
- 8.5 *These alternative options may include a combination of :*
- *Limitation of hours where children can be present*
  - *Exclusion of children of certain ages when particular activities are taking place*
  - *Limitation on the parts of the premises where children are allowed*
  - *Age limitations throughout the premises*
  - *Requirements for children below a particular age to be accompanied*
- 8.6 *Applicants for licences will normally consider child access in their risk assessments and operating schedules and may volunteer appropriate model conditions in their applications.*
- 8.8 *In premises showing films, we will restrict access to the relevant part of the premises to meet the required age limit in accordance with any certificate granted by the British Board of Film Classification. In the case of a film that has not been subject to classification under Section 4 Video Recordings Act 1984, we will require the film to be submitted to the Licensing Manager at least 14 days before the proposed exhibition. A certificate will then be given to the film by the Authority and any age restriction imposed must be adhered to.*
- 8.10 *Where premises are exclusively or primarily used for the supply of alcohol, including premises subject to a temporary event notice, the law will not allow unaccompanied children under the age of 16 years to be on the premises if the premises are open for the purpose of the supply of alcohol for consumption there.*
- 8.11 *Where premises are open for the sale of alcohol for consumption there, including premises subject to a temporary event notice, no unaccompanied person under the age of 16 years will be allowed on those premises between midnight and 5am.*
- 8.14 *We therefore believe that outside the above prohibitions, the primary responsibility for the control of child admission to premises will rest with the designated premises supervisor.*
- 8.15 *We will not introduce artificial measurements in deciding whether premises are exclusively or primarily for the consumption of alcohol. We will apply ordinary and natural meanings in the individual circumstances and with local knowledge.*
- 9.1 *We will, as far as it is possible to do so, avoid imposing disproportionate and over burdensome conditions on premises. We will not impose standard conditions on premises licences other than mandatory conditions prescribed by the Act. We will adopt a position of reasonableness and proportionality.*

9.2 *Following proven objections or reviews, we will consider imposing realistic conditions appropriate to the circumstances of each individual case. We will consider model conditions of best practice and we will also consider other conditions proposed by responsible authorities in any particular case.*

## 9. THE DECISION

9.1 In accordance with Regulation 26(2) of the Licensing Act 2003 (Hearings) Regulations 2005, a decision must be made within the period of 5 working days beginning with the day or the last day on which the hearing was held.

9.2 In accordance with section 35(4) of the Licensing Act 2003, members may take such steps (if any) as mentioned below as it considers necessary for the promotion of the licensing objectives. The steps the members may take are:

- a) Modify the conditions of the licence
- b) To reject the whole or part of the application.

## 10. CRIME & DISORDER

10.1 Without prejudice to any other obligation imposed on it, the Local Authority has a duty to consider crime and disorder implications.

## 11. WARDS AFFECTED

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

Background Papers	
Document	Place of Inspection
Statement of Licensing Policy	Council Offices or via <a href="http://www.rossendale.gov.uk">www.rossendale.gov.uk</a>

Appendices	
Document	Appendix Number
Application to vary a premises licence	A
Copy of the current licence	B
Representation 1	C
Representation 2	D
Supplementary evidence submitted by interested party 2	E
Environmental Health report	F
Lancashire Constabulary report	G

A summary of variation sought vs the current licence	<i>H</i>
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