

Subject: Determination Hearing – The
Roebuck Inn (Haslingden)

Status: For Publication

Report to: Licensing Committee

Date: 12th March 2009

Report of: Licensing Manager

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 20th January 2009, seeks to increase the licensed hours in respect of the supply of alcohol and regulated entertainment. The application also seeks additional licensable activities and offers additional conditions to the licence.
- 3.3 The application proposes the following:

Live Music
Recorded Music
Performance of Dance
Facilities for making music
Facilities for dancing

Between 1000 hours to 0300 hours Monday to Sunday.

This represents an increase in licensing hours as follows:

Between 2300 hours to 0300 hours on Monday to Wednesday.

Between 2400 hours to 0300 hours on Thursday.

Between 0200 hours to 0300 hours on Friday and Saturday.

Between 1000 hours to 1200 hours and between 2400 hours to 0300 hours on Sunday.

Indoor sporting events

Boxing or wrestling

Between 1000 hours to midnight Monday to Sunday.

This represents additional activities for the licence.

Late Night Refreshment

Between 2300 hours to 0300 hours Monday to Sunday.

This represents an increase in licensing hours as follows:

Between 2300 hours to 0300 hours Monday to Wednesday.

Between 2400 hours to 0300 hours Thursday.

Between 0200 hours to 0300 hours Friday and Saturday.

Between 2400 hours to 0300 hours Sunday.

The supply of alcohol

Between 1000 hours to 0300 hours Monday to Sunday.

This represents an increase in licensing hours as follows:

Between 2300 hours to 0300 hours Monday to Wednesday.

Between 2400 hours to 0300 hours Thursday.

Between 0200 hours to 0300 hours Friday and Saturday.

Between 1000 hours to 1200 hours and between 2400 hours to 0300 hours Sunday.

- 3.4 To assist members with the determination, the current and proposed hours and activities are compared at Appendix B.
- 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 as appendices to the application, which is appended at Appendix A.

- 3.7 Immediately prior to the submission of this valid application, the applicant submitted an invalid application to vary the premises licence. During this time, the Police licensing officers consulted with the applicant and advised that they would wish to see the inclusion of particular conditions. The applicant agreed and these conditions were offered with the valid application referred to at 3.6.
- 3.8 During the statutory representation period, the applicant, at the request of an Environmental Health Officer, offered an additional three conditions to the licence. The conditions offered are appended with the application at Appendix A.

4. BACKGROUND

- 4.1 The premises licence in respect of the premises was originally granted on 20th September 2005. The licence was subsequently transferred on 21st December 2006.
- 4.2 The applicant, Mr Kocdemir applied to have the licence transferred and has held this premises licence since 20th June 2008.
- 4.3 A copy of the current licence is appended at Appendix C.
- 4.4 The licence has not been subject to a review since its grant.
- 4.5 The applicant has applied to vary the premises licence. This application was received on 20th January 2009.
- 4.6 The applicant has complied with the regulations regarding the advertising of the application.
- 4.7 The applicant was notified of the representations received and as supporting information, the applicant has submitted the documents appended at Appendix D (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual). These documents were handed in on 16th February 2009 during the representation period.
- 4.8 The Licensing Authority cannot determine whether the individuals who signed the documents can be interested parties within the meaning of the Act and as such, the information is accepted as supporting information for the hearing. Members should therefore determine how much weight they wish to attach to the information.
- 4.9 Members should pay attention to the headings on each of the pages as members may consider them to be ambiguous.
- 4.10 As further supporting evidence, the applicant has submitted a letter which appears to respond to the representations. This letter is appended at Appendix J.

4.11 Members should be aware that they cannot reduce the licence to less than what they held before the application to vary.

5. RELEVANT REPRESENTATIONS

5.1 Environmental Health as a responsible authority made a representation on 6th February 2009. The representation is appended at Appendix E.

5.2 The Licensing Authority requested that Environmental Health clarify the grounds of their objection.

5.3 The requested clarification was received on 13th February 2009 and is appended at Appendix F.

5.4 The Licensing Authority has declared this to be a valid representation under the Act.

5.5 No other responsible authority has made representation on this application.

6. INTERESTED PARTIES

6.1 A resident from Lower Deardengate has made a valid representation on the application to vary the premises licence. This representation is appended at Appendix G.

6.2 This representation is made on the basis that the variation will undermine one or more of the licensing objectives.

6.3 The representation is not wholly irrelevant or apparently frivolous and I have no evidence that the representation is vexatious.

6.4 At the same time of making a representation, the interested party referred to at 6.1 handed in a petition with the signatures of 53 individuals.

6.5 This petition is appended at Appendix H (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual).

6.6 The Licensing Authority declared the signatories on the petition to be interested parties and declared the petition as a valid representation. A letter was sent to all signatories to advise them of this.

6.7 As a result of that letter, one of the signatories contacted the licensing unit to advise that they had not signed the petition. The Senior Licensing Enforcement Officer visited the individual's home in order to clarify the matter and to show them the signature. Upon examination of the petition, the individual clarified that it was not their signature and that in fact, whilst the petition was signed as a printed name, they always sign in joined up writing. The Officer formed the opinion that the individual was mentally alert and did not sign the petition.

- 6.8 This individual cannot therefore be deemed to be an interested party and has not submitted a valid representation. Members should therefore be aware that in consideration of this representation, one name should be excluded from the list.
- 6.9 In further consideration of this representation, members should be aware that two of the signatories are businesses. A business in the vicinity of the premises can be an interested party within the meaning of the Act provided that a valid representation is made. On that basis, the two signatories have been requested to clarify their representation. At the time of writing, such clarification has not been received.
- 6.10 In anticipation of Members seeking clarification, two Licensing Officers visited the majority of the signatories on the petition to clarify that they had in fact signed the petition and thus object to the application made.
- 6.11 The representation is therefore not wholly irrelevant or apparently frivolous and I have no evidence that the representation is vexatious.
- 6.12 To assist members, a map which shows the location of the premises to which the application relates and all interested parties is appended at Appendix I (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual).
- 6.13 Members should be aware that they cannot reduce the licence to less than what they held before the application to vary.

7. ASSOCIATED PAPERS

- 7.1 To assist members with the determination, the current and proposed hours and activities are compared at Appendix B.
- 7.2 To assist members with the determination, a map which shows the location of the premises to which the application relates and all interested parties is appended at Appendix I.

8. POLICY CONSIDERATIONS

- 8.1 The relevant extracts from the Statement of Licensing Policy made from 7th January 2008 to 6th 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 backcloth 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*

- *ensures public safety*
- *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*
- *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;
- The Crime and Disorder Reduction Strategy
 - Existing Enforcement Concordats
 - The National Alcohol Harm Reduction Strategy
 - Safer Clubbing
 - The designated premises supervisor's ability to control and supervise customer behavior.
 - The number of people attending the premises
 - The customer age profile
 - The nature of drinks promotions
 - The nature of licensable and other activities provided
 - Any evidence of drug or/and alcohol abuse
 - The design, character and layout of the premises
- 3.12 We will acknowledge the benefit of applicants including within their licensing operating schedules and applications, the following control measures to promote the licensing objectives;
- The provision of seating
 - The retention of room divisions to avoid the spread of any disorderly activity throughout the premises
 - The use of separate areas within single room premises to avoid the spread of disorderly activity

- 3.13 *We recognise that the need for licensed premises is not a matter for licensing authorities but a matter for Planning Committees and commercial market forces.*
- 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*
- 3.18 *We are committed to avoid duplication with other regulators and will not impose conditions upon licenses which are already requirements under other legislation*
- 5.2 *We will not restrict objective consideration of licensing hours applications as a consequence of any hours of premises use restrictions placed upon premises under planning legislation.*
- 7.1 *We will consider each application upon its individual merits and the basis of any application will be the draft operating schedule. We welcome risk assessment documents being submitted with operating schedules illustrating the applicants assessment of risks relating to promotion of the Licensing Objectives.*
- 7.2 *Flexible licensing hours will be important to ensure that the concentration of customers leaving premises simultaneously are avoided, minimising the possible sources of friction at fast food outlets and taxi ranks, thereby reducing the potential for violence and disorder and fear of such.*
- 7.3 *We will avoid fixed or artificial early closing times which produce peaks of disorder and disturbance by customers merging into the streets simultaneously.*
- We will balance this with stricter conditions being expected in relation to noise control in areas of dense residential accommodation.*
- 7.4 *Subject to the licensing objectives, we accept the principle of licensable activity taking place over 24 hours and 7 days a week and that off-licence premises may sell alcohol during the whole of their trading hours. No general restriction or limitation on hours in any area is imposed by this statement of licensing policy.*
- 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.*
- 7.7 *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.*
- 7.8 *Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested,*

particularly involving entertainment, the imposition of further conditions may be appropriate.

- 7.9 *We will not impose any obligation under the 2003 Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. If, for example, a public house has no trade on a particular evening, the licence holder is entitled to close the premises.*
- 7.10 *We will however encourage applicants to be realistic in the potential opening hours that they apply for.*
- 7.11 *We acknowledge that the times when an applicant wishes the premises to be open to the public may not be identical to the hours during which licensable activities may take place.*
- 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.*
- 7.13 *Therefore, the authorised period specified in the premises licence, club premises certificate or temporary event notice relates to the period during which alcohol may be sold or supplied.*
- 7.14 *It is therefore permissible for premises to allow the consumption of previously purchased alcohol, within the period between the end of the licensable activity of sale or supply of alcohol and the end of time when the premises will be open.*

9. CONDITIONS

- 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.*

Dispersal Policies

- 9.5 *We will take note of any voluntary dispersal policy at premises and reserve the right to impose dispersal policy conditions upon a licence following relevant representations.*
- 9.6 *This policy will set out the steps that are to be implemented to disperse customers over an extended period of time specified in the operating schedule. It is intended that customers leave the premises in an orderly fashion without bottles or glasses Etc, thereby reducing the potential for conflict within or in the vicinity of the premises.*

Irresponsible Drinks Promotions

- 9.7 *We will not impose any conditions on a premises licence relating to the promotion of price fixing or the creation of cartels.*

- 9.8 *We will encourage adoption locally of voluntary industry codes of practice which cover irresponsible drinks promotions such as that produced by the British Beer and Pub Association (the BBPA's Guidelines on On-Trade Promotions).*
- 9.9 *We will however consider each application, objection or application for licence review on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are necessary for the promotion of the licensing objectives.*
- 9.10 *In addition, when considering any relevant representations from responsible authorities, such as the police, or interested parties, such as local residents, which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or in the vicinity of the premises, we will consider the imposition of a condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises.*

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(3)(b) the authority must, having regard to the representations made, take such of the steps mentioned at 9.3 (if any) as it considers necessary for the promotion of the licensing objectives.
- 9.3 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.

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 9.4 Members should be aware that they cannot reduce the licence to less than what they held before the application to vary.

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 Worsley 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 www.rossendale.gov.uk

Appendices	
Document	Appendix Number
Application to vary a premises licence	<i>A</i>
Comparison of current hours vs requested hours	<i>B</i>
Current premises licence	<i>C</i>
Supporting information from the applicant (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual)	<i>D</i>
E-mail representation from Environmental Health	<i>E</i>
Environmental Health representation	<i>F</i>
Representation from Interested Party	<i>G</i>
Petition (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual)	<i>H</i>
Map of premises and interested parties (Not For Publication under Schedule 12A of the Local Government Act 1972. Part 1 Paragraph 1 – Information relating to any individual)	<i>I</i>
Supporting letter from the applicant	<i>J</i>