

**Subject:** Licensing Act 2003 Determination. **Status:** For Publication  
Safe Self Storage, Plantation Mill,  
Flip Road. Carrs Industrial Estate,  
Haslingden, BB4 8AJ

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**Report to:** Licensing Sub-Committee **Date:** 7<sup>th</sup> July 2010

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**Report of:** Director of Business

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**Portfolio**

**Holder:** Environmental Services

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**Key Decision:** No

Forward Plan  General Exception  Special Urgency

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**1. PURPOSE OF THE REPORT**

1.1 To advise elected members of a required determination of an application for the grant of a Premises Licence under Section 18 of the Licensing Act 2003.

**2. RECOMMENDATIONS**

2.1 Members are recommended to make a determination within the period of five working days beginning with the day or the last day on which the hearing is held as required by Regulation 26(2) of the Licensing Act 2003 (Hearings) Regulations 2005.

**3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION**

3.1 On 12<sup>th</sup> May 2010, the Licensing Authority received an application from Emily Alyse Green for the grant of a Premises Licence. This application is appended at Appendix A.

3.2 The application seeks the supply of alcohol, both on and off the premises, the exhibition of films, the performance of live music, the playing or recorded music, the performance of dance, anything of a similar description to live music, recorded music or performance of dance, the provision of facilities for making music and the provision of facilities for dancing.

- 3.3 The hours that the premises wish to conduct these activities and will be open to the public are from 8am until midnight, Monday to Sunday and, in addition, to 12.30am on recognised Bank Holidays, Christmas Eve and New Years Eve. The applicant also asks that for New Year's Eve only, and in respect of live music, recorded music and anything of a similar description to live music, recorded music or performance of dance, the permitted time is extended until 2am, which clearly conflicts with the time that the premises are open to the public.
- 3.4 The application is in respect of both indoors and outdoors and there are 4 plans submitted as part of the application. Three of the plans show the internal area but do not indicate the 'licensable area' and the fourth plan shows the external area but again does not indicate the 'licensable area'. I make the assumption, therefore, that the application is for the whole of the building and the whole of the external area shown on the plans. It should then be noted that there is a large mezzanine area inside the premises which is not shown on the plans.
- 3.5 The applicant has offered several steps that she intends to take to promote the four licensing objectives. Members are respectfully reminded that these will become conditions of the licence if granted. These steps are outlined at page 23 of the application at Appendix A.
- 3.6 It should be noted that the provision of late night refreshment becomes licensable after 11pm and the application does not seek to have such activity licensed. The premises would therefore not be permitted to supply hot food or drink after 11pm.
- 3.8 The Licensing Authority has received six representations in respect of this application. These representations are appended at Appendices B to G. There was a further representation which was received out of time and which has been rejected.
- 3.9 Members are respectfully reminded that the representations contains some items which do not fall within the licensing objectives and as such, these are not relevant to the hearing..
- 3.10 Two maps illustrating the premises and the area surrounding are appended at Appendix H.
- 3.11 Relevant extracts from the Statement of Licensing Policy are:
- 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*
  - *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. We will however balance the potential for limited disturbance in neighbourhoods against the wider benefits to the community and cultural development of the area.*
- 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*
- 2.15 *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.*
- 2.17 *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.*
- 3.4 *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 behavior 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.*
- 3.9 *The applicant for a premises licence will be required to demonstrate on the application and accompanying operating schedule, an active role in promoting and supporting the licensing objectives. We will take notice of a health and safety risk assessment submitted as an appendix to the application.*
- 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*
- 3.12 *We will acknowledge the benefit of applicants including within their licensing operating schedules and applications, the following control measures to promote the licensing objectives;*
- 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 applicant's 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.*
- 7.5 *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.*

- 7.9 *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.*
- 7.11 *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.*
- 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.*
- 9.4 *We will however reserve the right to impose any condition which is necessary to promote any of the licensing objectives where an objection to or application for a review of a licence is made.*

#### **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 representations referred to at paragraph 3.8 as well as any submissions which are made by or on behalf of the applicant.
- 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 grant the licence subject to:

- i) the conditions consistent with the operating schedule modified to such extent as the authority considers necessary to promote the licensing objectives, and
  - ii) any mandatory condition which must be included in the licence
- b. to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c. to reject the application

## 6. SECTION 17 CRIME & DISORDER ACT 1998

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

## 7. WARDS AFFECTED

- 7.1 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.

<b>Contact Officer</b>	
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Background Papers	
Document	Place of Inspection
Statement of Licensing Policy	One Stop Shop, Rawtenstall

Appendices	
Document	Place of Inspection
Appendix A	Attached
Appendix B	Attached
Appendix C	Attached
Appendix D	Attached
Appendix E	Attached
Appendix F	Attached
Appendix G	Attached
Appendix H	Attached