

TITLE:	LICENSING ACT 2003 DETERMINATION OASIS, WATERFOOT
TO/ON:	LICENSING DETERMINATION SUB-COMMITTEE, WEDNESDAY, 11TH JANUARY 2006
BY:	SUSAN CHADWICK, LICENSING MANAGER
STATUS:	FOR PUBLICATION

1. PURPOSE OF THE REPORT

- 1.1 To advise elected members of a required determination of an application under Section 18 of the Licensing Act 2003.

2. RECOMMENDATIONS

- 2.1 Members are recommended to make a determination within 5 working days beginning with the day or the last day on which the hearing is held as required by Regulation 26(2) Licensing Act 2003 (Hearings) Regulations 2005.

3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION

- 3.1 The Licensing Authority has received a valid application under Section 17 of the Act.
- 3.2 The application is appended at Appendix A and sets out the licensable activities requested, namely:
- a) The provision of late night refreshment between 23:00 and 03:00 Monday to Sunday, and in addition, between 23:00 and 05:00 on Christmas Eve and New Years Eve.
- 3.3 Members should note that the provision of late night refreshment is a licensable activity under the Act between the hours of 23:00 and 05:00 only.
- 3.4 The applicant has described the premises in Part 3 of the operating schedule. Section P of the operating schedule provides the steps they intend to take in order to promote the licensing objectives. These will become conditions of any licence granted.
- 3.5 The Licensing Authority has received two representations in respect of this application.

- 3.6 Representation 1 is appended at Appendix B. Environmental Health, as a responsible authority, has made a representation relating to the Prevention of Public Nuisance.
- 3.7 Representation 2 is appended at Appendix C. Miss S M Carey, as an interested party, has made a representation, which appears to relate to the Prevention of Public Nuisance.
- 3.8 The Licensing Act 2003 requires you to have regard to the representations, and take such steps as you consider necessary for the promotion of the licensing objectives.
- 3.9 The steps you may take are:
- 1) to grant the licence subject to the conditions offered on the operating schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - 2) to exclude from the licence, any licensable activities to which the application relates.
 - 3) to reject the application.
- 3.10 The conditions of the licence are modified if any of them are altered or omitted or any new condition is added.
- 3.11 Relevant extracts from the Statement of Licensing Policy are:
- 1.16 *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.*
- 1.17 *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.*
- 2.3 *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.*
- 3.1 *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 behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises*

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. WARDS AFFECTED

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

For further information on the details of this report, please contact:

Susan Chadwick, Licensing Manager (01706) 242 336

Background documents-

Statement of Licensing Policy

**Application for a premises licence to be granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I/We Mehvish Anwar
(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 - Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description Oasis 1 Victoria Parade				
Post town		Waterfoot	Post code	B34 9AB

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Telephone number at premises (if any)	01706 224400
Non-domestic rateable value of premises	£7600 ✓ MS

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - o statutory function or
 - o a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input checked="" type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Anwar			First names Mehvish		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
Current postal address if different from premises address		7 Sullivan Drive			
Post Town	Blackburn		Postcode	BB2 3TF	
Daytime contact telephone number			01254 278463		
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	

Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
2	4	112005

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

Please give a general description of the premises (please read guidance note1)

The premises is a take away on the corner of a row of shops. It consists of three areas, the customer seating, waiting & ordering area, the serving area and the kitchen.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend. •

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>		
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed					
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon	2300	0300			
Tue	2300	0300	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)		
Wed	2300	0300			
Thur	2300	0300			
Fri	2300	0300	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5) Christmas Eve 2300 to 0500 New Years Eve 2300 to 0500		
Sat	2300	0300			
Sun	2300	0300			

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon					
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	
Address	
Postcode	
Personal Licence number (if known)	
Issuing licensing authority (if known)	

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

None

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	1600	0300	
Tue	1600	0300	
Wed	1600	0300	
Thur	1600	0300	
Fri	1600	0300	
Sat	1600	0300	
Sun	1600	0300	

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)
 Christmas Eve 1600 to 0500
 New Years Eve 1600 to 0500

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

In line with the government guidance we will manage the premises in line with all four of the licensing objectives and all relevant legislation.

b) The prevention of crime and disorder

1) A responsible person will be in charge of the premises at all times.

c) Public safety

- 1) The premises should comply with the Fire Precautions (workplace) Regulations 1997.
- 2) All fire equipment on the premises is checked annually.
- 3) All members of staff are familiar with the fire fighting equipment on the premises & how to use it.

d) The prevention of public nuisance

- 1) All rubbish is removed from the premises daily and stored in the correct manner.
- 2) At the end of each evening the area directly outside the premises is checked for rubbish and any found disposed of in the correct manner.

e) The protection of children from harm


Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	14.11.05
Capacity	Authorised Agent

For joint applications signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)			
Licensing Matters 10 Lowerfield Langho			
Post town	Blackburn	Post code	BB6 8HE
Telephone number (if any)	01254 248899		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) licensingmatters@tiscali.co.uk			

Licensing Act 2003

**Representation made in respect of a
NEW PREMISES LICENCE
VARIATION TO A PREMISES LICENCE
NEW CLUB PREMISES CERTIFICATE
VARIATION TO A CLUB PREMISES CERTIFICATE**

PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING THE ATTACHED FORM.

You have notified the Licensing Authority that you wish to make a representation concerning an application for a new premises licence or club premises certificate during the transitional period of the Licensing Act 2003 or in respect of a new Premises Licence or Club Premises Certificate.

The law does not require a representation to be in a standard format however, I am obliged to decide whether your application is valid within the requirements of the Act and Regulations.

Under the provisions of the Licensing Act 2003 (Hearings Regulations) 2005, the Licensing Authority requests that you clarify the grounds upon which you are making representations. This form will assist you in ensuring that you have entered your representations properly and fully.

YOU SHOULD BE AWARE THAT A HEARING HAS TO CONSIDER STATUTORY GUIDANCE AND NOT ALL REPRESENTATIONS CAN BE CONSIDERED. YOU SHOULD REFER TO THE GUIDANCE AVAILABLE ON OUR WEBSITE WWW.ROSSENDALE.GOV.UK

WHERE THERE ARE A LARGE NUMBER OF RESIDENTS MAKING REPRESENTATIONS, YOU SHOULD CONSIDER REQUESTING THAT 1 OR 2 PEOPLE SPEAK FOR YOU ALL.

WE ARE OBLIGED TO DISCLOSE YOUR DETAILS TO THE APPLICANT OR THEIR SOLICITORS.

PLEASE ENSURE YOU RETURN YOUR LIC021 FORM AS FAILURE TO COMPLY WITH THIS LEGAL REQUIREMENT MAY UNDERMINE YOUR RIGHT TO SPEAK AT THE MEETING.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records. You may use your copy as an aide memoir at a hearing before the Licensing Committee.

The ground(s) for representation must be based on one of the licensing objectives.

A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do this is not “relevant” for the purposes of the 2003 Act. It is not intended, for example, that the consideration of the application should be a re-run of the planning application which would have considered a wider range of matters. Premises licences authorise the activities within the scope of the 2003 Act that it is proposed should take place on the premises. For example, a representation from a local businessman which argued that his business would be commercially damaged by the new business for which an application is being made under Part 3 of the 2003 Act would not be relevant.

Please list any additional information or details to support your application and attach any documentary or other information that you may wish to use. If you have not disclosed this information, you will not be able to introduce it at the hearing unless all the other parties consent.

Susan Chadwick
Licensing Manager
Rossendale Borough Council

A Licensing Authority for the purposes of the Licensing Act 2003.

I (insert name of person making representation whether as an individual or on behalf of a group or authorised to make a representation as a responsible authority)

Georgina Harriss.....

make representations in respect of a variation to a; (tick as appropriate)

Premises Licence	*
Club Premises Certificate	

Section 1 – Premises or club premises details

Name, address and postcode of premises or club premises in respect of which you are making representations.	
<p>Oasis 1 Victoria Parade Waterfoot</p>	
Post town	Post code (if known)

Name of premises licence holder or club holding club premises certificate (if known)

Section 2 - Applicant details

I am;

	Tick as appropriate
(a) an interested party being a person living in the vicinity of the premises	
(b) a body representing persons living in the vicinity of the premises	
(c) an interested party being a person involved in business in the vicinity of the premises	
(d) a body representing persons involved in business in the vicinity of the premises	
(e) a responsible authority	*

Please provide your details below. If you are an individual applicant complete Section A only. If you are a body representing an interested party complete Section B only. If you are a responsible authority complete Section C only.

A. DETAILS OF INDIVIDUAL APPLICANT (tick as appropriate)

Mr.		Mrs.		Miss		Ms		Other	
------------	--	-------------	--	-------------	--	-----------	--	--------------	--

Surname		First Name	
----------------	--	-------------------	--

I am 18 years old or older	
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Current address

Postcode

Daytime contact telephone number	
E-mail address	

B. DETAILS OF OTHER APPLICANT SUCH AS A BODY REPRESENTING RESIDENTS OR BUSINESSES IN THE VICINITY OF THE PREMISES

Name of the Body	
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Surname of person representing the body		First Name of person representing the body	
--	--	---	--

Address

Postcode

Daytime contact telephone number	
E-mail address	

C. DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name of the responsible authority	Rossendale Borough Council Environmental Health
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Surname of representative of responsible authority	Harriss	First Name of representative of responsible authority	Georgina
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Address of responsible authority

<p>Town Hall Rawtenstall Rossendale</p> <p>Postcode BB4 7LZ</p>

Daytime contact telephone number	01706 244589
E-mail address	georginaharriss@rossendalebc.gov.uk

Section 3 details of the licensing objectives which will be undermined by the variation.

This representation relates to the following licensing objective(s) (tick as appropriate)

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

Section 4 information and details of the representation.

Please note that your representations can only be relevant to the variation to the existing licences. You should note that any objections to the current licences held by the applicant should have been made when their current licences if any were renewed by the Courts or Local Authority.

Please state the grounds for your representation

The application for a premises license at the above premises, states that opening hours are up until 3am 7 days a week. In order to prevent causing nuisance to nearby residents from patrons leaving the premises, I requested from the applicant's representative for additional measures to be put forward. These included requests for signs to be placed within the premises requesting patrons to leave the premises quietly.

I also requested additional measures to be put forward for the storage and disposal of waste as there was some concern over recent incorrect storage of waste on the premises which was attracting vermin to the area.

Although it was agreed that these additional measures would be submitted with an amended form, this has not been received to date and therefore I have no alternative but to lodge a representation. However, should my concerns be addressed and the additional measures submitted, my representation may be withdrawn.

Please provide as much information as possible to support your representation. Please note that if you have not disclosed this information, you may not be able to introduce it at the hearing unless all the other parties consent.

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Section 5

Have you made any representations in respect of these premises before? (Delete as appropriate)	Yes	No *
Date that you made representations		

I understand that the Licensing Authority is obliged to give notice of a hearing to all parties to the hearing and this must include a copy of this representation. (You must tick this box)	Yes *
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IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE [AMOUNT], UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION OR REPRESENTATION.

Section 6 Signatures Georgina Harriss 16th December 2005

Signature of person making representation or a solicitor or other duly authorised agent. If signing on behalf of a body representing a person living or carrying on a

business in the vicinity of the premises or on behalf of a responsible authority please ensure that have the right to sign a representation on their behalf and state the capacity in which you are signing.

Signature

Date

Capacity

11th December 2005

Re: Oasis Takeaway, Victoria Parade Waterfoot

Dear Sir,

With reference to the above property applying for extension on trading licence until 3am, I feel that I should object to this application being granted.

I own 5 Victoria Parade which is next door but one it is currently rented out.

The fume extractor pipes are right outside my back door and they run up past the bedroom window they are noisy and very smelly and an unsightly eyesore, I don't know why they were given planning permission to put them on a listed building.

We constantly have groups of teenagers hanging around the shop, we have had them urinating in our doorway, we have had to clean up rubbish and waste food on numerous occasions.

I would like to invite you to come and see and smell for yourself.

Yours Sincerely
Miss S. M. Carey

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14 DEC 2005