

Subject: Determination Hearing
28 Bury Road,
Rawtenstall,
BB4 6AA

Status: For Publication

Report to: Licensing Sub-Committee

Date: 31st May 2011

Report of: Public Protection Manager

1. PURPOSE OF REPORT

- 1.1 To advise members of an application for a premises licence under section 17 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 from Mohammed Rasib is for a premises licence to be granted under the Licensing Act 2003 and is appended at Appendix A. The application was received by the licensing authority on 14th April 2011 and refers to premises situated at 28 Bury Road, Rawtenstall, which the applicant describes on his application form as a 'hot food takeaway and café'.
- 3.2 The application proposes the provision of late night refreshment, on and off the premises. The licensable activity in respect of this application will be conducted during the following hours::

L. Late night refreshment

Between 2300 hours and 0000 hours Sundays to Wednesdays.
Between 2300 hours and 0300 hours Thursdays to Saturdays.
Between 2300 hours and 0200 hours on Sundays before a recognized English Bank Holiday Monday

Between 2300 hours and 0200 hours on Christmas Eve and Boxing Day.
Between 2300 hours and 0300 on New Year's Eve.

O. Opening hours of the premises

Between 1000 hours and 0000 hours on Sundays to Wednesdays.
Between 1000 hours and 0300 hours on Thursdays to Saturdays.
Between 1100 hours and 0200 hours on Sundays before a recognized English Bank Holiday Monday
Between 1100 hours and 0200 hours on Christmas Eve and Boxing Day.
Between 1100 hours and 0300 on New Year's Eve.

3.5 The steps that the applicant intends to take to promote the four licensing objectives are detailed at section P of the application as appended at Appendix A.

5. RELEVANT REPRESENTATIONS

5.1 On 4th May 2011, the Licensing Authority received a representation from the Chief Officer of Police. This representation was declared relevant by the Public Protection Manager. This representation is appended at Appendix B.

5.2 The Chief Officer of Police has returned the Regulation 8 form notifying the Licensing Authority that he intends to attend the hearing and does not intend to be represented by anyone else.

6. INTERESTED PARTIES

6.1 On 9th May 2011, the Licensing Authority received a petition as a representation. The petition does not include a nominated spokesperson and there was no indication as to whom the petition came from.

6.2 This representation was declared relevant by the Public Protection Manager.

6.3 At the time of writing, the interested party had not returned their Regulation 8 form stating whether they intend to attend the hearing.

7. POLICY CONSIDERATIONS

7.1 In determining the application, members must give appropriate weight to:

- a. the steps that are necessary to promote the licensing objectives;
- b. the representations (including supporting information) presented by all the parties;
- c. the statutory guidance issued under section 182 of the Act;
- d. the licensing authority's statement of licensing policy

7.2 Members should have regard to the statutory guidance issued under section 182 of the Licensing Act 2003.

7.3 The relevant extracts from the Statement of Licensing Policy made from 7th January 2011 to 6th January 2014 are detailed below and are numbered as they appear in the Statement of Licensing Policy document.

4.1 *The licensing objectives are:*

4.1.1 *The prevention of crime and disorder;*

4.1.2 *Public safety;*

4.1.3 *The prevention of public nuisance; and*

4.1.4 *The protection of children from harm*

4.4. *We will endeavour to carry out our licensing functions in such a way as to:*

- *Ensure public safety*
- *Support 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*
- *Protect the quality of life of residents*

4.5. *We will have regard to how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources and police resources impact on the licensing objectives.*

4.6. *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.*

4.7. *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.*

5.2. *We will promote the four licensing objectives and all our decisions will reflect these objectives.*

5.3. *We consider each licensing objective to be of equal importance. They will be considered in relation to matters centred 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.*

- 5.4. *Licensing law is not the primary 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.*
- 5.5. *We consider that a well drafted and specific operating schedule indicates the applicant's understanding and willingness to meet the responsibilities of a licence holder under the Act.*
- 5.6. *We consider that a blank or sparsely completed operating schedule gives the impression that the applicant has not given sufficient thought to the responsibilities of a licence holder.*
- 5.7. *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.*
- 5.8. *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.*
- 5.9. *We are committed to avoiding duplication with other regulators and will not impose conditions upon licences which are already requirements under other legislation.*
- 5.10. *We will not seek to limit the number of licensed premises simply because any interested party or responsible authority consider that there are enough licensed premises to satisfy demand. Need is a commercial decision for the applicant.*
- 9.1 *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 the promotion of the licensing objectives.*
- 9.2 *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.*
- 9.3 *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.*
- 9.5. *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.*
- 9.6. *Where there is evidence that one or more licensing objectives would be undermined, a responsible authority or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.*

9.7 *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 force in relation to the area where the premises are situated.*

10.7 *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.*

10.8 *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 18(3)(b) of the Licensing Act 2003, members must having regard to the representations, take such of the steps detailed below as it considers necessary for the promotion of the licensing objectives. The steps are (s18(4)):

- a) to grant the licence subject to –
 - i. the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - ii any conditions which must under section 19, 20 or 21 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 refuse to specify a person in the licence as the premises supervisor;
- d) to reject the application.

9.3 Subsection (2)(a) is reproduced here for clarity:

- 18(2)(a) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to –
- a) such conditions as are consistent with the operating schedule accompanying the application, and

- b) any conditions which must under section 19, 20 or 21 be included in the licence.

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 Longholme 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
Statutory Guidance issued under Section 182 of the Licensing Act 2003	Council Offices or via www.homeoffice.gov.uk

Appendices	
Document	Appendix Number
Application for the grant of a premises licence	A
Representation 1 (Responsible Authority)	B
Representation 2 (Interested Party)	C