

TITLE: LICENSING ACT 2003 DETERMINATION
ROSSENDALE CONVENIENCE STORE,
CRAWSHAWBOOTH

TO/ON: LICENSING DETERMINATION SUB-COMMITTEE,
THURSDAY, 25TH MAY 2006

PORTFOLIO HOLDER: LEADER OF THE COUNCIL

BY: HEAD OF LEGAL & DEMOCRATIC SERVICES

STATUS: FOR PUBLICATION

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 4th April 2006, the Licensing Authority received an application from Molesworth Bright Clegg solicitors on behalf of Ms Sobeen Iqtedar for the grant of a Premises Licence. This application is appended at Appendix A.

- 3.2 The application has been made for the supply of alcohol off the premises between the following hours:

Monday to Thursday 05:30 to 23:00

Friday 05:30 to Sunday 23:00

- 3.3 The application states that the opening hours are identical to the supply of alcohol.

- 3.4 The Licensing Authority received representations from residents on Barley Holme Road, Hill Street, York Street, Major Street and Burnley Road. These representations are appended at Appendix B.
- 3.5 A location map is appended at Appendix C.
- 3.6 The Chief Officer of Police has also made representation in respect of this application on the likely effect of three licensing objectives. This representation also addresses insufficient steps to be taken to promote the four licensing objectives and is appended at Appendix D.
- 3.7 Members are respectfully reminded that whilst the relevant representations contain material which relates to the four licensing objectives, they do also contain material which is outside of the Licensing Act 2003 scope as they discuss issues which are not relevant to the licensing objectives. All irrelevant material in the representations must be disregarded.
- 3.8 Relevant extracts from the Statement of Licensing Policy are:

1.2 *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*

1.10 *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*

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.*

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.*
- 3.4 *We will not deter an individual making an application and having that application judged on its individual merits.*
- 3.6 *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 recognise that the need for licensed premises is not a matter for licensing authorities but a matter for Planning Committees and commercial market forces in accordance with Paragraph 3.12 of the Section 182 Guidance.*
- 5.1 *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.*
- 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.*
- 7.3 *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.*
- 7.12 *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.

8.7 *When considering applications for premises licences, we will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. We expect applicants to seriously consider access arrangements for unaccompanied children.*

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 paragraphs 3.4 and 3.6 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. WARDS AFFECTED

- 6.1 The premises are situated within the Goodshaw 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