



Licensing Act 2003 Sub-Committee

Agenda and Reports

For consideration on

**Monday, 24th November
2008**

In Committee Room 1, Town Hall, Chorley

At 2.00 pm



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14 November 2008

Dear Councillor

LICENSING ACT 2003 SUB-COMMITTEE - MONDAY, 24TH NOVEMBER 2008

You are invited to attend a meeting of the Licensing Act 2003 Sub-Committee to be held in Committee Room 1, Town Hall, Chorley on Monday, 24th November 2008 commencing at 2.00 pm.

AGENDA

1. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda. If the interest arises **only** as result of your membership of another public body or one to which you have been appointed by the Council then you only need to declare it if you intend to speak.

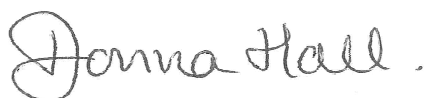
If the personal interest is a prejudicial interest, you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

2. **Application to transfer a Premises Licence under Section 42 of the Licensing Act 2003 and an application to vary the Premises Licence to specify an individual as a designated premises supervisor under section 37 of the Licensing Act 2003 relating to the premises known as the Rose and Crown, St Thomas's Road, Chorley. (Pages 1 - 22)**

Report of Corporate Director of Governance (enclosed)

Attached for Members information is the Hearing Procedure

Yours sincerely



Donna Hall
Chief Executive

Gordon Bankes
Democratic Services Officer
E-mail: gordon.bankes@chorley.gov.uk
Tel: (01257) 515123
Fax: (01257) 515150

Distribution

1. Agenda and reports to all Members of the Licensing Act 2003 Sub-Committee (Councillor Iris Smith (Chair) and Councillors Thomas McGowan and David Dickinson for attendance.
2. Agenda and reports to Councillor Doreen Dickinson (Reserve Member to be present at the start of the meeting)
3. Agenda and reports to Alex Jackson (Senior Lawyer), Gordon Bankes (Democratic Services Officer), Janet Brereton (Legal Assistant (Licensing and Registration)), Stephen Culleton (Licensing Manager) and Bob Beeston (Licensing Enforcement Officer) for attendance.

This information can be made available to you in larger print or on audio tape, or translated into your own language. Please telephone 01257 515118 to access this service.

આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

CHORLEY BOROUGH COUNCIL**LICENSING ACT 2003****SUB-COMMITTEE****GENERAL PROCEDURE POINTS FOR HEARINGS****INTRODUCTION**

The Licensing Act 2003 Sub-Committee will conduct hearings in accordance with the following general principles:

- All parties have a right to a fair hearing.
- Decision-making will be conducted in an open, transparent and accountable way.
- Each application will be determined on its own merits and the decision will be based upon:
 - the merits of the application
 - the promotion of the four licensing objectives
 - the Council's Statement of Licensing Policy
 - the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Licensing Act 2003
- the Licensing Authority will only permit licensing decisions to be taken by sub-committee consisting of three members. In the event of one member being unable to attend, the Licensing authority will use it's best endeavours to substitute another member, taken from the membership of the Licensing Act 2003 Sub-Committee reserve list.
- the Sub-Committee may disallow cross-examination in exceptional circumstances; this decision will be taken on a case by case basis with a presumption to allow. However, parties are advised that the Sub-Committee wishes to discourage hostile cross examination.
- late representations and evidence will usually only be considered with the agreement of all parties present.
- decisions will generally be taken regardless of whether the applicant/other party is present unless the Sub-Committee consider it necessary in the public interest to adjourn the hearing to a specified date. All notices and representations from absent parties will be considered.
- the Sub-Committee will generally allow parties a maximum of 30 minutes per party to make all relevant Statements. However, the Sub-Committee recognises that in certain circumstances this may be insufficient due to the complexity of the issues involved. In this situation the Sub-Committee will consider representations from those parties involved in the hearing as to the length required to make all relevant statements. The Licensing Authority respectfully requests that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency.

- the Sub-Committee recognises that Regulation 14 requires all hearings should take place in public unless the licensing authority “considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public” in which the applicant, those assisting the applicant or other interested parties can be excluded. In the absence of any criteria in the Licensing Act 2003, the guidance issued under section 182 of the Act or the licensing Regulations, the Licensing Authority has adopted the existing criteria in Schedule 12A of the Local Government Act 1972 for excluding the press and public. The public and press will be excluded when the Sub-Committee is considering an application for a personal licence, where Lancashire Police have lodged an objection notice due to an existing relevant offence(s). Generally, the public and the applicant will be excluded when the Sub-Committee is determining a decision. Once a decision has been made all parties will be readmitted and the Chair will announce the decision and give reasons.
- all parties will be notified of the decision in accordance with any periods set down by the Licensing Act 2003 or where none are prescribed within 5 working days.
- the Sub-Committee has the right to exclude any parties behaving in a disruptive manner at the hearing at its own discretion.

HEARING PROCEDURE**PREMISES/CLUB PREMISES LICENCE APPLICATIONS****1. CHAIR OF SUB-COMMITTEE:**

- opens meeting
- introduces Members and Officers
- confirms details of all parties in attendance
- outlines procedure to be followed

2. LICENSING OFFICER OUTLINES APPLICATION AND RELEVANT REPRESENTATIONS**3. QUESTIONS TO LICENSING OFFICER FOR CLARIFICATION FROM:**

- Sub-Committee
- Applicant
- Lancashire Police Representative

4. APPLICANT OR REPRESENTATIVE OUTLINES APPLICATION**5. QUESTIONS TO APPLICANT FROM:**

- Sub-Committee
- Lancashire Police Representative

6. LANCASHIRE POLICE REPRESENTATIONS**7. QUESTIONS TO LANCASHIRE POLICE FROM:**

- Sub-Committee
- Applicant

8. LANCASHIRE POLICE REPRESENTATIVES INVITED TO BRIEFLY SUM UP**9. APPLICANT (OR REPRESENTATIVE) INVITED TO SUM UP****10. DECISION MAKING**

All parties retire whilst Sub-Committee makes decision.

11. NOTICE OF DECISION

Parties re-admitted and Chair announces decision and reasons.

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Report of	Meeting	Date
Director of Corporate Governance	Licensing Act 2003 Sub-Committee	24 November 2008

APPLICATION TO TRANSFER A PREMISES LICENCE UNDER SECTION 42 OF THE LICENSING ACT 2003 AND AN APPLICATION TO VARY THE PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS A DESIGNATED PREMISES SUPERVISOR UNDER SECTION 37 OF THE LICENSING ACT 2003 RELATING TO THE PREMISES KNOWN AS THE ROSE AND CROWN, ST THOMAS'S ROAD, CHORLEY

PURPOSE OF REPORT

1. To enable Members to determine whether an application to transfer a premises licence can be granted and also to determine whether an application to vary the premises licence to specify an individual(s) as a designated premises supervisor.

RECOMMENDATION(S)

2. Members are asked to consider the details contained in the report and any representations made by the applicant and/or her representative and Lancashire Police.

EXECUTIVE SUMMARY OF REPORT

3. On 15 October 2008 an application to vary the premises licence to specify an individual as a designated premises supervisor was received on 15 October 2008. A copy is attached at appendix 1. The licensing authority also received an application to transfer the premises licence with respect to the Rose and Crown, 15 St Thomas's Road, Chorley. A copy is attached at appendix 2. Both these applications were made by Cobbetts LLP, 58 Mosley Street, Manchester M2 3HZ.
4. On 27 October 2008 Lancashire Constabulary made a representation in respect of both applications. With regards to these applications the Police feel that there are exceptional circumstances that would undermine the Crime Prevention Objective of the Licensing Act 2003 if the applications were granted.
5. Due to the sensitive nature of the police representations with regards this matter, Lancashire Constabulary has asked that further evidence can be considered at the hearing that has not previously been disclosed. Therefore application will be made at the hearing for the exclusion of press and public under Statutory Instrument 2005 No. 44, the Licensing Act 2003 (Hearings) Regulations 2005, Section 14(2) which states 'the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.' And Section 14(3) which states 'for the purpose of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public'

6. As Members will be aware, the licensing objectives are as follows:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
7. Where a notice is given under section 37(5) (and not withdrawn) *representation from the Chief Officer of Police* the authority must – (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice, agree that a hearing is unnecessary, and (b) having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
8. Section 4 of Licensing Act 2003 provides that a licensing authority must have regard to its Statement of Licensing Policy and also the guidance issued by the Secretary of State under Section 182 of the Act.
9. The Council's Statement of Licensing Policy states in Paragraph 26.1:

The main purpose of the designated premises supervisor is to ensure that there is one specified individual, who can be readily identified at the premises where a premises licence is in force. The premises licence holder would normally have given that person the day-to-day responsibility for running the premises.
10. Lancashire Police are able to object to the designation of a new designated premises supervisor where, in exceptional circumstances, they believe the appointment would undermine the Crime Prevention objective as set out in the Act.
11. Where the police do object, the Licensing Authority will hold a hearing as required by the Act. The Act provides that the applicant may apply for the individual to take his post up immediately and in such cases, the issue will be whether the individual should be removed.
12. The Licensing Authority will confine their consideration to the issue of crime and disorder and give comprehensive reasons for their decision.
13. The Council's Statement of Licensing Policy states in Paragraph 34.1:

The Act provides for any person who may apply for a premises licence to apply for a transfer of a premises licence. Where the applicant is an individual he or she must be aged 18 years or over. Notice of the application must also be given to Lancashire Police.
14. The Chief Officer of Lancashire Police may in exceptional circumstances object to a transfer on the grounds that it undermines the crime prevention objective.
15. In paragraph 19 Human Rights Act Implications

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights;

 - Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

16. Where such an objection is made the Licensing Authority will hold a hearing to consider the objection. The Licensing Authority will confine its consideration to the issue of the crime prevention objective. The burden would be on Lancashire Police to demonstrate to the Licensing Authority that there were good grounds for believing that the transfer of the licence would undermine the crime prevention objective.

CORPORATE PRIORITIES

17. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	4
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	

IMPLICATIONS OF REPORT

18. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	4	No significant implications in this area	

LEGAL IMPLICATIONS

19. Not applicable.

ANDREW DOCHERTY
 DIRECTOR OF CORPORATE GOVERNANCE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Janet Brereton	5204	11 November 2008	LEGREP/1011LM1

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Application to vary a premises licence to specify an individual as designated premises supervisor 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.

we Ms Emma Louise Mayron and Ms Haley Gowan
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PL(A)0211

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description Rose & Crown 15 St Thomas Road	
Post town Chorley	Post code (if known) PR7 1WR
Telephone number (if any) 01257 232 065	

Description of premises (please read guidance note 1) Public House
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Part 2

Full name of proposed designated premises supervisor
Ms Emma Louise Mayron

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

PA0696
 Chorley Borough Council

Full name of existing designated premises supervisor (if any)

Mark Christopher Davison]

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

We are enclosing the original Premises Licence which we hold at this office and which we believed to be the original. However, we believe that a subsequent licence has been issued in the name of Carole Smith which we do not hold. We will send the duplicate licence fee of £10.50 if this is required.

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- 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 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature Cobbetts LLP

Date 14 October 2008

Capacity Solicitors & Authorised Agents on behalf of the applicant

For joint applicants signature of 2nd applicant 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). **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 5) Lynne Harvey Paralegal Cobbetts LLP 58 Mosley Street	
Post town Manchester	Post Code M2 3HZ
Telephone number (if any) 0845 165 5023	
If you would prefer us to correspond with you by e-mail your e-mail address (optional) lynne.harvey@cobbetts.com	

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

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Application to transfer 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.

We **Ms Emma Louise Mayron and Ms Haley Gowan**

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

PL(A)0211

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Rose & Crown
15 St Thomas Road

Post town Chorley

Post code PR7 1WR

Telephone number at premises (if any)

01257 232 065

Please give a brief description of the premises

Public House

Name of current premises licence holder

Carole Smith

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick yes

- | | |
|---|---|
| a) an individual or individuals* | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> 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) an individual 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
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

Mayron

First names

Emma

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

39 Great Meadow
Astley Village

Post town

Chorley

Post code

PR7 1ST

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title
 (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post code

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

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

We are enclosing the original Premises Licence which we hold at this office and which we believed to be the original. However, we believe that a subsequent licence has been issued in the name of Carole Smith which we do not hold. We will send the duplicate licence fee of £10.50 if this is required.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- 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 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature Cobbetts LLP

Date 14 October 2008

Capacity Solicitors & Authorised Agents on behalf of the applicant

For joint applicants signature of 2nd applicant, 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). **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 5) Lynne Harvey Paralegal Cobbetts LLP 58 Mosley Street	
Post town Manchester	Post Code M2 3HZ

Telephone number (if any) 0845 165 5023
If you would prefer us to correspond with you by e-mail your e-mail address (optional) lynne.harvey@cobbetts.com

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

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Lancashire Constabulary

Licensing Unit, Police Station, St Thomas's Road, Chorley, PR7 1DR

Tel: 01257 246215

Fax: 01257 246217



Lancashire Constabulary

police and communities together

e-mail: southern-licensing@lancashire.pnn.police.uk

Licensing Officer
Chorley Borough Council
Council Offices
Union Street
Chorley
PR5 1DH

27th October 2008

Dear Sir

RE: APPLICATION TO TRANSFER PREMISES LICENCE / APPLICATION TO VARY DESIGNATED PREMISES SUPERVISOR, LICENSING ACT 2003.

Premises :- Rose & Crown, 15 St Thomas Road, Chorley

Transfer of Premises Licence :- Emma Louise Mayren / Haley Gowan

Variation of DPS :- Emma Louise Mayren

Lancashire Constabulary objects to both of the above applications, as it considers that there are exceptional circumstances that would undermine the Crime Prevention Objective of the Licensing Act 2003, if the applications were granted.

These circumstances are outlined as follows;

The father of the two applicants is Martin Gowan who is well known to the Police in Chorley. Although Gowan has no convictions, he is currently on conditional bail to appear at Preston Crown Court in November 2008 for offences of possessing cocaine with intent to supply and possession of cannabis, these offences arise as a result of a search warrant executed at his home address.

The warrant was executed at the address where Emma Louise Mayren and Haley Gowan were residing prior to taking up residence at The Rose & Crown.

In addition to this the police have concerns regarding the husband of Emma Louise Mayren. The husband, Malcolm Mayren resides at the Rose and Crown and appears to be involved in the running of the business.

Although nothing is known to the detriment of either applicant (other than by association), neither have had any previous experience in the management of licensed premises. The police have real concerns regarding the involvement in the premises both in a management capacity and possibly financially of both persons mentioned above and feel the granting of the applications would undermine the Crime Prevention Objective.

Yours faithfully

Police Sergeant 1506
(Licensing)

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