

LICENSING ACT 2003 SUB-COMMITTEE

TUESDAY, 13TH OCTOBER 2020, 2.00 PM

THE LANCASTRIAN, TOWN HALL, CHORLEY AND VIA MICROSOFT TEAMS

AGENDA

APOLOGIES

1 DECLARATIONS OF ANY INTERESTS

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary 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 PROCEDURE

(Pages 3 - 4)

General procedure points and hearing procedure for the meeting.

3 HEARING TO CONSIDER APPLICATION FOR SUMMARY REVIEW AND ANY RELEVANT REPRESENTATIONS- BRETHERTON ARMS, 252 EAVES LANE

(Pages 5 - 50)

To receive and consider the report of the Director of Customer and Digital (enclosed).

4 ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR

GARY HALL
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing Act 2003 Sub-Committee Councillor Matthew Lynch(Chair) and Councillors Gordon France and Margaret France.

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**LICENSING ACT 2003 SUB-COMMITTEE
HEARING PROCEDURE
REVIEW OF CLUB PREMISES CERTIFICATE / PREMISES LICENCE**

1. CHAIR OF SUB-COMMITTEE:

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

**2. SUB-COMMITTEE TO DECIDE WHETHER TO ALLOW PERSON SPECIFIED ON
REGULATION 8 NOTICE PERMISSION TO SPEAK**

- Members should note that permission should not be unduly withheld

3. LICENSING OFFICER OUTLINES THE APPLICATION AND RELEVANT REPRESENTATIONS

4. QUESTIONS TO THE LICENSING OFFICER FOR CLARIFICATION FROM:

- Sub-Committee
- The Applicant and/or Legal Representative
- Responsible Authorities/Other Persons
- The Licence Holder

**5. THE APPLICANT FOR THE REVIEW AND/OR LEGAL REPRESENTATIVE MAKES
REPRESENTATIONS REGARDING THEIR APPLICATION**

**6. QUESTIONS TO THE APPLICANT FOR THE REVIEW AND/OR LEGAL REPRESENTATIVE
FROM:**

- Sub-Committee
- Responsible Authorities/Other Persons
- The Licence Holder

6. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

7. QUESTIONS TO RESPONSIBLE AUTHORITIES FROM:

- Sub-Committee
- The Applicant and/or Legal Representative
- Other Persons
- The Licence Holder

8. REPRESENTATIONS FROM OTHER PERSONS

9. QUESTIONS TO OTHER PERSONS FROM:

- Sub-Committee
- The Applicant and/or Legal Representative
- Responsible Authorities
- The Licence Holder

10. REPRESENTATION FROM LICENCE HOLDER**11. QUESTIONS TO LICENCE HOLDER FROM:**

- Sub-Committee
- The Applicant and/or Legal Representative
- Responsible Authorities/Other Persons

12. APPLICANT INVITED TO BRIEFLY SUMMARISE (IF THEY WISH)**13. RESPONSIBLE AUTHORITIES INVITED TO BRIEFLY SUMMARISE (IF THEY WISH)****14. OTHER PERSONS INVITED TO BRIEFLY SUMMARISE (IF THEY WISH)****15. LICENCE HOLDER INVITED TO SUM UP (IF THEY WISH)****16. DECISION MAKING**

All parties retire whilst Sub-Committee makes decision

17. NOTICE OF DECISION

Parties re-admitted and Chair announces decision and reasons



Report of	Meeting	Date
Director of Customer and Digital	Licensing Act 2003 Sub Committee	13 th October 2020

Confidential report	Yes	No
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HEARING TO CONSIDER APPLICATION FOR SUMMARY REVIEW AND ANY RELEVANT REPRESENTATIONS

Premises:	Bretherton Arms 252 Eaves Lane Chorley	Ward:	Chorley East
Premises Licence Holder:	Star Pubs and Bars Limited		
Designated Premises Supervisor:	Ms Nicola Steele		

REASON FOR REFERRAL

1. To advise members that an application for summary review of a premises licence has been received.
2. To request that members determine what steps (if any) are appropriate for the promotion of the licensing objectives.
3. To request that members review the interim steps taken on 25th September 2020 and determine whether they remain appropriate for the promotion of the licensing objectives.

CORPORATE PRIORITIES

4. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy homes and communities	X	An ambitious council that does more to meet the needs of residents and the local area	

LICENSING OBJECTIVES

5. Members are reminded of the Licensing Objectives, as follows:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

6. Members are reminded that the duty of the licensing authority is to take steps necessary to promote the licensing objectives in the interests of the wider community and not those of the individual licence holder.

LEGAL CONSIDERATIONS

7. Members must have regard to the following:
- The Guidance issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy effective from 2016.
 - The Licensing Act 2003.

INTRODUCTION

8. Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder or both. The summary review process allows for interim steps to be quickly taken and a "fast-track" licence review to be carried out
9. On application for a summary review, the Authority must determine, within 48 hours, whether it is necessary to take interim steps. Following this, the licence holder may make representations against these interim steps and, within 48 hours of receipt of these representations, the Authority must hold a hearing to consider whether to modify or withdraw the interim steps.
10. Further, the application and certificate are sent to the Responsible Authorities and a notice published at the premises and the principal offices of the Council, beginning the 10-working day consultation period. The application is also advertised on the Council's website.
11. Section 53C of the Licensing Act 2003, requires that the licensing authority hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.
12. At the review under Section 53C, the authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives to remain in place, or if they should be modified or withdrawn.

CURRENT PREMISES LICENCE

13. A copy of the premises licence is appended at Appendix 1. This licence has not yet been amended to reflect the change in premises licence holder referred to in paragraph 14.
14. At the time the application for review was made, the premises licence holder was Mr Nicholas Yates. Following an application to transfer the licence on 1st October 2020, the premises licence holder is now Star Pubs and Bars Limited.
15. The designated premises supervisor is Ms Nicola Steele, who has held the position since 25th September 2020 and who was specified following the decision of the Committee to remove the previous DPS, Graham Moss.
16. The licence currently authorises the following licensable activities:

Licensable Activity	Days	Permitted Hours
Performance of Live Music	Wednesday Friday- Saturday Sunday	19:00-23:30 19:00-00:00 19:00-23:00
Playing of Recorded Music	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30

Performance of Dance	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30
Other entertainment	Monday- Thursday Friday- Saturday Sunday	11:00-23:00 11:00-23:00 12:00-22:30
Late Night Refreshment	Monday-Thursday	23:00-23:30
Sale by retail of Alcohol	Monday- Thursday Friday- Saturday Sunday	11:00-00:00 11:00-01:00 12:00-00:00

THE APPLICATION

17. On 16th September 2020, an application was made by Lancashire Police under Section 53A of the Licensing Act 2003 for a Summary Review of the Premises Licence for Bretherton Arms, 252 Eaves Lane, Chorley, in the Chorley East ward of Chorley. A location map of the premises is appended at Appendix 2.
18. A copy of the application and certificate is appended at Appendix 3. The grounds for the review are that, in the opinion of a senior police officer, the premises is associated with serious crime.

INTERIM STEPS PENDING THE REVIEW

19. On 18th September 2020, a hearing was held to consider whether to take interim steps. The decision was made to suspend the premises licence with immediate effect.
20. At 06:53hrs on 24th September 2020, the premises licence holder made representations against this interim step. A copy of this representation is appended at Appendix 4. Section 53B of the Licensing Act 2003 requires that the Authority hold a hearing within 48 hours of receiving such a representation to consider whether the interim steps are appropriate for the promotion of the licensing objectives.
21. On 25th September 2020, a hearing was held and the Committee decided to modify the interim steps taken. A copy of the decision notice is appended at Appendix 5. At the time of writing the report, these interim steps remain in place. The Act provides that, once an authority has decided to modify the steps, the premises licence holder may only make further representations against those steps if there has been a material change in circumstances.
22. On the date of the review hearing, the licensing authority is required to review any interim steps that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

RELEVANT REPRESENTATIONS

23. Representations may be made by any person or responsible authority during the consultation period. To be 'relevant' and, therefore, able to be taken into account in determining the application, they must be relevant to one or more of the licensing objectives. Where representations are made by persons who are not a responsible authority, they must not be frivolous or vexatious.
24. On 24th September 2020, representation was received from Andrew Cochrane of Flint Bishop solicitors, on behalf of Star Pubs & Bars Limited. A copy of the representation is appended at Appendix 6a. Clarification regarding this representation was subsequently received on 25th September 2020 and a copy of this email is appended at Appendix 6b.

25. On 30th September 2020, a representation was received from Paul Lee, an Environmental Health officer, relating to the Prevention of Public Nuisance and Prevention of Crime and Disorder objectives. A copy of the representation is appended at Appendix 7.

IMPLICATIONS OF REPORT

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

Finance	X	Customer Services
Human Resources		Equality and Diversity
Legal	X	Integrated Impact Assessment required?
No significant implications in this area		Policy and Communications

COMMENTS OF THE STATUTORY FINANCE OFFICER

27. No comments

COMMENTS OF THE MONITORING OFFICER

28. The premises licence holder may appeal to the magistrates' court against any of the adverse steps referred to in paragraph 32 below. The police and also any person who has made relevant representations may also appeal against the decision.

Members must consider the Human Rights Act 1998, in particular the right to a fair trial and protection of property.

Paragraph 2.7 of the national guidance issued by the Home Office states that the licensing objective of public safety concerns the safety of people using the premises rather than public health which is addressed in other legislation. Lack of social distancing and breaches of the coronavirus regulations at the premises do not therefore engage the public safety objective.

Social distancing in the narrow sense of maintaining a specified distance from another person is guidance rather than a legal requirement. The CCTV footage from 13 September 2020 does not disclose any offences under the coronavirus restrictions which would engage the prevention of crime and disorder objective.

CONCLUSIONS

29. A licensing authority must carry out its functions under the Act with a view to promoting the licensing objectives.
30. In considering the matter, the Panel should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's Statement of Licensing Policy.

31. The Committee must:

- Take such steps (if any) as mentioned in paragraph 32 as are appropriate for the promotion of the licensing objectives, taking into account any change in circumstance since any interim steps were imposed, any relevant representations, and
- Review the interim steps taken and determine whether they remain appropriate for the promotion of the licensing objectives.

32. Those steps are:

- Modify the conditions of the premises licence,
- Exclude a licensable activity from the scope of the licence,
- Remove the designated premises supervisor from the licence,
- Suspend the licence for a period not exceeding three months, or
- Revoke the licence

33. The conditions of the licence, with the exception of the mandatory conditions in Annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities are authorised to be carried on.
34. It is important that a licensing authority give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could, in itself, give rise to grounds for an appeal.

Review of the Interim Steps

35. The Committee's determination of the review does not have effect until the end of the 21-day period during which an appeal might be lodged or until the disposal of any appeal which is lodged.
36. To ensure that there are appropriate safeguards in place at all times, the licensing authority is required to review any interim steps which have been taken that are in place at the hearing. This is to be done immediately after the determination of the review under Section 53C. In reaching its decision, members must consider whether the interim steps are appropriate for the promotion of the licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken.
37. If the Committee is minded to modify the steps taken, it may:
 - Modify the conditions of the premises licence
 - Exclude the sale of alcohol by retail from the scope of the licence
 - Remove the designated premises supervisor
 - Suspend the premises licence.

Conditions are modified if any of them are altered or omitted or any new condition is added or the times during which alcohol is permitted to be sold is restricted.

Asim Khan
DIRECTOR OF CUSTOMER AND DIGITAL

APPENDICES

Appendix	Description
Appendix 1	Copy of current Premises Licence
Appendix 2	Location Map
Appendix 3	Application and Certificate for Summary Review
Appendix 4	Representation against Interim Step
Appendix 5	Decision notice following hearing to consider representations against interim step
Appendix 6	Relevant Representation- Star Pubs and Bars Ltd
Appendix 7	Relevant Representation- Paul Lee, Environmental Health

BACKGROUND PAPERS

Document	Date	Place of Inspection
The Council's Statement of Licensing Policy	2016 - 2021	The Council's Statement of Licensing Policy
Secretary of State Section 182 Guidance	April 2018	Secretary of State Section 182 Guidance

Report Author	Ext	Date
Nathan Howson	5665	1 st October 2020

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**Licensing Act 2003
Premises Licence**
PLA0289
Part 1 – Premises Details
POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION
Bretherton Arms

252 Eaves Lane Chorley PR6 0ET

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- Performance of Live Music
- Performance of Recorded Music
- Performance of Dance
- Other entertainment
- Entertainment Facilities - Making Music
- Entertainment Facilities - Dancing
- Entertainment Facilities - Similar Description
- Late Night Refreshment
- The sale by Retail of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and area if applicable)	Days and times
Performance of Live Music (Indoors)	Wednesday 19:00 - 23:30 Sunday 19:00 - 23:00 Friday to Saturday 19:00 - 00:00
Performance of Recorded Music (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Performance of Dance (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00



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Other entertainment (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00 Entertainment of a similar description to that falling within E, F, or G
Entertainment Facilities - Making Music (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Entertainment Facilities - Dancing (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Entertainment Facilities - Similar Description (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00 Provision of facilities for entertainment of a similar description to that falling within I or J
Late Night Refreshment (Indoors)	Monday to Thursday 23:00 - 23:30 Permitted New Years Eve from 23.00 until 05.00 New Years Day.
The sale by Retail of Alcohol (On and off the premises)	Sunday 12:00 - 00:00 Monday to Thursday 11:00 - 00:00 Friday to Saturday 11:00 - 01:00 11.00 to 01.00 on all bank or public holidays (including Christmas Eve, Boxing Day, Easter Monday, and on any Sunday or Monday forming part of a Bank or Public holiday weekend. The sale of alcohol permitted on New Years Eve from commencement of permitted hours until the commencement of the permitted hours on New Years Day.

THE OPENING HOURS OF THE PREMISES

Sunday 12:00-01:00
 Monday to Thursday 11:00-01:00
 Friday to Saturday 11:00-02:00



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Christmas Eve, Boxing day, Easter Monday, and on Sunday and Monday forming part of a bank holiday and closing times for premises on these occasions will be 11.00 to 02.00. The opening hours permitted on New Years Eve from commencement of permitted hours until the commencement of the permitted hours on New Years Day.

WHERE THE LICENCE AUTHORISES THE SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

The sale by retail of alcohol for consumption both ON and OFF the premises.

Part 2**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Mr Nicholas Yates

The Bretherton Arms 252 Eaves Lane Chorley PR6 0ET

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Mr Graham Moss

The Bretherton Arms 252 Eaves Lane Chorley PR6 0ET
Mobile phone number: 07788 167224**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence Number: WBCPA1449

Issuing Authority: Wyre Borough Council

ANNEXES**ANNEX 1 – MANDATORY CONDITIONS****MANDATORY DRINKS CODE**

No supply of alcohol may be made under the premises licence - (a) at a time when there is no designated premises supervisor in respect of the premises licence; or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.



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ALCOHOL PROMOTIONS

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective ;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

DISPENSING ALCOHOL

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

FREE TAP WATER

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

AGE VERIFICATION

(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either;

- (a) a holographic mark, or .
- (b) an ultraviolet feature..

ALCOHOL MEASURES

The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: 1/2 pint;



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- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

EXHIBITION OF FILMS

- 1a) The Premises licence holder shall ensure that the admission of children to the exhibition of any film shall be restricted in accordance with section 20 of the Licensing Act 2003(the Act)
- 1b) Unless section 20(3) (b) of the Act applies, admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the film classification board specified in this licence
- 1c) Where section 20(3) (b) of the Act applies, admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the licensing authority
- 1d) Where no film classification board is specified in this licence admission of children to the exhibition of any film shall be restricted in accordance with any recommendation made by the licensing authority.
- 1e) For the purposes of this condition:-
"children" means persons aged under 18; and
"film classification board" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984
(authority to determine suitability of video works for classification)

DOOR SUPERVISORS

The Premises licence holder shall ensure that each individual present on the premises to carry out a security activity [as defined by paragraph 2(1) (a) of the Schedule 2 to the Private Security Industry Act 2001] must be licensed by the Security Industry Authority.

SCHEDULE Mandatory Licensing Condition

MINIMUM DRINKS PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 2. For the purposes of the condition set out in paragraph 1-
 - (a)"duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a); .
 - (b)"permitted price" is the price found by applying the formula $P = D + (D \times V)$
- where-
- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence



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- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(b).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 – CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Note – Some conditions may apply to one or more of the objectives

General

NONE

Prevention of Crime and Disorder

No irresponsible sales promotions of alcoholic beverages shall be offered to customers.
No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
A sign will be displayed on the premises indicating the standard hours during which the sale of alcohol is permitted.

Public Safety

All fire doors will be maintained effectively self closing and shall not be held open other than by approved devices.
Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade shall be summoned, are to be prominently displayed.

Prevention of Public Nuisance

A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.



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Protection of Children From Harm

No one under the age of 16 will be allowed to enter or remain on the premise after 21.00 save on Christmas Eve and New Years Eve.

Persons who appear to be under the age of (18/21) years shall be required to produce proof of age by way of one of the following:

A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS)

Photo driving licence

Passport

Citizen card supported by the Home Office

Official ID card issued by HM Forces or European Union bearing a photograph and birth of the holder.

ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

No outside area designated for consumption of alcohol shall be used after 22.30 hours.

All doors and windows to be kept closed when regulated entertainment is taking place except in emergencies.

No regulated entertainment shall take place outside the premises in any areas within the licence holders control save for any special event seven days notice of which has been given to the Licensing Authority and the Police.

Licensing hours on New Years Eve for the supply of alcohol is granted in line with current legislation or any subsequent amendments.

ANNEX 4 – PLANS



**Licensing Act 2003
Premises Licence**
PLA0289
Summary of Licence

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION
Bretherton Arms

252 Eaves Lane Chorley PR6 0ET

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- Performance of Live Music
- Performance of Recorded Music
- Performance of Dance
- Other entertainment
- Entertainment Facilities - Making Music
- Entertainment Facilities - Dancing
- Entertainment Facilities - Similar Desc
- Late Night Refreshment
- The sale by Retail of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and area if applicable)	Days and times
Performance of Live Music (Indoors)	Wednesday 19:00 - 23:30 Sunday 19:00 - 23:00 Friday to Saturday 19:00 - 00:00
Performance of Recorded Music (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Performance of Dance (Indoors)	Sunday 12:00 - 22:30



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	Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Other entertainment (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00 Entertainment of a similar description to that falling within E, F, or G
Entertainment Facilities - Making Music (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Entertainment Facilities - Dancing (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00
Entertainment Facilities - Similar Description (Indoors)	Sunday 12:00 - 22:30 Monday to Thursday 11:00 - 23:00 Friday to Saturday 11:00 - 23:00 Provision of facilities for entertainment of a similar description to that falling within I or J
Late Night Refreshment (Indoors)	Monday to Thursday 23:00 - 23:30 Permitted New Years Eve from 23.00 until 05.00 New Years Day.
The sale by Retail of Alcohol (On and off the premises)	Sunday 12:00 - 00:00 Monday to Thursday 11:00 - 00:00 Friday to Saturday 11:00 - 01:00 11.00 to 01.00 on all bank or public holidays (including Christmas Eve, Boxing Day, Easter Monday, and on any Sunday or Monday forming part of a Bank or Public holiday weekend. The sale of alcohol permitted on New Years Eve from commencement of permitted hours until the commencement of the permitted hours on New Years Day.

THE OPENING HOURS OF THE PREMISES

Sunday 12:00-01:00



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Monday to Thursday 11:00-01:00

Friday to Saturday 11:00-02:00

Christmas Eve, Boxing day, Easter Monday, and on Sunday and Monday forming part of a bank holiday and closing times for premises on these occasions will be 11.00 to 02.00. The opening hours permitted on New Years Eve from commencement of permitted hours until the commencement of the permitted hours on New Years Day.

WHERE THE LICENCE AUTHORISES THE SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

The sale by retail of alcohol for consumption both ON and OFF the premises.

Part 2

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mr Nicholas Yates

The Bretherton Arms 252 Eaves Lane Chorley PR6 0ET

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

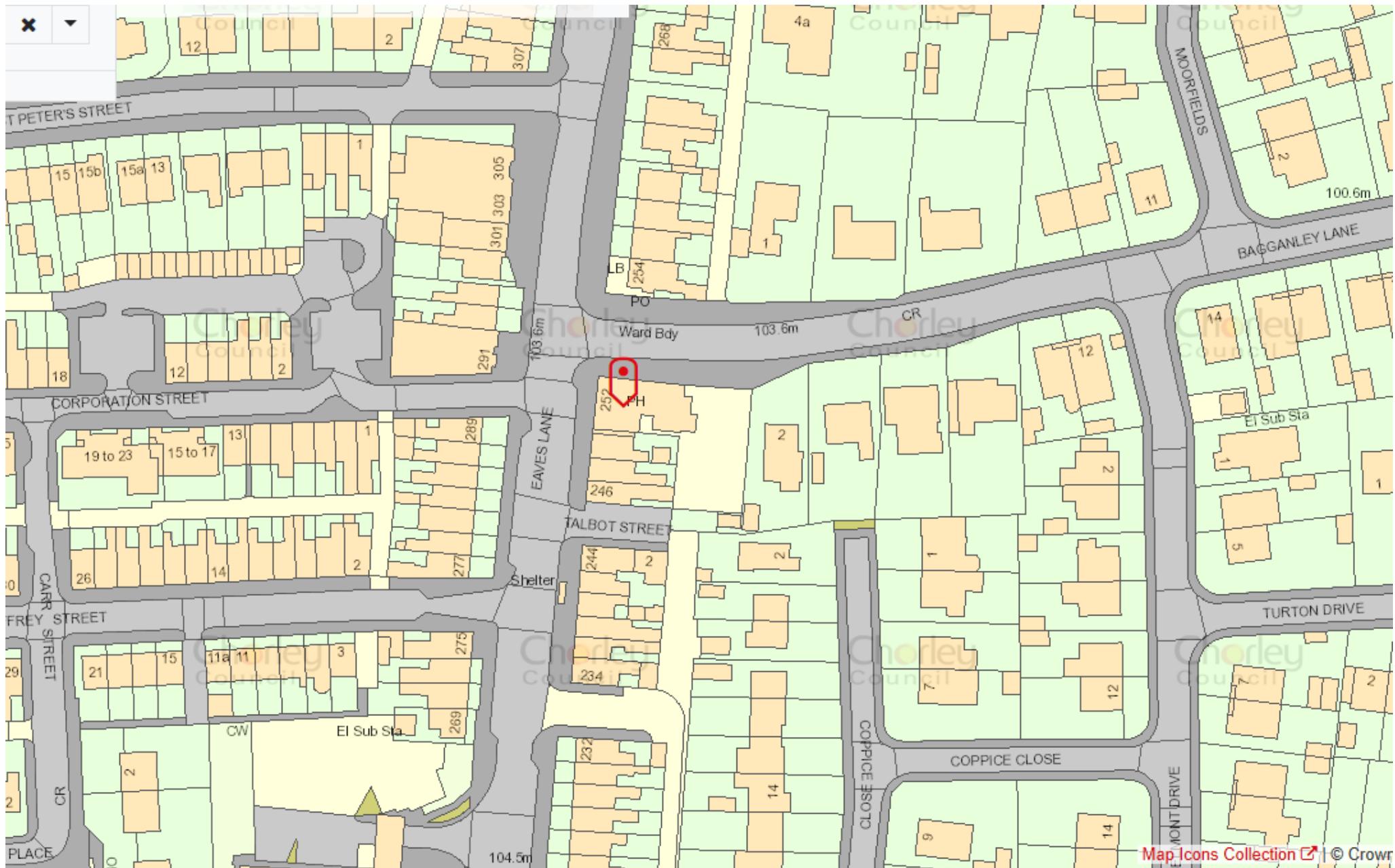
NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mr Graham Moss

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED



Appendix 1- Location Map, Bretherton Arms, Chorley



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CERTIFICATE UNDER SECTION 53A(1)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder

Premises

BRETHERTON ARMS,

252 EAVES LANE,

CHORLEY

PR60ET

Premises Licence Number PLA0289

Designated Premises Supervisor Graham MOSS

I am a Superintendent in the Lancashire Police Force

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case because the degree of seriousness of the crime and disorder are not suitable for the timescale of a standard review and the premises has a recent history of lack of compliance with interventions by Police Licensing and Chorley Borough Council Licensing.

Signed

KJ Supt 2391


Statutory Form For Applying For A Summary Licence Review Annex B

To Chorley Borough Council Licensing Dept

**Application for the review of a premises licence under section 53A of the Licensing Act 2003
(premises associated with serious crime or disorder)**

1. Premises Details:

PLA0289

BRETHERTON ARMS,
252 EAVES LANE
CHORLEY
LANCASHIRE
PR60ET

2. Premises licence details

Name of Premises Licence Holder NICHOLAS YATES

Number of Premises Licence Holder

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in their opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application

3. Details of association of the above premises with serious crime and serious disorder
--

The Bretherton Arms is a public house situated on Eaves Lane, Chorley.

The Premises Licence Holder is Nicholas Yates who has held this licence since July 2019

The Designated Premises Supervisor is Graham Moss who has been in post since November 2015

It is licenced for the sale of alcohol by retail as follows

Monday to Thursday 1100 – Midnight

Friday and Saturday 1100 - 0100

Sunday Midday to Midnight



It has opening hours as follows

Monday to Thursday 1100 – 0100

Friday to Saturday 1100 – 0200

Sunday Midday to 0100

The premises has an open rear yard that is used as a combination car park, smoking area and beer garden with a number of picnic type wooden bench / tables provided for customers.

The Premises Licence has the usual mandatory conditions and conditions attached by the Licensing Authority following a previous review hearing that include

No outside area designated for the consumption of alcohol shall be used after 2230 hours

This specifically applies to the rear yard area

There is a smoking area provided to the front of the pub as well as one in the rear yard.

Since lockdown lifted, there have been a steady stream of complaints to Police and Council from local residents regarding noise and disorder late at night from this rear yard area. This culminated in a visit from Chorley Council Licensing Team and Lancashire Constabulary Licensing on 20th August 2020 where the situation was discussed with the DPS Graham Moss. Subsequently on 24th August 2020 a letter was sent to the PLH Nicholas Yates by Chorley Council reiterating the Annex 3 condition regarding use of the yard area ceasing at 2230 hrs and urging the adoption of various measures designed to prevent use of the yard after that time and to exercise some control over the customers. (Exhibit RICH777/01)

Around 1am Sunday 13th September 2020, an incident took place in the rear yard area of the Bertherton Arms. On the night of the incident, Graham Moss was present throughout and acting as DPS.

Police attended and found that four men had been assaulted by another group of men in the rear yard area. The initial information was that five men were fighting and one had been knocked unconscious. Police were also told that one man was armed with a baton.

At Royal Preston Hospital it was confirmed that one of the injured had a fractured eye socket and a ruptured eyeball and would likely suffer permanent sight damage or lose his eye. One of the other injured men suffered significant head wounds

There is camera phone footage of the initial stages of confrontation with punches being thrown and threatening posturing between a group of around 8 men. There is camera phone footage of one victim being tripped onto the floor and then attacked by three other men.

A broken police style baton was found at the scene.

This is still a live police investigation but it is clear from the level of violence used and the injuries inflicted that serious crime and disorder took place there.

CCTV was recovered from inside the Bretherton Arms covering the period 9pm Saturday 12th September 2020 to 1.30am Sunday 13th September 2020. I note that of the available cameras only one, the one covering the rear yard, was not working.

Examination of the CCTV shows that the DPS Graham Moss was not in any sort of control over the premises or the use of the rear yard area and a compilation has been produced to demonstrate the effective free-for-all at the Bretherton Arms despite the presence of the DPS Moss in the hours leading up to the assault and the serious public order incident (Exhibit RICH777/2).

Moss appears to take up position at the end of the bar with his back to the public area for most of the night, drinking pints, going outside for a smoke occasionally and apparently oblivious to customers standing around tables, generally standing throughout the venue, using a vape, arguing with each other and standing 2 deep at the bar.

It is clear from the available CCTV that the outside yard area was in full use at 12.30am with loud conversations clearly recorded and figures visible moving around in the area from then until the assault / affray.

For the reasons detailed above, I am applying for a summary review of this premises licence

Signature of Applicant

A handwritten signature consisting of a stylized 'J' shape followed by a horizontal line ending in a small flourish.

P5777

Date 16/09/2020

Capacity Police Licensing Sgt, South Division, Lancashire Constabulary

Contact details for matters concerning this application :

Address Preston Police Station, Lancaster Rd North, Preston PR12SA

Telephone number 01772 209794

Email 777@lancashire.pnn.police.uk

Chorley Council

Date: 24 August 2020
 Our Ref: 19/01182/LAPLA
 Doc Type: LICORR

Civic Offices
 Union Street
 Chorley
 PR7 1AL

Mr Nicholas Yates
 The Bretherton Arms
 252 Eaves Lane
 Chorley
 PR6 0ET

Dear Mr Yates,

Re: Following compliance visit 20th August 2020
PLA0289- Bretherton Arms, 252 Eaves Lane, Chorley, PR6 0ET
Licensing Act 2003

I write following my visit to the premises on 20th August 2020 with my Police Licensing colleague, Linda Robson, where we met with the Designated Premises Supervisor to discuss a recent complaint received from a member of the public.

This complaint was mainly regarding the noise from patrons to the premises continuing in the outside areas, late into the night and a lack of social distancing between patrons.

On outlining the problems to Mr Moss, he explained that since the lockdown restrictions had eased, the demographic in the pub had changed, with the younger patrons remaining in the premises later rather than moving into the town centre. He said this may have contributed to the noise.

I explained to Mr Moss a condition of the premises licence requires that any outside area designated for the consumption of alcohol must cease to be used from 2230hrs. Mr Moss assured me that alcohol was not permitted outside of the premises from this time. I asked whether there was any control of persons outside in this area other than restricting alcohol being taken outside and he said there wasn't.

I explained that, even if alcohol wasn't being consumed in this area, he still had a responsibility to ensure that he was preventing public nuisance from occurring. I suggested he instruct staff members to carry out patrols in the area every 20 minutes to 1. Ensure alcohol was not being taken outside, 2. There wasn't an unreasonable number of persons outside and 3. That persons outside were not remaining outside for an unreasonable amount of time. Mr Moss agreed to implement this measure and I would expect this to continue throughout the time the premises remains open past 2230hrs.

Mr Moss assured me that the premises closes at the end of the permitted hours of 1am. I explained that there were complaints that the rear of the premises was continuing to cause noise disturbances until significantly later than this. I noted that there were no means of securing the car park area from use. I advised Mr Moss to consider securing the car park area at the end of trading hours and that this could be by use of something as simple as a chain, padlocked across the opening. Mr Moss committed to closing the car park area at the end of trading hours to discourage the use of that area for anti-social behaviour.



Mr Moss and I further discussed the use of lighting in discouraging anti-social behaviour and I suggested it may be useful to invest in motion-activated lighting. Mr Moss explained there was a light which remained illuminated constantly in the car park and, whilst I consider this to be a positive, I would consider motion-sensitive lights to be more appropriate. Mr Moss committed to considering this.

I must remind you that it is a requirement of the Licensing Act that licensable activities are carried on under an authorisation and *in accordance* with such authorisation. This means that, if you fail to comply with a condition of the licence, the licence is effectively rendered invalid. Carrying out unauthorised licensable activity is a criminal offence which could result in an unlimited fine, 6 months' imprisonment or both. It's therefore essential that you consider this correspondence carefully and ensure that the conditions of the licence are being fully complied with.

Yours sincerely,

Nathan Howson
Enforcement Team Leader (Licensing)

Nathan Howson

From: Duncan Craig <Duncan.Craig@citadelchambers.com>
Sent: 24 September 2020 06:53
To: Nathan Howson
Cc: Horton, Richard; Nina Neisser; Carl Gore; Southern Licensing; Licensing
Subject: Nicholas Yates, Bretherton Arms; Premises Licence Number:PLA0289

Dear Sirs

As your licensing authority is aware, I act for the above premises licence holder, whose licence has been subject to a S53A Licensing Act 2003 application by Lancashire Constabulary, dated 16th September 2020..

I hereby inform Chorley Council's licensing authority that the licence holder makes representations against the interim step of suspension imposed upon the premises licence by the licensing authority on 18th September 2020, in accordance with section 53B(6) of the Licensing Act 2003.

Please could you arrange a hearing to consider those representations within 48 hours (excluding non-working days) of this notification.

The licence holder is still awaiting the written decision from last Friday and I would be grateful if this could be forwarded 2pm today.

As a matter of courtesy I have copied Lancashire Constabulary into this email.

Kind regards,

Duncan Craig
Barrister

E | duncan.craig@citadelchambers.com
W | www.licensingbarrister.co.uk
T | 07544 987300



Citadel Chambers | 190 Corporation Street | Birmingham | B4 6QD

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Licensing Act 2003 Sub-Committee
Friday, 25 September

**Hearing to Consider Representations against Interim Step Taken, Pending
Summary Review – Bretherton Arms, 252 Eaves Lane**

The Licensing Act 2003 Sub-Committee met to determine, under Section 53B of the Licensing Act 2003, whether the interim step was appropriate for the promotion of the licensing objectives and whether to withdraw or modify it following representations received against the interim step taken on Friday, 18 September.

The Premises Licence Holder, Nick Yates and his representative, Duncan Craig of Counsel attended the meeting via Microsoft Teams to make their representations, as did Sergeant Richard Horton to make representations to the Sub-Committee on behalf of the police.

The Council's Enforcement Team Leader reminded the Sub-Committee that a hearing was held on Friday, 18 September to consider whether to take interim steps following an application from the police. The decision was made to suspend the premises licence with immediate effect. At 06:53hrs on 24th September 2020, the premises licence holder made representations against this interim step. Section 53B of the Licensing Act 2003 required that the Authority hold a hearing within 48 hours of receiving such a representation to consider whether the interim steps were appropriate for the promotion of the licensing objectives.

The Enforcement Team Leader for Licensing informed Members that a supplemental email had been received in advance of the meeting. Members had received a copy of this email. The email advised that Mr Yates had subsequently dismissed Mr Moss from working at the premises and had found a replacement DPS, Nicola Steele whose CV had been attached to the email. A proposal was outlined which asked that the Licensing Act 2003 Sub-Committee exercise its powers to substitute the suspension of the premises licence with the removal of the DPS and the addition of the following condition as interim steps;

1. Graham Moss shall have no involvement in the management of the business, nor the carrying on of any licensable activities, nor be employed by the business and shall not be permitted onto the licensed premises at any time.

In response to a Member query, the Enforcement Team Leader for Licensing advised that he was not aware, nor had he been informed by Mr Yates whether any of the improvements requested at the last meeting had been made at the premises, however this did not mean that had not been undertaken.

Mr Craig made his representations on behalf of the premises licence holder. He began by clarifying that Mr Yates had handed in his notice as he felt it was best for him to step down and was currently serving a one month notice period. The premises owners Heineken/Star pubs were in agreement that this was the best course of action. Contrary to any confusion, the relationship between Mr Yates and the premises owners remained positive. Mr Craig gave thanks to officers and Members for accommodating a hearing at such short notice.

Mr Craig informed Members that since the meeting on 18 September, Mr Yates had addressed the concerns raised by Members as he felt he held responsibility to keep the pub open for the community. Following the publication of the Decision Notice, Mr Yates recognised that Mr Moss' position as DPS was untenable and had therefore dismissed him. Members were informed that Mr Moss lived in the flat above the premises, however, were reassured the proposed condition would ensure that he had no involvement or connection to the premises in the interim period.

Mr Yates had found a replacement DPS, Nicola Steele, who he felt was well suited to the role and would be ready to start immediately once the application to specify her as DPS had been completed. Mr Craig advised that Ms Steele currently held a personal licence with Bolton Council and had 20 years' experience of working in the licensing trade. She knew the area well, lived locally and was working behind the bar at the premises at present, after being a DJ at the pub for three years. For clarification, it was confirmed to Members that Ms Steele was not at the premises on 12/13 September when the serious incident took place.

Members were made aware that Ms Steele was currently manager at a care home and was therefore very aware of regulations required for Covid, she was a first aider and did not have a criminal record. It was understood that she was very enthusiastic about the potential DPS role and proposed that she would be working at the premises in the evenings after working at the care home during the day. Her husband would work at the pub in the day when she was at work.

Mr Craig ran through eleven of the twelve points on the Decision Notice (saying nothing about the twelfth point) recognising Members' concerns, the work undertaken by Mr Yates to tackle some of these issues and how the removal of Mr Moss from the premises addressed these concerns further. Mr Craig did, however, take issue with part of point 4 on the Decision Notice regarding the lack of searching a person on arrival at the premises, as he pointed out that this was not usual practice undertaken at community pubs.

Members had visited the site of the premises prior to the meeting in order to view the rear access and the upgraded CCTV. In response to Member queries, Mr Yates confirmed that the CCTV camera had broken recently, however it was not repaired immediately as the DVR equipment behind the camera needed to be fully replaced and not just the camera itself, therefore this was a big piece of work. He did, however, remind members that CCTV was not conditioned to the licence. Mr Yates advised that two new cameras had been installed. Staff are now able to monitor what is happening in all areas of the pub including the outside smoking shelter.

With regards to how the events unfolded in the serious incident that took place on 13 September, Mr Yates understood that the attacker had been in the pub before leaving, however remained waiting around the rear of the premises. The attacker and victims never met in the pub, but the incident occurred when the victims left via the rear of the premises towards the carpark. It was also confirmed that the female individual who took a patron out of the premises as viewed on the CCTV footage at the meeting on 18 September was not employed at the pub but was simply a patron herself. The CCTV footage was viewed again for clarification.

With regards to Mr Moss accessing his flat, it was confirmed that the flat above the premises had a separate entrance and therefore the proposed condition did not need altering.

Following further Member queries, Mr Yates confirmed that the change in demographic due to Covid was not immediately apparent. The premises became slightly busier but not to the point that it was deemed necessary to carry out a risk assessment as it was only as busy as it had been in the past pre-Covid. Following the changing demographic, Mr Yates asked that Mr Moss be vigilant in ensuring that social distancing was maintained. They discussed the use of door staff, from a Covid compliance point of view to control the numbers but this was not required to address violence. Members were reminded that there was no history of violence at the premises.

From a technical point of view, the Enforcement Team Leader for Licensing confirmed that once Mr Moss was removed from the position of DPS, an application to specify a new DPS was required in respect of Ms Steele. During this period of transition, alcohol could not be sold at the premises until the application was lodged. In response to a member query, it was confirmed that there was no requirement for the DPS to be present at the premises all the time however in the absence of the DPS other staff would need to receive authorisation from the DPS to sell alcohol.

In response to a query from the council's Legal Officer, Mr Craig confirmed that Mr Yates had handed his notice in in his capacity as tenant. The proposed conditions put forward were for the interim period and Mr Craig suggested that it was inconceivable to suggest that government would revoke the 10pm closing time under Covid-19 regulations before the full hearing on 13 October.

In response to a query from Sergeant Horton, Mr Yates confirmed that he was not aware that the police and Chorley Council licensing officers had attended the premises following the letter sent in August, which Mr Yates claimed to have not received.

Sergeant Horton made his representations on behalf of the police. He reminded Members that an application had been considered and a suspension made due to good reasons provided by the sub-committee. He agreed that Ms Steele had a good CV and presented a good character but questioned whether she would be able to satisfy the role of DPS when taking into consideration her full-time work commitments. He commended Ms Steele but reiterated the previous issues of the DPS not having control at the premises which led to the serious incident.

In response to a Member query, Sergeant Horton suggested that Mr Yates had taken steps to address issues following the scare of the incident however did not appear to monitor the DPS prior to this. He stated that a DPS was only as good as the premises licence holder and believed that the police would still hold the same concerns about the proposed DPS for as long as Mr Yates remained premises licence holder. As such, Sergeant Horton did not feel that the actions taken were sufficient from keeping the premises from being associated with serious crime.

In Summary, Sergeant Horton reiterated his concerns with Mr Yates as the premises licence holder and the proposed DPS being an individual who may not be able to give their full attention to control the premises against serious crime. He welcomed

the repairs to the CCTV but recognised that this was following a visit from the police and council and the incident which took place. Although this was not a condition on the licence it was still a responsibility for the premises licence holder to repair.

Mr Yates summarised by informing Members that he had been looking after the pub for longer than stated in the original report. He reapplied for his licence in 2019 following its expiration but made Members aware that he had been the licence holder of the premises for the three years prior and during this time there had been no incidents at the premises. He reassured Members that he acted as quickly as he could following the incident on 13 September.

Mr Craig reminded Members that Mr Yates had addressed their previous concerns and felt it was therefore appropriate for Members to modify the suspension and take the proposed steps on board. Mr Craig reiterated that Mr Yates would no longer be the premises licence holder in 3 weeks but had a responsibility to keep the community pub running in the interim.

Having considered all the relevant representation, the Sub-Committee resolved that: **the interim step taken was no longer appropriate for the promotion of the licensing objectives and determined to modify the interim steps taken. Members determined that the interim steps which were appropriate for the promotion of the objectives were:**

1. **The removal of the designated premises supervisor (ie. Graham Moss) from the licence.**
2. **The modification of the conditions of the premises licence, as follows:**
 - a. **Reduction in hours for the sale of alcohol by retail to 00:30 (presently 01:00) on a Friday and Saturday (it is presently only midnight for the rest of the week) with the Hours the premises is open to the public to be reduced to 01:00 (presently 02:00).**
 - b. **The addition of the following conditions of the licence:**
 - i. **Graham Moss shall have no involvement in the management of the premises, nor the carrying on of any licensable activities, nor be employed by the premises.**
 - ii. **At least two SIA door staff shall be employed on a Friday and Saturday from 22:00, until the premises is cleared of customers or 01:00 (whichever is the later).**
 - iii. **The premises shall operate and maintain a CCTV system covering the interior of the premises, the outside area, the bar, the rear car park and the smoking shelter which shall be in use at all times that licensable activities are taking place. The focus of the camera(s) shall be so as to enable clear identification of persons on the premises.**
 - iv. **The CCTV system shall correctly time and date stamp recordings and retain said recordings for at least 28 days.**

- v. The Data Controller shall make footage available to a police officer or authorised officer of the Council, where such a request is made in accordance with the principles of the Data Protection Act 2018 or any subsequent legislation.
- vi. Appropriate signage shall be displayed advertising that CCTV is in operation.
- vii. Appropriate signage notifying customers that the rear area is not to be used after 10:30 pm shall be displayed in appropriately prominent positions in the premises.

The above interim steps shall have immediate effect; thus, the suspension of the premises licence is no longer applicable. However, no licensable activities may take place until there is full compliance with the above measures. The premises may not sell alcohol until a new DPS is in place.

The above steps are subject to national Coronavirus restrictions.

Members came to the decision for the following reasons;

- The step regarding CCTV was imposed given the serious incident of violence and to promote the licensing objective of prevention of crime and disorder.
- The step at paragraph 9 was imposed due to use of the rear outside area in breach of the existing licence condition at Annex 3.
- Members did not consider that it was reasonable to prohibit Mr Moss from being allowed on the premises as a customer. If the premises choose to exclude Mr Moss as a customer or at other times to the extent permissible by law that is a matter for the premises.
- Members' gravest concern on 18 September had been that it was envisaged that Mr Moss would still be employed in some capacity at the premises. The removal of Mr Moss as DPS and in any other employed capacity and other steps addressed members' concerns.
- Members' concerns were also alleviated by the improvement at the premises including the upgrade to the CCTV.
- Members noted the concern raised by the police about the availability of the proposed new DPS to devote her full attention to the premises given her full-time job elsewhere. However, members directed themselves that they were considering interim steps and not determining an application to specify a new DPS.
- Members were not influenced by the fact that Mr Yates had handed in his notice as tenant as the licensing objectives must be promoted just as much during any short remaining period that Mr Yates might anticipate remaining premises licence holder as they would be for many years.



Councillor Matthew Lynch

Chair of the Licensing Act 2003 Sub-Committee

Our Ref: AX/ NJR/ Bretherton Arms Chorley
 Email: andrew.cochrane@flintbishop.co.uk

Licensing Team, People & Places Directorate
 Chorley Council
 PO Box 13
 Chorley
 PR7 1AR
 By email only on Nathan.Howson@chorley.gov.uk

CONTACT
 ANDREW COCHRANE
 FAX NUMBER
 08701918678
 DIRECT DIAL
 01332 226142

24 September 2020

Dear Sirs

Representation - Bretherton Arms, Chorley

We act on behalf of Star Pubs & Bars Limited who are the leased and tenanted division of Heineken (UK) Limited. They are in effect "the brewery" behind the Bretherton Arms which in turn is subject to an arms-length commercial lease to the current premises licence holder, Mr Yates.

Our clients are unaware of any significant difficulties which have affected this property prior to the reopening of the premises in July.

It would appear (we have held discussions with Sgt Horton, who is copied into this representation) that issues have arisen at the premises arising from the change in clientele which in turn arises from the fact that other town centre premises are not trading as late as they used to encouraging people to stay more local.

We thought it would be helpful to the Licensing Committee to know what actions Star Pubs & Bars Limited propose to take in respect of these premises.

Notice has been given to the current tenant and premises licence holder and it is the intention that he will leave the premises on or before the 19 October.



Certificate No.EM5571787



Certificate No.FS5571786



Certificate No.IS5597986



INVESTOR IN PEOPLE

Flint Bishop LLP

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**WE ALSO HAVE OFFICES IN
 ASHBOURNE**

Our clients have asked that vacant possession be given at that time. This would mean that we would expect vacant possession to be given at that time which would mean that Mr Moss (the current DPS) would also leave the premises.

At that point (and quite possibly before) an application for transfer of the premises licence (with immediate effect) will be made to transfer the licence to Star Pubs & Bars Limited.

It is the intention of Star Pubs & Bars Limited to appoint a new Tenant who they hope to have in place shortly.

Following discussions with the Police, we will be proposing some amendments to the operating schedule. It is accepted that conditions contained within annex 3 may need updating. Irrespective of that, we are happy to confirm again, following those discussions, that we would invite the committee to consider a reduction in the operating times of the premises so that licensable activities on Friday and Saturday cease at 01:00 with the premises closing to the public at 01:30 in line with other premises in the locality.

Our clients would be amenable to the imposition of a condition which would require two door staff on the premises from 22:00 Friday and Saturday until the premises are closed to the public. The rationale behind the door staff is that when the premises are entirely reopen again the situation at the Bretherton should revert to how it has historically been and at that point an application is likely to follow to have the door staff condition removed.

We hope (but cannot guarantee) that by the time the hearing for the full review occurs we will be in a position to inform the committee of a new operator.

We look forward to hearing from you with the date and time of the hearing.

Yours faithfully

A handwritten signature in black ink that reads "Flint Bishop". The signature is written in a cursive style with a horizontal underline underneath the name.

Flint Bishop LLP

cc Sgt R Horton by email on 777@lancashire.pnn.police.uk

Nathan Howson

From: Andrew Cochrane <andrew.cochrane@flintbishop.co.uk>
Sent: 25 September 2020 09:33
To: Nathan Howson
Cc: Duncan Craig
Subject: RE: (C002893) - Bretherton Arms, Chorley

Dear Nathan,

I have spoken to Mr Craig (Counsel for Mr Yates) this morning.

Apparently in my letter of representation I said notice has been given by my clients to Mr Yates. I am told that in fact Mr Yates gave notice to my clients to vacate .

I have now spoken to my clients and can confirm this is correct . Apologies for any confusion .

Best wishes

Andrew

Andrew Cochrane
Chairman and Senior Partner
Head of Licensing

DD 01332 226 142 ext: 231
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Flint Bishop LLP St. Michael's Court, St. Michael's Lane, Derby, DE1 3HQ



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LICENSING ACT 2003

REPRESENTATION BY ANY OTHER PERSON

This leaflet consists of two parts. The first part provides information and guidance on making a representation. The second part is the representation form, which on completion should be signed in ink and returned to the Licensing Authority. Before completing this form please read the guidance notes. 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 or typed in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

Part 1 – Introduction

The Licensing Act 2003 enables a “responsible authority” or “other person” to make a relevant representation to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises.

Responsible Authorities— are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence.

Other Persons- this includes any individual, body or business regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious.

Whilst any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

The four licensing objectives are:

- The prevention of public nuisance
- Public safety
- The prevention of crime and disorder
- The protection of children from harm

If a relevant representation is made, the Licensing Authority must hold a hearing to consider the representation(s), unless all parties agree by giving a notice in writing that they consider a hearing is unnecessary.

If a hearing is held, all relevant parties will be given the opportunity to attend that hearing and invited to comment at the hearing on their representation, but they may if they wish choose to rely on their written representation.

Any person or body that makes a representation will have the opportunity to attend any subsequent hearing relating to that representation before the Licensing Committee. Please note that for the purposes of effective administration of the licensing hearing, where there are a number of representations or where there are repetitive representations on a common theme, the Council may ask for a spokesperson to be selected from amongst those making representations to present the comments to the Committee. Your individual written representations will still be presented to the Committee. If you wish to withdraw any

representations you may do so confirming this in writing, providing you do so no later than 24 hours before any hearing, or otherwise orally at the hearing.

Appeals

Anyone who feels aggrieved by the decision of the Licensing Authority has a right of appeal to the Magistrates' Court.

PLEASE NOTE:

This is an advisory document. Chorley Council does not accept any responsibility whatsoever for loss sustained in reliance on anything contained within this document. Nothing in this document is intended to negate the responsibilities of any person in respect of relevant legislation and standard of care.

The contents of these pages are provided as an information guide only. They are not a full and authoritative statement of the law and do not constitute professional or legal advice. Any statements on these pages do not replace, extend, amend or alter in any way the statutory provisions of the Licensing Act 2003 or any other legislation made under it or statutory guidance issued in relation to it.

No responsibility is accepted by the Council for any errors, omissions or misleading statements on these pages. The Council has made every effort to ensure that the information in these pages is correct and accurate.

Part 2 – Licensing Act 2003 Representation Form

On completion this form and any additional sheets or other accompanying documentation should be posted to: Licensing, Chorley Council, Civic Offices, Union Street, Chorley, PR7 1AR

Please indicate in which capacity you are making this representation by ticking a box below:

- An individual
- A body representing persons
- A person involved in a business

Contact details (of person completing form)

Name:	Paul Lee
Name of organisation/ body/ person you represent (if appropriate)	Chorley Council, Environmental Health Section
Your full postal address or that of organisation or body you represent	Civic Offices Union Street Chorley
Post Code	PR7 1AL
Daytime contact phone number	01257 515151
E-mail address (optional)	paul.lee@chorley.gov.uk

Details of person / body making representation (if different from above)

Name of organisation/ body/ person you represent (as appropriate)	
Full postal address of the person/organisation or body making representation	
Post Code	
Daytime contact phone number	
E-mail address (optional)	

Premises / Club Details

Name of premises/club you are making representation about	Bretherton Arms
Name of applicant for Licence (if known)	Mr Graham Moss
Postal address	252 Eaves Lane Chorley
Post Code	PR6 0ET

What are you making a representation about?

Please indicate which part of the licence / certificate application you are making a representation about
(i.e. crime, disorder, noise, disturbance) <ul style="list-style-type: none"> - Noise - Management of Coronavirus control measures

Which of the Licensing Objectives does your representation refer to?

(Note: Your representation must relate to one or more of the four Licensing Objectives. Please indicate the objective(s) your representation relates to)

Licensing Objective	Tick for yes	Licensing Objective	Tick for yes
The prevention of crime and disorder	Yes	Public Safety	No
The prevention of Public nuisance	Yes	The protection of children from harm	No

What are your concerns?

Please provide full details of your concerns regarding the application and include or enclose with the form any evidence you may have in support of it. (continue on a separate sheet if necessary)

NOISE

I understand that the current DPS has been in place since 27th November 2015. In that time the Environmental Health section have received seven service requests relating to noise from the premises, one of which is a current complaint. The seven service requests have been received from four different residential properties.

The standard procedure on receipt of a service request concerning noise is that an initial letter with information on statutory noise nuisance and the noise investigation procedure is sent out to the complainant. The complainant is asked to read the information and to contact us within 14 days if they wish to go ahead with the complaint.

Where a complainant proceeds with a complaint following their receipt of the initial letter and information, we provide them with a set of noise nuisance record sheets, which they are asked to complete and return to us. We also write to the premises at this point to inform them of the details of the complaint.

Where a complainant does not contact us to proceed with the complaint, following their receipt of the initial letter or where a complainant does not return nuisance record sheets, the complaint is closed.

Of the six closed service requests, three did not proceed beyond the initial letter and information stage and three were closed due to no evidence being provided in support of the complaint. The details of each service request are as follows:

Received on 07.07.16. Noise from customers on the car park and smoking area.

Noise nuisance record sheets sent out. No evidence received in support of the complaint.

Received on 12.07.16. Noise from music on Friday and Saturday evenings.

Noise nuisance record sheets sent out. No evidence received in support of the complaint.

Received on 15.09.16. General noise (undefined).

Complainant did not proceed with the complaint after receiving the initial letter and information.

Received on 04.09.18. Noise from music and from customers.

Complainant did not proceed with the complaint after receiving the initial letter and information.

Received on 18.02.19. Noise from music on Friday and Saturday evenings.

Complainant did not proceed with the complaint after receiving the initial letter and information.

Received on 26.06.19. Noise from music on Friday and Saturday evenings and from customers.

Noise nuisance record sheets sent out. No evidence received in support of the complaint.

Received on 16.09.20. Noise from customers at the rear of the premises.

Current complaint - complainant has been asked to complete and submit noise nuisance record sheets. The premises were closed shortly after this complaint was received.

I have also viewed two short video recordings obtained from a security camera at a nearby residential property which show a date of 13/09/20 and start times of 00.30 and 00.59, although it is unclear whether these start times are accurate as the filenames ("1130 OSCAM" and "1159 OSCAM") suggest that the recordings were made an hour earlier.

Nevertheless, noise from customers on the Bretherton Arms car park can be heard on these video recordings, although I would point out that the security camera is not a calibrated noise recorder. As it is not calibrated, the recorded noise levels cannot be verified in the same way as noise recordings obtained following the installation of professional noise recording equipment at a complainant's property, which

would normally be arranged once completed noise nuisance record sheets are received.

Whilst I accept that the complaint history does not provide evidence in the form of completed noise nuisance record sheets or calibrated noise recordings, I believe that the fact that four separate residential households have contacted the environmental health section regarding noise, with some households making repeated complaints, indicates that there may be issues with the management of noise from the premises.

In terms of noise from customers, a condition prohibiting customers from using the rear car park and smoking area at an earlier point in the evening, would reduce the likelihood of complaints being received from residents on Bagganley Lane. However, this may result in customers using the footpath at the front of the premises as a smoking area, which would increase the likelihood of noise complaints being received from residents on Eaves Lane.

MANAGEMENT OF CORONAVIRUS CONTROL MEASURES

The Government's Coronavirus guidance which was in effect on 12th September, allowed up to two households of any size to meet indoors, with a requirement that people from different households or support bubbles are socially distanced from other households or support bubbles. The guidance states that a 2 metre distance should be maintained between different households or support bubbles. This distance can be reduced to 1 meter in public venues where it would not be viable for 2 metre social distancing to be in place, and where additional Coronavirus mitigation measures have been put in place.

I have been provided with a series of 14 video recordings taken from 3 indoor CCTV cameras at the premises with start times ranging from 21.00 on 12.09.20 through to 00.03 on 13.09.20.

Whilst it is not possible from the video recordings to identify which groups of customers are in household groups or support bubbles, a number of these recordings show customers less than 1 metre from each other and/or indicate poor management of Coronavirus control measures by the DPS, including:

- File "**0901 CAM2**" with a start time of 21.00 on 12/09/20 shows two customers sitting immediately opposite the centre of the bar on a seat which has been marked out with hazard warning tape, to encourage social distancing of customers sitting in this area. The DPS can be seen approaching the customers, who are sitting directly on the taped off seats, where he speaks to them for a short period of time and does not appear to encourage them to move to a different seat, before returning to the bar
- File "**0936 CAM2**" with a start time of 21.36 on 12/09/20 shows a group of 6 customers standing at the bar with minimal to no social distancing between members of the group.
- File "**1049 CAM 2**" with a start time of 22.49 on 12/09/20 shows at one point 12 customers standing in front of the bar area with minimal to no social distancing between customers.
- Similarly, file "**1100 CAM 2**" with a start time of 23.00 on 12/09/20 shows 11 customers standing at the bar with minimal to no social distancing between customers. On this recording, the DPS can be seen approaching and briefly speaking to one of these 11 customers before walking back out of the range of the camera without appearing to encourage customers to distance from each other.
- Files "**0949 CAM 1**" with a start time of 21.49 on 12/09/20 and "**1052 CAM 1**" with a start time of 22.52 on 12/09/20 show customers failing to socially distance, with some customers hugging or putting arms around each others shoulders, while the DPS looks on from his seat at the end of the bar area.

On 17th September 2020, Chorley Council served a health and safety Improvement Notice on the DPS under the Health and Safety at Work etc Act 1974, requiring steps to be taken to improve the management of social distancing measures within the premises by no later than 8th October 2020.

Please use the box below to suggest any suitable conditions that if agreed in advance of a hearing by the applicant would allow you to withdraw your representation or that the Committee could add to the licence (if granted) that would remedy your concern. (continue on a separate sheet if necessary)

Signature:	Paul Lee
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Capacity:	Environmental Health Officer
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Date:	30/09/20
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LIQ 36

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