

## 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)

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

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

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

## 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?

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

## 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 27<sup>th</sup> 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 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 Governments Coronavirus guidance which was in effect on 12<sup>th</sup> 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 17<sup>th</sup> 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 8<sup>th</sup> 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)**

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**Signature:**

Paul Lee

**Capacity:**

Environmental Health Officer

**Date:**

30/09/20

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