

Report

Report of	Meeting	Date	Item No
Chief Executive	Statutory Licensing Sub- Committee	25 /05/2006	2

APPLICATION TO VARY A PREMISES LICENCE IN RESPECT OF THE MITRE PUBLIC HOUSE 73 WELDBANK LANE CHORLEY LICENCE NUMBER PL(A) 0319

PURPOSE OF REPORT

1. For members to determine an application to vary a premises licence.

CORPORATE PRIORITIES

2. There are no specific implications for corporate policies arising from this report.

RISK ISSUES

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

Strategy		Information	
Reputation		Regulatory/Legal	✓
Financial		Operational	
People		Other	

4. There is a right of appeal to the Magistrates Court by the applicant in respect of a decision to refuse to vary the premises licence or where the conditions of licence are modified. There is also the right of appeal to the Magistrates Court by a person who has made relevant representations against a decision to grant the variation or to modify the conditions of licence.

CURRENT PREMISES LICENCE

5. Licensable Activities

- (a) Exhibition of films - Indoors (b)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

Continued....



(b) Indoor sporting event (c)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

(c) Performance of live music – Indoors (e)

10.00 – 23.00 Monday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

(d) Playing of recorded music – Indoors (f)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

(e) Entertainment of a similar description to that falling within e/f/g – Indoors (H)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

(f) Provision of facilities for dancing –Indoors (J)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00
New Years Eve 10.00 – 01.00

(g) The sale by retail of alcohol for consumption on and off the premises (M)

10.00 – 23.00 Monday to Thursday
10.00 - 00.00 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 10.00 – 00.00

New Years Eve 10.00 – 01.00

6. The opening hours of the premises (o)

09.00 – 23.30 Monday to Thursday

09.00 – 00.30 Friday to Sunday

Non Standard Timings

Christmas Eve/Boxing Day/Bank Holiday Saturday and Sunday 09.00 – 00.30

New Years Eve 09.00 – 01.30

7. Conditions

ANNEX 1 – Mandatory Conditions

Section 19:

1. The Premises licence holder shall ensure that no supply of alcohol is 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 (section 19 of the Licensing Act 2003).
2. The Premises licence holder shall ensure that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence (section 19 of the Licensing Act 2003).

Section 20:

- 1(a) 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)
- 1(b) 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
- 1(c) 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
- 1(d) 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.
- 1(e) 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)

Section 21:

Where Relevant;

1. 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.

ANNEX 2 – Conditions consistent with the operating schedule

(a) General

None.

(b) The prevention of crime and disorder

Service will be refused to anyone who is drunk, behaving in a violent or threatening manner, or who has been convicted of behaving in a violent or threatening manner on licensed premises.

Management will liaise regularly with the local police.

All bar staff are trained in basic licensing law, particularly with regard to serving drunks and serving under 18's.

At least 30 minutes will be allowed between last alcohol sales and the closure of the premises, the management will permit customers to finish their drinks within this period with access to the pubs and toilet facilities.

(c) Public safety

None.

(d) The prevention of public nuisance

The building is double glazed with recently installed mechanical ventilation and as such only negligible levels of noise escape.

Live music will end at 23.00hours.

Recorded music will end at 23.00hours Monday to Thursday and 00.00 Friday to Sunday.

All windows will remain closed after 22.00 hours.

Later operating hours will minimise noise from departing customers as they gradually disperse over a longer period of time.

The management will monitor people leaving the premises and where necessary remind them of their public responsibilities. Notices are displayed asking customers to be considerate when leaving the premises.

(e) The protection of children from harm

The management operate a policy that complies with the pass accreditation system and identification checks will be made of any customer who does not appear to be 21 years of age. Acceptable identification being passports, driving licence or proof of age card.

The restrictions set out in the Licensing Act 2003 will apply.

ANNEX 3 – Conditions attached after a hearing by the Licensing Authority

- 1) A personal licence holder shall be on the premises during which intoxicating liquor is being sold or supplied to customers or consumed by customers except in the case of an emergency.

- 2) All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency.
- 3) The licensee shall ensure that the area immediately surrounding the premises shall be cleared of glasses and bottled at the end of licensable activities each day.
- 4) Signs shall be erected to direct customers to the car park at the rear to restrict parking at the front of the premises.
- 5) Signs to be erected within the premises to request customers to leave quietly with consideration to neighbours.
- 6) The beer garden situated at the rear of the premises that is used for consumption of alcohol shall cease to be so used after 22.00 hours at all times.
- 7) The front area of the premises shall not be used for the consumption of alcohol at all times.

THE APPLICATION

8. A copy of the application to vary is attached to this report in full in Appendix 1. In summary the application is to conduct the following licensable activities and at the times set out below.

- (a) To remove the condition number 7 attached to the premises licence in annex 3 by the licensing authority namely -

‘The front area of the premises shall not be used for the consumption of alcohol at all times’.

- (b) In light of anticipated legislation with regard to no smoking on licensed premises the applicant seeks to licence a small external area to the front of the premises for the use and benefit of their customers.

- (c) It is proposed that the area can be cordoned off at considerable expense to the applicants by way of decorative wrought iron railings supplemented by appropriate landscaping/planting and the provision of a limited seating area.

9. Additional steps to be taken to promote licensing objectives as a result of the proposed Variation

- i) General

We have considered the terms of your local licensing policy in preparing this application to vary the terms of the premises licence and we refer you to the operating schedule submitted to the local authority when the initial application was made to convert and simultaneously vary the original justices licence.

- ii) Prevention of crime and disorder

In addition to the existing conditions imposed upon the premises licence no glasses or bottles will be permitted in the external area to the front of the premises

- iii) Public Safety

No glasses or bottles will be permitted in the external area to the front of the premises. The area will be monitored at regular intervals by the designated premises supervisor and a member of staff appointed to remove any litter where required.

The proposed railing to be installed will act as a barrier between the external area and the public highway and ensure that no customers cause obstruction to pedestrians and other road users.

iii) The prevention of public nuisance

The designated premises supervisor will monitor the number of people within the external area on a regular basis in order to ensure that it does not become overcrowded.

The management will remind customers of their public responsibilities where necessary and notices will be displayed asking customers to be considerate to the residential neighbours.

No music will be played in the external area.

The external area shall not be used after 22.00 hours.

v) The protection of children from harm

The restrictions set out in the Licensing act 2003 will apply.

10. The applicant on the 4 May 2006 supplied additional photographs, letters and petition to support the application.

11. Other Activities that may give rise to concern in respect of children

The restrictions set out in the Licensing act 2003 will apply.

12. Conditions/ Restrictions to be removed on variation.

Annex 3 condition number 7 –

The front area of the premises shall not be used for the consumption of alcohol at all times.

13. Relevant Representations – Responsible Authorities

The Authority has received two objections -

i) The Police

The Police are concerned that the lifting of the condition will allow customers to drink outside the premises and therefore cause noise, disturbance and intimidation to local residents and passers by. The area is not sufficiently large enough to allow consumption outside and certainly in the summer months this would cause problems for local residents.

The condition was imposed to prevent noise and disturbance to residents and as far as the police are aware nothing has changed in this regard.

The need for people to smoke can be addressed by the smoking at the rear of the premises.

It is therefore felt that if this condition is lifted it would undermine the crime prevention and public nuisance objective.

ii) Environmental Services

I regret I cannot support this variation. The public house is located in a residential area and the presence of people outside the premises up to 22.00 hours will, I believe, inevitably result in disturbance to residents of nearby properties.

Both objections are both included in full in the attached report.

14. Relevant Representations – Interested Parties.

There are 23 representations from interested parties to the application to vary.
The objections are relevant to the Licensing Objectives - Prevention of Public nuisance
Prevention of crime and disorder
Protection of children from harm

All representations are in full within the report.

15. Policy Considerations.

Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act.

As members will be aware the four licensing objectives are as follows:

- the prevention of crime and disorder
- public safety
- prevention of public nuisance
- the protection of children from harm.

The Licensing Act 2003 provides that where relevant representations are received the Licensing Authority must hold a hearing to consider them unless the parties agree that a hearing is unnecessary.

The Licensing Authority in determining the application, having have regard to the representations, may take the following steps it considers it necessary for the promotion of the licensing objectives.

- i) reject the application in whole or in part
- ii) modify the conditions.

Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member's attention is drawn to the following paragraphs:

Paragraph 1.3 The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing, However, each application will be considered separately, on its individual merits.

Paragraph 1.4. The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.

Paragraph 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.

Paragraph 2.2 Each of the licensing objectives are of equal importance with these objectives.

Paragraph 2.3 Each of the licensing objectives is of equal importance for the purposes of this policy.

Paragraph 2.4 This policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.

Paragraph 2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.

Paragraph 2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.

Paragraph 5.3 The policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be necessary in more densely populated areas. The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

CRIME AND DISORDER

Paragraph 6.1 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems.

Paragraph 6.2 The Council is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act 1998 and the Community Safety Strategy. Statistics from the Community Safety Partnership regarding Crime and Disorder in the Licensing Authority area are given in Appendix 4.

Paragraph 6.3 The Community Safety Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol and provide reports to the Licensing Authority where appropriate. The Licensing Authority will give due consideration to any submissions made concerning the impact on crime and disorder of alcohol related problems. The Council may review this Policy where it considers it appropriate to do so.

Paragraph 6.4 The Council will have particular regard to the likely impact on licensing of related crime and disorder in the Borough particularly when considering the location, impact and the operation and management of all proposed licensed premises and applications for variations.

Paragraph 6.5 The promotion of the crime and disorder-licensing objective, places a responsibility on licence holders to try and achieve this objective. Applicants will therefore be required to address, in their operating schedules, where appropriate, those measures that have been identified and will be implemented and/ or maintained to reduce or prevent crime and disorder in the vicinity of their premises. The Licensing Authority considers that best practice will be exemplified by the night safe initiative and would recommend that licence holders join this initiative.

Paragraph 6.6 Where relevant representations are received on the crime and disorder objective, the Licensing Authority may have regard to the following where relevant: (though this is not an exhaustive list):

- crime prevention measures
- physical security features installed in the premises, (this may include CCTV both inside and outside the premises, where alcohol is stored in relation to off licences, the use of toughened drinking glasses).
- weapon detection and search facilities.
- procedures for risk assessing promotions and events such as 'happy hours', drinks promotions, for the potential to cause crime and disorder, and the plans to minimising such risks.
- adoption of best practice guidance in relation to safer clubbing guide
- measures to prevent the use or supply of illegal drugs including search and entry policies
- employment of licensed door supervisors
- participation in other appropriate schemes e.g. pub watch scheme
- measures to be taken for the prevention of violence or disorder.

Paragraph 6.7 The Licensing Authority where relevant representations are made will consider attaching conditions to deter and prevent crime and disorder, if appropriate and necessary and these may include conditions from the model pool of conditions at Appendix 3. Certain premises may be required to install CCTV system to an evidential standard should the Council be satisfied it is necessary and /or appropriate to meet the licensing objectives.

Paragraph 6.8 The Council reserves its right to use its powers to designate areas where alcohol may not be consumed in a public place to meet the Public Safety and Crime and Disorder objectives.

LICENSING HOURS

Paragraph 7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.

Paragraph 7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the policy and restrictions on trading hours will be considered only where necessary to meet the licensing objectives.

Paragraph 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, but each premise will be considered on its individual merits.

Paragraph 7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence will in all cases be dependent on the impact of an activity in relation to the licensing objectives.

Paragraph 7.6 Where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non exhaustive list);

- the nature of the area where the premises are located (e.g. commercial, residential)
- arrangements to ensure adequate availability of taxis and private hire vehicles, public transport.
- whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.
- whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact
- in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives

○ In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,

- the type and scale of activity, the number and nature of clientele likely to attend
- the levels of noise from the premises, which may be acceptable later in the evening
- the proposed hours of operation
- the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxis
- the means of access to the premises e.g. whether on principal pedestrian routes
- the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic
- the cumulative impact of licensed premises in an area and scope for mitigation
- frequency of the activity.

Operating Schedules to set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred to paragraph 6.6

PROTECTION OF CHILDREN FROM HARM

Paragraph 10.1 The policy does not seek to prevent or limit the access of children to licensed premises unless it is necessary for the prevention of physical, moral or psychological harm to them. The Licensing Authority is committed to protecting children from harm and activities associated with premises that sell alcohol or provide regulated entertainment, may in certain circumstances, give rise to concerns for the health and welfare of children. For the purpose of this Policy, a 'child' is defined as any person who is under the age of 16

Paragraph 10.2 The Licensing Authority will not impose any conditions that specifically require access of children to premises and where no limitation is imposed this should remain a matter for the individual licence holder or club premises certificate holder. The Licensing Authority will consider the individual merits of each application. However, the Licensing Authority will have particular concern in respect of children:

- where there have been convictions of the current management for serving alcohol to minors or those where there is a reputation of under age drinking.
- where there is reputation of drug taking or dealing.
- where there is a strong element of gambling on the premises. (but not for example, the simple presence of a small number of cash prize gaming machines)
- where entertainment of an adult or sexual nature is provided (see paragraph 29 for additional information).
- where the supply of alcohol is the exclusive or primary purpose of the services provided at the premises.

Paragraph 10.3 The Licensing Authority, in such circumstances as outlined above, may consider it necessary to impose a complete prohibition; it is envisaged that this would be rarely imposed. The Licensing Authority would normally be likely to impose requirements such as:

- limitations on the hours when children may be present.
- age limitations for persons under 18
- limitations or exclusions when certain activities are taking place
- requirements for accompanying adults
- limitations of access to certain parts of the premises when particular licensable activities are taking place
- provision of suitable signage
- such other conditions or restrictions as may be necessary to achieve the licensing objectives.

Paragraph 10.4 Licensees are not to provide alcohol except as provided for by the Act. The Council expects applicants to consider child access in their operating schedules and volunteer appropriate conditions where relevant. The Council recommends that the following documents should be used as evidence of age:

- Passport
- Photo Card Driving licence issued in the European Union
- Proof of Age Scheme Card (i.e. Portman Group) and schemes which carry the Proof of Age Standard Scheme logo
- Citizen Card supported by the Home Office
- Official ID Card issued by HM Forces or a European Union Country bearing a photograph and date of birth of the holder.

Paragraph 10.5 The Licensing Authority requires applicants to consider, where relevant, those factors that impact on the protection of children objective, and identify where necessary and appropriate, suitable measures to promote this objective. Applicants may wish to consider, where appropriate:

- arrangements to prevent children acquiring or consuming alcohol
- arrangements to prevent children being exposed to drugs, drug taking, or drug dealing
- arrangements to prevent children being exposed to gambling, or activities of an adult or sexual nature
- steps to be taken to prevent children being exposed to violence or disorder
- arrangements for training staff in relation to the protection of children

- steps to be taken to prevent children purchasing cigarettes from vending machines and preventing access to Amusement with Prize Machines (except in accordance with the Gaming Legislation).

Paragraph 10.6 Applicants may volunteer prohibitions and restrictions on their Operating Schedules as a result of their own risk assessments determining that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate. The Licensing Authority may impose conditions where relevant representations are made if it considers it necessary and/or appropriate including those drawn from the Model Pool of Conditions shown at in Appendix 3.

Paragraph 10.7 The Licensing Authority will also expect applicants, where relevant, to consider how they intend to provide for the supervision of children as unaccompanied customers and as performers providing regulated entertainment. Licence holders should give consideration to the welfare of children as performers in such cases. As a minimum requirement the Licensing Authority will require an adult to be nominated to be responsible for such child performers.

Paragraph 10.8 Where large numbers of unaccompanied children are to be present e.g. children's show or pantomime, conditions may be imposed, where relevant representations are received, requiring the presence of an appropriate number of adult staff to ensure public safety and protection of children from harm. The Licensing Authority requires applicants to address those matters in their operating schedules. See paragraph 12.1 for further guidance.

Paragraph 10.9. The Licensing Authority recognises Lancashire County Council Social Services Department or a future body with the relevant legislative functions of a social services department as being competent to advise on matters relating to the protection of children from harm.

CHILDREN AND CINEMAS

Paragraph 11.1 Where the exhibition of films is permitted the Licensing Authority requires admission to children to be restricted in accordance with the British Board of Film Classification (BBFC) or any other body designated under section 4 of the Video Recordings Act 1984 .

Paragraph 11.2 Where it is proposed to exhibit films not classified by the BBFC, the Licensing Authority will, provided 28 days notice has been given, classify the films concerned using the guidelines published by the BBFC.

CHILDREN AND PUBLIC ENTERTAINMENT

Paragraph 12.1 Where there is entertainment specifically provided for children (e.g. children's disco) the Licensing Authority would recommend as a minimum:

- an adult member of staff to be stationed in the vicinity of each of the exits, a minimum of one member of staff per 50 children or part thereof
- no standing to be permitted in any part of an auditorium during the performance
- no child unless accompanied by an adult to be permitted in the front row of any balcony.

Paragraph 12.2 Where relevant representations are made, the Licensing Authority may, if it considers it necessary and/or appropriate attach conditions to licences and permissions to prevent harm to children, these may include those drawn from the Model Pool of Conditions at Appendix 3 relating to the Protection of Children from Harm.

PREVENTION OF PUBLIC NUISANCE

Paragraph 13.1 Licensed Premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

Paragraph 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.

Paragraph 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.

Paragraph 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

Paragraph 13.5 The policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.

Paragraph 13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:

- the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship)
- the type of activities, the number and nature of clientele likely to attend at the time of the application
- the proposed hours of operation
- levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
- means of access to premises (whether on principal pedestrian routes)
- the level of car parking demand on any surrounding residential streets and its effect on local residents
- the cumulative impact on licensed premises in an area
- the scope for mitigating an impact i.e. CCTV, door supervisors
- the frequency of an activity
- the design and layout of the premises
- measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices
- measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc
- measures taken to lessen the impact of parking in the vicinity
- control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods)
- measures to be taken to prevent drunkenness on the premises
- measures to ensure collection and disposal of litter and waste outside their premises

Paragraph 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.

Paragraph 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority

Paragraph 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.

Paragraph 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).

Paragraph 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

PUBLIC SAFETY

Paragraph 14.1 The Licensing Authority considers that members of the public when visiting licensed premises, have a right to expect that due consideration has been given to public safety. The Licensing Authority notes that the public safety objective is concerned with the physical safety of people using premises and not with public health which is dealt with in other legislation.

Paragraph 14.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in partnership with Lancashire Police, Lancashire Fire & Rescue and Licence Holders.

Paragraph 14.3 Applicants should carefully consider the safety of the premises having regard to the licensable activities that are proposed and to address in the operating schedule, where relevant, how public safety will be achieved. Such measures may include, where relevant to the premises:

- the occupancy capacity of the premises
- age, design and layout of the premises including means of escape
- nature of the licensable activities to be provided, in particular the sale and supply of alcohol
- hours of operation
- customer profile (e.g. age)
- use of special effects e.g. lasers, pyrotechnics, smoke/foam machines.

Paragraph 14.4 The Act requires a plan of the premises to be supplied with operating schedules showing prescribed information.

The Licensing Authority will take notice of a health and safety risk assessment submitted with an operating schedule.

Paragraph 14.5 All licensed premises will be risk related according to a Protocol agreed with Lancashire Fire and Rescue. Inspections will be carried out by Lancashire Fire & Rescue in accordance with the Protocol. A copy is attached at Appendix 6.

Paragraph 14.6 The Licensing Authority may inspect premises where it considers it appropriate on public safety grounds.

Paragraph 14.7 On receipt of relevant representations the Licensing Authority may, where it considers it necessary and/or appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions attached at Appendix 3. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.

17. Human Rights Act Implications

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

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

ASSOCIATED PAPERS

18. Application form and relevant representation.

DONNA HALL
CHIEF EXECUTIVE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
H.Bee	5665	8 May 2006	LEGREP/MITRE