

Report of	Meeting	Date
Director of People & Places	Licensing Act 2003 Sub-Committee	7 August 2013

## **DETERMINATION OF APPLICATION FOR A PREMISES LICENCE MADE UNDER SECTION 17 OF THE LICENSING ACT 2003, FOR THE PREMISES THE RED LION.**

### **PURPOSE OF REPORT**

1. To enable Members to determine the application for a premises licence made by Mr Philip Entwistle of Special Ale Services Limited, Norwood Copthurst Lane Whittle-le-Woods, Chorley, in light of representations that have been made towards the application under Section 18 of the Licensing Act 2003.

### **RECOMMENDATION(S)**

2. Members are recommended to consider the application and any representations made by other persons and after considering those representations determine the application for the premises licence for The Red Lion, 196 Blackburn Rd Wheelton, Chorley.

### **EXECUTIVE SUMMARY OF REPORT**

3. The Council received an application on the 25 June 2013 made under Section 17 of the Licensing Act 2003 for the Grant of a Premises Licence for The Red Lion; the application is attached as appendix 1. Officers are satisfied that the application has been made in the correct manner. Officers have received 25 representations objecting to the application from other persons. None of the representations received have been determined to be not relevant towards the application under Section 18 of the Licensing Act 2003 and therefore do not form part of the report. 25 representations have been accepted as relevant representation to the application and are to be considered under the licensing objectives for:

- a) The Prevention of Crime and Disorder.
- b) The Prevention of Public Nuisance.

The Council has received 1 representation in support of the application.

Officers are aware that an interested person has promoted a view of the Premises Licence application for the Red Lion to many addresses throughout Wheelton, a copy of the leaflet is attached as appendix 2, Member should be aware that not all of the issues raised within the information at appendix 2 are licensing considerations.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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## CORPORATE PRIORITIES

4. This report relates to the following Strategic Objectives:

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

## BACKGROUND

5. Officers received an application for the grant of a premises licence for The Red Lion at Wheelton made in the normal way on the 25<sup>th</sup> June 2013 By Mr Philip Entwistle on behalf of Special Ale Service Ltd.
6. To assist Members a plan of the area identifying the properties of the persons making representation is reproduced at appendix 3, although the vicinity test no longer needs to be satisfied under the Licensing Act 2003.
7. The premises has benefited from a Premises licence granted under the Licensing Act 2003, from the 24 November 2005 (the second appointed day) following an application for a conversion and variation from a Justices Licence empowered under the Licensing Act 1964, the Councils records show that those permissions existed from 1993. On or about the 4<sup>th</sup> January 2013 the Council received a notice served under Section 28 of the Licensing Act 2003 to surrender the Premises Licence in force at that time following a contractual agreement between Enterprise Inns and Special Ale services Ltd. A copy of the licence in force at that time is attached as appendix 4.

On the 18<sup>th</sup> June 2013 following an application made by Special Ale Services Ltd for the transfer of the premises licence and change of Designated Premises Supervisor, the applicant was informed that the licence could not be transferred as it no longer existed. Hence the application to be determined today which is highlighted below.

The Council has received 1 complaint from a resident in Jan 2009, this related to a group of noisy adults that were in the vicinity of the licensed premises. Following an investigation by the Licensing & Enforcement officer and the Environmental Health Officer no breaches of licensing conditions were found.

### 8. **Outline and history of the Application**

"The premises is located just off the A674 in the village of Wheelton. It is a long established Village Pub, traditionally built and is in keeping with the locality. The premises have had 8 Designated Premises Supervisors in the last 8 years and 5 Premises Licence holders in the same period. The Application seeks the following authority;

For Members Information;

LIVE MUSIC ACT; (Live music is not now regarded as a licensable activity on any premises between the hours of 08.00 – 23.00 hrs, where the music is unamplified to an audience of not more than 200 and amplified music is played to an audience of not more than 200 where the premises has a premises licence or is a work place. It is the Premises Licence holder's responsibility to ensure that the occupancy at premises does not exceed these figures to remain exempt under the provisions of the above Act. Where Live music permission is sought for audiences in excess of these limits or outside of the times given, it would be appropriate that consideration is given to conditions to manage such authorisation, at all other times conditions can only be attached to a premises licence to address such authorisations following a review of a premises licence).

Changes that the Live Music Act made to licensing under the 2003 Licensing Act are outlined below.

1. *It removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised by a premises licence or club premises certificate to supply alcohol for consumption on the premises (at a time when those premises are open for the purposes of being used for the supply of alcohol for consumption on the premises), subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate.*
2. *It removed the licensing requirement for amplified live music taking place between 8am and 11pm in front of audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).*
3. *It removed the licensing requirement for unamplified live music taking place between 8am and 11pm in any place, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.*
4. *It removed the licensing requirement for the provision of entertainment facilities.*
5. *It widened the licensing exemption for live music that is integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to both live or recorded music instead of just unamplified live music in that instance.*

## 9. Regulated Entertainment

E, Live music, Monday to Sunday 09.00 – 01.00 indoors.

F, Recorded Music, Monday to Sunday 09.00 – 01.00 indoors.

H, Anything of a similar description to that Falling within (e), (f) or (g) Monday to Sunday 09.00 – 01.00, indoors.

I, Late night refreshment Monday to Sunday. 23.00 – 01.00 indoors.

J, Supply of alcohol Monday to Sunday 09.00 – 01.00 on the premises.

L, Hours the premises are open to the public Monday to Sunday 09.00 – 01.00.

P, (This section describes the steps to be taken by the Premises Licence holder to promote the 4 licensing objectives),

### a) General

- Staff will be trained on the requirements of the Licensing Act 2003 when they are recruited and given training in drugs awareness as part of their induction.

### b) The Prevention of Crime and Disorder

- Providing a 30 minute extension of opening hours after the end of the sale of alcohol will promote this objective as the last drink will be consumed less quickly, with access to the pubs toilet facilities. A staggered departure from the premise of the customers will reduce noise and conducive problems.

c) Public Safety

- Fire extinguisher/blanket certificate renewed annually, gas and electricity certificate. Accident book, first aid kit, health and safety poster in place. A Daily incident log book will be kept to detail all incidents of note at the premises or in the vicinity.

d) The Prevention of Public Nuisance

- Live music will end at 23.00 except on New Years Eve and New years Day. All windows and doors will be kept closed when and where necessary to reduce noise levels. A notice will be placed prominently at the exits asking customers to leave quietly; staff will be vigilant and monitor this. The garden will be closed at or before 23.00 hrs.

e) The protection of Children from Harm

- The restrictions set out in the Licensing Act 2003 will apply Photographic proof of age will be required to be shown by anyone seeking to purchase alcohol who appears to be under 20 years of age. Children will only be allowed on the premises if accompanied by a responsible adult.

**10. Representations from Responsible Authorities**

There are no representations from the responsible authorities.

Following the nature of the representations that have been made, the Councils Environmental Health Officer was approached by officer to ensure the application had been received. They were satisfied with the application and confirmed that there were no recent records of complaint made towards the former licenced premises known as The Red Lion.

**11. Representation received from other persons.**

In order to assist members with the representations that have been received they are presented as appendix 5, A-Z none are placed in order or in preference to any other.

Members should note that the representations that have been accepted as relevant to the application may also contain comments that are not relevant to the application under section 18.6 of the Act, Members are advised not to have consideration for comments that cannot be directly associated to at least one of the Licensing Objectives. The premises from which the relevant objections have been received can be identified on the map by correlation of the appendix number. Members are reminded to consider all the relevant representations that have been accepted having consideration for the Councils Statement of Licensing Policy and the Secretary of States Section 182 Guidance revised in May 2013, and the relevant sections of the Live Music Act 2013.

In accordance with the Licensing Act 2003 Hearing Regulations 2005, Officers have invited the persons who have made representation to attend todays hearing and / or to provide in writing additional information to further inform the Council in their absence, the responses to that request are attached to the original representation received and bear the same appendix reference.

The council have received 26 representations from other persons, which includes 1 in support of the application.

The issues raised by the representations relate to the licensing objective for:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance

All parties to this application have been invited to attend the hearing under the Licensing Act 2003 (Hearing) Regulations 2005, and to make representation.

The representations received are attached as appendix 5; A-Z.

The Committee has the following options:

- (i) to reject the application in part or whole
- (ii) to grant the application
- (iii) to modify the conditions of the licence

## **POLICY AND LEGAL CONSIDERATIONS**

12. 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, Revised June 2013.

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.

13. The Licensing Authority shall determine the application, having had considered the representations that have been made, and having regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act, April 2012:

Section 18 Licensing Act 2003 is the authority the Licensing – sub - committee can rely upon with regards to this matter, which is reproduced below.

Section 18 Determination of application for premises licence

(1) This section applies where the relevant licensing authority—

(a) receives an application for a premises licence made in accordance with section 17, and  
(b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to—

(a) such conditions as are consistent with the operating schedule accompanying the application, and

(b) any conditions which must under section 19, 20 or 21 be included in the licence.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

- (4)The steps are—
- (a)to grant the licence subject to—
- (i)the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
- (ii)any condition which must under section 19, 20 or 21 be included in the licence;
- (b)to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c)to refuse to specify a person in the licence as the premises supervisor;
- (d)to reject the application.
- (5)For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added.
- (6)For the purposes of this section, “relevant representations” means representations which—
- (a)are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,
- (b)meet the requirements of subsection (7),
- (c)if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9), and
- (d)are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).
- (7)The requirements of this subsection are—
- (a)that the representations were made by an interested party or responsible authority within the period prescribed under section 17(5)(c),
- (b)that they have not been withdrawn, and
- (c)in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (8)Where the authority determines for the purposes of subsection (7)(c) that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for its determination.
- (9)The requirements of this subsection are that the representations—
- (a)were made by a chief officer of police for a police area in which the premises are situated, and
- (b)include a statement that, due to the exceptional circumstances of the case, he is satisfied that the designation of the person concerned as the premises supervisor under the premises licence would undermine the crime prevention objective.
- (10)In discharging its duty under subsection (2) or (3)(b), a licensing authority may grant a licence under this section subject to different conditions in respect of—
- (a)different parts of the premises concerned;
- (b)different licensable activities.

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.

- The prevention of crime and disorder
- Public safety

- Prevention of public nuisance
- The protection of children from harm.

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 appropriate 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**

14. 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.

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 eg 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 appropriate and these may include conditions from the model pool of conditions. Certain premises may be required to install CCTV system to an evidential standard should the Council be satisfied it is appropriate 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**

15. 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 appropriate 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**

16. Paragraph 10.1 The policy does not seek to prevent or limit the access of children to licensed premises unless it is appropriate 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 appropriate 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 appropriate 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 appropriate, suitable measures to promote this objective. Applicants may wish to consider, where appropriate:

- arrangements to prevent children acquiring of 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 appropriate and/or appropriate including those drawn from the Model Pool of Conditions.

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.

## **PREVENTION OF PUBLIC NUISANCE**

17. 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 appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions. 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.

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. .

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 appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.

## **HUMAN RIGHTS ACT IMPLICATIONS**

18. 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.
- Members are recommended to consider the application and any representations made by relevant authorities or other persons and after considering those representations determine the application for the purpose of the premises licence for The Red Lion Wheelton Chorley.

19. Members will be aware that on the 25<sup>th</sup> April 2012 Government amended various sections of the Licensing Act 2003 by virtue of the Police Reform & Social Responsibility Act 2011, to date Members have not yet had the opportunity to review the Councils Statement of

Licensing Policy in light of the Changes that have been made. The following headings have been reproduced from that Act to inform members of those changes that are relevant to this matter but have not been addressed within the Councils Statement of Licensing Policy:

**PART 2 – LICENSING CHAPTER 1 - AMENDMENTS OF THE LICENSING ACT 2003**

- 103 Licensing authorities as responsible authorities.
  - 104 Primary Care Trusts and Local Health Boards as responsible authorities.
  - 105 Premises licences: who may make relevant representations.
  - 106 Premises licences: who may apply for review.
- The Live Music Act 2012

**IMPLICATIONS OF REPORT**

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

Finance		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 HEAD OF GOVERNANCE**

21. The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011. The changes relevant to this application are the removal of the requirement for representations to be made by interested parties in the vicinity of the premises. Representations can now be considered if made by other persons as long as they relate to the licensing objectives and are not frivolous or vexatious. The persons making the representations no longer need to be in the vicinity of the proposed premises.

The Applicant has the right of appeal to the magistrates court within 21 days of being notified of the decision against a refusal of a licence or the imposition of conditions which they argue are unreasonable. Persons who have made representations enjoy a similar right of appeal in relation to a decision favourable to the applicant.

JAMIE CARSON  
DIRECTOR OF PEOPLE & PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Stephen Culleton	5665	25 July 2013	***