

Report of	Meeting	Date
Director of Legal Services	Statutory Licensing Sub-Committee	22 September 2005

APPLICATION TO VARY PREMISES LICENCE IN RESPECT OF TIME SQUARE UNION STREET CHORLEY PR7 1AB

PURPOSE OF REPORT

1. For members to determine an application for the 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. The premises licence was converted under the grandfather provisions. The current licensable activities are as follows –

Retail of alcohol on or off the premises

11.00 – 23.00 Monday to Saturday

12.00 – 22.30 Sunday and Good Friday

11.00 – New Years Day – Terminal hour as existing

12.00 – 15.00 and 19.00 to 22.30 Christmas Day

Public Entertainments Licence

Permitted licensing hours authorised under the PEL are –

Monday – Saturday 19.00 – 22.30

Sundays and Good Friday 19.00 – 22.00

Continued....



All embedded permissions and restrictions to be converted, as are inherent in the Licensing Act 1964 and as per the attached PEL.

THE APPLICATION

6. A copy of the application to variation 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.

Please note following discussions with the Police, the applicant amended the application. The amended application is listed below and Lancashire Police have formally withdrawn their objection there still remains representations from interested parties which are listed below.

7. Provision of regulated entertainment

- i) Films - Indoors

10.00 – 01.00 Monday – Sunday

Non –Standard timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

- ii) Indoor Sporting events – indoors

10.00 – 01.00 Monday – Sunday

Non –Standard timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

- iii) Live Music - Indoors

10.00 – 00.00 Monday – Sunday

Live music and amplified voice as stated in B1

Non –Standard timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

- iv) Recorded Music - Indoors

10.00 – 01.00 Monday – Sunday

Recorded music, included jukebox, with or without a DJ, during normal business hours or as part of functions and including audience participation as specified in box B1.

- v) Performances of Dance – Indoors

10.00 – 01.00 Monday – Sunday

Non Standard Timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

vi) Provision of facilities for dancing – Indoors

10.00 – 01.00 Monday – Sunday

To be used as and when required at any time when the premises are open for the sale of alcohol.

Non Standard Timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

8. Late night refreshment - indoors

23.00 – 01.30 Monday – Sunday

Non Standard Timings

When hours for sale of alcohol are extended hereunder these hours are also extended.

9. Supply of alcohol

11.00 – 00.00 Monday – Thursday
11.00 – 01.00 Friday and Saturday
12.00 – 00.00 Sunday

Non –Standard timings

If the variation in Part B1 Paragraph 4 is not granted to open to 02.00 hour on up to 12 occasions per annum at my discretion upon 7 days prior notice to the police.

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

10. Hours premises are open to the Public

10.00 – 01.30 Monday – Sunday

Non –Standard timings

The premises will close 30 minutes after the end of the non-standard timings identified in box M

11. ADDITIONAL STEPS TO BE TAKEN TO PROMOTE LICENSING OBJECTIVES

i) General

I have undertaken my own risk assessment to take the following proposed steps

The types of regulated entertainment proposed materially do no more than reinstate the normal pub entertainment that was previously unregulated as identified in B1

No new steps have been identified in relation to the four licensing objectives save as below

ii) The prevention of crime and disorder

No further risks have been identified which need to be addressed save as below

Any person exercising a security activity (as defined by paragraph 2 (1) (a) of schedule 2 of the private Security Industry act 2001) shall be licensed by the Security Industry Authority.

Such a person will be employed at the premises at the discretion of the designated premises supervisor/holder of the premises licence.

Any person defined in the above condition will clearly display his name badge at all times whilst on duty.

No customers apparently carrying open bottles upon entry shall be admitted to the premises at any times the premises are open to the public.

CCTV is installed with recording facilities such recordings shall be retained for a period of 30 days and made available within a reasonable time upon request by the police.

Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.

The maximum occupancy of the building (including staff and performers) will be restricted to 120 persons.

iii) Public Safety

No further risks have been identified which need to be addressed save as below

To comply with the reasonable requirements of the fire officer from time to time.

To comply with the reasonable requirements of the building control officer.

iv) Prevention of public nuisance

No further risks have been identified which need to be addressed save as below

Recorded music till 1am at a lower volume.

Where appropriate, prominent, clear and legible notices shall be displayed at all exits Requesting the public respect the needs of local residents and to leave the premises and area quietly.

Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

v) Protection of children from harm

The restrictions set out in the Licensing Act 2003 apply. No unusual or additional risks of harm to children have been identified

No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/ Local Authority certification.

Children under the age of 16 shall not be permitted to enter the premises after 21.00

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

None

13. Conditions/ Restrictions to be removed on variation

Removal of all embedded restrictions inherent in Licensing act 1964, save as specified on part B of the application

14. Relevant Representations – Responsible Authorities

There is a relevant representation received to the application to vary from Chorley Borough Council Environmental Services. The objection is relevant to the following licensing objectives –

Prevention of public nuisance

The objection is in full attached to the report, however Environmental Services recommend -

Environmental Services are in no greater position than October 2003 (when the noise cut out device was installed), to state whether the pub is suitable for certain types of public entertainment i.e. live artists and Karaoke, even at the current licensing hours. Environmental Services have had no communication from anyone at the pub or the owners since April 2005.

Environmental Services recommend that the current permitted licensing hours for all forms of entertainment and all existing conditions remain in force,

The tenant is unable to guarantee that the statement in section Q (d) 2 of the application will be met (prevention of public nuisance).

15. Relevant Representations - Interested Parties

There are five relevant objections from interested parties. The objections are relevant to the following licensing objectives - Prevention of crime and disorder
Prevention of public nuisance

The objections are attached in full within the report, however to summarise –

Sounds resounds through adjoining property

Inadequate sound testing

The premises is close to residential properties

There is a long-standing issue with noise emanating from the pub

There is car crime close to the premises

16. 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 premises 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

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 a 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.

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.

ROSEMARY LYON
DIRECTOR OF LEGAL SERVICES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
H.Bee	5665	31 August 2005	LEGREP/90157AJS