



Kim Webber B.Sc. M.Sc.
Chief Executive
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Tuesday 16 May 2017

TO: ALL MEMBERS OF THE LICENSING SUB - COMMITTEE

Dear Councillor,

A meeting of the **LICENSING SUB-COMMITTEE** will be held in the **COUNCIL CHAMBER - 52 DERBY STREET** on **WEDNESDAY, 24 MAY 2017** at **10.30 AM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be "Kim Webber", written over a horizontal line.

Kim Webber
Chief Executive

AGENDA
(Open to the Public)

- 1. APOLOGIES**
- 2. URGENT BUSINESS**

Note: No other business is permitted unless, by reason of special circumstances, which shall be specified at the meeting, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

3. DECLARATIONS OF PARTY WHIP

Party Whips are not to be used by this Committee in respect of functions concerning the determination of new Licence Applications, Revocations and Appeals. When considering any other matter which relates to a decision of the Cabinet or the performance of any Member of the Cabinet, in accordance with Regulatory Committee Procedure Rule 9, Members must declare the existence of the Committee's deliberations on the matter.

4. DECLARATIONS OF INTEREST

1 - 2

If a Member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of Members a checklist for use in considering their position on any particular item is included at the end of this agenda sheet.)

5. MINUTES

3 - 4

To note the Minutes of the meeting held on 10 February 2017.

6. LICENSING HEARING PROCEDURE

5 - 6

7. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF JUNK, 12 CHURCH STREET, ORMSKIRK, L39 3AN

7 - 58

To consider the report of the Director of Leisure and Wellbeing.

We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

FIRE EVACUATION PROCEDURE: Please see attached sheet.

MOBILE PHONES: These should be switched off or to 'silent' at all meetings.

For further information, please contact:-
Julia Brown on 01695 585065
Or email julia.brown@westlancs.gov.uk

**FIRE EVACUATION PROCEDURE FOR:
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT
(52 DERBY STREET, ORMSKIRK)**

PERSON IN CHARGE:	Most Senior Officer Present
ZONE WARDEN:	Member Services Officer / Lawyer
DOOR WARDEN(S)	Usher / Caretaker

IF YOU DISCOVER A FIRE

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

ON HEARING THE FIRE ALARM

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **Do NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

NOTES:

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

CHECKLIST FOR PERSON IN CHARGE

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

NOTE:

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

CHECKLIST FOR ZONE WARDEN

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

INSTRUCTIONS FOR DOOR WARDENS

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.

Agenda Item 4

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	You cannot speak or vote and must withdraw unless you have also ticked 5 below
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	You may speak and vote
3.	<p>I have a pecuniary interest because</p> <p>it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest</p> <p>or</p> <p>it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest</p>	<input type="checkbox"/> <input type="checkbox"/>	<p>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</p> <p>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</p>
4.	<p>I have a disclosable pecuniary interest (Dispensation 20/09/16) or a pecuniary interest but it relates to the functions of my Council in respect of:</p> <p>(i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.</p> <p>(ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.</p> <p>(iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.</p> <p>(iv) An allowance, payment or indemnity given to Members</p> <p>(v) Any ceremonial honour given to Members</p> <p>(vi) Setting Council tax or a precept under the LGFA 1992</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>You may speak and vote</p> <p>You may speak and vote</p> <p>You may speak and vote</p> <p>You may speak and vote</p> <p>You may speak and vote</p>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/09/16 – 19/09/20)	<input type="checkbox"/>	See the terms of the dispensation
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	You may speak but must leave the room once you have finished and cannot vote

‘disclosable pecuniary interest’ (DPI) means an interest of a description specified below which is your interest, your spouse’s or civil partner’s or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest

Employment, office,
trade, profession or
vocation

Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

Page 1

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;

"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

'a connected person' means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

'body exercising functions of a public nature' means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

LICENSING SUB-COMMITTEE

HELD: Friday, 10 February 2017

Start: 10.30 am

Finish: 12.05 pm

PRESENT:

Councillor: N Delaney (Chairman)

Councillors: T Devine J Kay

In attendance: Mr R Arnott (Ward Hadaway Solicitors)
Mr D Wood (Area Manager Co-op)
Councillor Owens (Ward Councillor)

Officers: Principal Solicitor (Mrs K Lovelady)
Senior Licensing Officer (Mrs M Murray)
Member Services/Civic Support Officer (Mrs J Brown)

25 **APOLOGIES**

There were no apologies for absence received.

26 **MEMBERSHIP OF THE COMMITTEE**

There were no changes to Membership of the Sub – Committee.

27 **URGENT BUSINESS**

There were no items of urgent business.

28 **DECLARATION OF PARTY WHIP**

There were no declarations of Party Whip.

29 **DECLARATIONS OF INTEREST**

There were no declarations of Interest.

30 **MINUTES**

RESOLVED: That the Minutes of the meeting held on 24 January 2017 be noted.

31 **LICENSING HEARING PROCEDURE**

The Chairman outlined the Licensing Hearing Procedure.

32 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF CO-OP (FORMER ROPERS ARMS SITE), 52 WIGAN ROAD, ORMSKIRK L39 2AU**

Consideration was given to the report of the Director of Leisure and Wellbeing Services as contained on pages 205 to 224 of the Book of Reports in respect of an Application for a Premises Licence in respect of Co-op (former Ropers Arms Site), 52 Wigan Road, Ormskirk L39 2AU.

In considering this matter the Sub – Committee had regard to its Licensing Policy and the guidance issued under S. 182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was ‘the prevention of public nuisance’.

On hearing evidence from the Applicant and Ward Councillor the Sub – Committee:-

- RESOLVED: A. That the sale of alcohol shall be permitted between 07.00 hours and 23.00 hours Monday to Saturday and 08.00 hours to 22.00 hours Sundays and Bank Holidays.
- B. That the premises shall be open to the public between 06.00 hours and 23.00 hours Monday to Sunday.

.....
Chairman



WEST LANCASHIRE BOROUGH COUNCIL LICENSING COMMITTEE (2003)

REVIEW HEARING PROCEDURE

- 1 Chairman introduces the Members and the main Officers
2. The Chairman refers to the procedure, which will be followed.
3. Chairman asks the Director of Leisure and Wellbeing (or his representative) to outline the application.
4. Applicant's case
 - (a) Introductions.
 - (b) The Applicant (or representative) will present their case. This will include general opening remarks followed by calling witnesses.
 - (c) The other parties to the hearing may then ask questions of the applicant and witnesses, commencing with the Premises Licence Holder and concluding with the Sub-Committee.
5. Relevant Representations – Interested Parties
 - (a) Introductions.
 - (b) They will be asked by the Chairman if they wish to elect a spokesperson (or speak individually). They will present their case. This will include general opening remarks followed by calling witnesses.
 - (c) The other parties to the hearing may then ask questions of the Interested Parties and witnesses, commencing with the Premises Licence Holder and concluding with the Sub-Committee.
6. Relevant Representations – Responsible Authorities
 - (a) Introductions.
 - (b) The Responsible Authority (or representative) will present their case. This will include general opening remarks followed by calling witnesses.

- (c) The other parties to the hearing may then ask questions of the Responsible Authority and witnesses, commencing with the Premises Licence Holder and concluding with the Sub-Committee.

7. Premises Licence Holder's Case

- (a) Introductions.
 - (b) The Premises Licence Holder (or representative) will present their case. This will include general opening remarks followed by calling witnesses.
 - (c) The other parties to the hearing may then ask questions of the Premises Licence Holder and witnesses, commencing with the Applicant and concluding with the Sub-Committee.
8. If several representations (objections) have been received, the Premises Licence Holder (or representative) will question the Interested Parties, Responsible Authorities and witnesses in turn in an order to be determined by the Chairman.
9. The Chairman to ask the parties and the Sub-Committee if they have any further relevant questions or comments arising from the hearing.
10. The Applicant and the Premises Licence Holder to make their closing address in that order (so that the Premises Licence Holder has the final say).
11. The Chairman will ask the Legal Adviser whether there are any other matters to be raised or resolved before the hearing is closed for deliberations.
12. The Sub-Committee will retire with the Legal Adviser and Member Services Officer to determine the application.
13. When the Sub-Committee returns the Chairman will announce its decision and give reasons. The decision will be notified to all parties to the hearing in writing within five working days.

End.

If any of the parties, representatives or observers, wish to discuss any matters relating to the hearing, Officers will be available at the conclusion of the meeting.



AGENDA ITEM:

LICENSING SUB-COMMITTEE

Date: Wednesday 24 May 2017

Report of: Director Of Leisure And Wellbeing

Contact for further information: Michaela Murray (Extn 5326)
(E-mail: michaela.murray@westlancs.gov.uk)

SUBJECT: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF JUNK, 12 CHURCH STREET, ORMSKIRK L39 3AN

Borough wide interest

1.0 PURPOSE OF REPORT

- 1.1 To consider an application under the Licensing Act 2003 (the Act) for the Review of a Premises Licence in respect of Junk, 12 Church Street, Ormskirk L39 3AN.

2.0 RECOMMENDATIONS

- 2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

- | | | |
|-----|---------------------------------|---|
| 3.1 | Address of Premises: | Junk
12 Church Street
Ormskirk
L39 3AN |
| 3.2 | Premises Licence Holder: | Burroughs & Boschetto Ltd
27 Granby Close
Southport
PR9 9QG |
| 3.3 | Designated Premises Supervisor: | Mr Stephen Warbrick
Jessop House Hotel
65 Church Street
Tewkesbury
GL50 5RZ |

4.0 BACKGROUND INFORMATION

- 4.1 A Premises Licence was originally granted for the premises on 1 May 2014. An application was received on 8 July 2016 to transfer the Premises Licence to the current Premise Licence Holder, Burroughs & Boschetto Ltd.
- 4.2 On 25 November 2016, a variation application was received from Burroughs & Boschetto Ltd requesting an extension to the operating hours. Lancashire Constabulary submitted a representation against the grant of the application at that time, and the matter was referred to the Licensing Sub Committee on 6 April 2017. The Committee decision is attached as Appendix 1 to this report.
- 4.3 A location plan of the premises and the surrounding area is attached as Appendix 2 to this report.

5.0 THE APPLICATION FOR REVIEW

- 5.1 In accordance with the Act, on the on the 6 April 2017 Lancashire Constabulary submitted an application for the review of the Premises Licence in respect of Junk, 12 Church Street, Ormskirk. The grounds for the Review as stated in the application are:

In January 2017 these premises were granted extended hours in addition to further conditions being imposed to assist the premises in promoting the licensing objectives.

The operators since this time have consistently failed to comply with the conditions attached to the licence and have therefore been committing criminal offences with regards the provision of licensable activity.

The failure of the operators to promote the licensing objectives have lead to incidents occurring at the premises which have required third party assistance to resolve as the operators do not appear to be able to manage the premises in accordance with the Licensing Act 2003 and are undermining the Crime and Disorder licensing objective.

- 5.2 A copy of the full application for review is attached as Appendix 3 to this report.
- 5.3 Lancashire Constabulary have provided a recommendation report regarding the review which is attached as Appendix 4 to this report.
- 5.4 In accordance with Section 51(3) of the Act, the relevant Notices detailing the aforementioned grounds for Review were displayed on the premises and in the immediate vicinity thereof, giving interested parties and responsible authorities, the right to make representations regarding the application for Review. The notice was also published on the Council's website. The Premises Licence Holder and Designated Premises Supervisor have been forwarded copies of the application for Review.

- 5.5 For Members' information, the aforementioned Notices displayed on the premises were removed on two occasions during the period in which additional representations could be received. Licensing Officers reaffixed the Notices on both occasions.

6.0 RELEVANT REPRESENTATIONS

- 6.1 No representations have been received from members of the public or responsible authorities.

7.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

- 7.1 The Licensing Authority must have regard to the provisions of the Act. In addition, Section 4 of the Act 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.
- 7.2 The Council's Licensing Policy provides that licence holders should be given sufficient warning of any concerns regarding problems, which have been identified at the premises, and the need to make improvements. Licensees are expected to respond to such warning and implement the necessary remedial action. The message is clear that any failure to respond to such warnings would more than likely lead to a request for review of the licence.
- 7.3 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
- 7.4 The Act provides that before determining a review application, the Licensing Authority must hold a hearing to consider it and relevant representations.
- 7.5 The Licensing Authority in determining a review application, having had regard to the application and any representations, may take the following steps if it considers it necessary for the promotion of the licensing objective:
- (i) Modify the conditions of the licence
 - (ii) Exclude a licensable activity from the scope of the licence
 - (iii) Remove the Designates Premises Supervisor
 - (iv) Suspend the licence for a period not exceeding three months
 - (v) Revoke the licence
- 7.6 In deciding which of the powers to use it is expected that the Licensing Authority should, as far as possible, seek to establish the causes of the concerns that the representations identify. Any action the Committee may wish to take should generally be directed at these causes and should always be no more than an appropriate response in the cause of promoting the licensing objectives.

- 7.7 In particular, Members' attention is drawn to the following sections of the Policy, which must be read in conjunction with this report:

Section 4.0	Prevention of Crime & Disorder	pages 10/12
Section 12.0	Reviews and suspension	pages 37/39
Section 13.0	Appeals	pages 40

8.0 HUMAN RIGHTS ACT IMPLICATIONS

- 8.1 The Human Rights Act 1988 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.

9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 9.1 The recommendations contained in this report have limited sustainability and/or community strategy implications. However, the Council's Licensing Policy (required under the Act), which underpins the Committee's decision, impacts upon many areas within the Community. The Licensing Objectives contained in the Policy fit closely with many aspects of the Community Strategy and has the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D); Health and Social Care (issue A).

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 10.1 No additional financial or other resources are required.

11.0 RISK ASSESSMENT

- 11.1 The Council has a legal duty to administer the Act and is under a legal duty to determine the matter contained in this report. A failure to determine this matter would result in potential legal challenge.

Background Documents

There are no background documents (as defined in Section 100 D (5) of the Local Government Act 1972) have been relied on to a material extent in the preparation of this report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Sub Committee Decision	(Appendix 1)
Location Plan	(Appendix 2)
Review Application	(Appendix 3)
Lancashire Constabulary Recommendation Report	(Appendix 4)

APPLICATION FOR A PREMISES LICENCE VARIATION IN RESPECT OF JUNK BAR, 12 CHURCH STREET, ORMSKIRK, L39 3AN

On the 24th January 2017 the Council's Licensing Sub-Committee (the Sub-Committee) considered an application for a variation to the Premises Licence from Burroughs & Boschetto Ltd (the applicant) submitted under Section 34 of the Licensing Act 2003 (the 2003 Act). This application was in respect of The Junk Bar, 12 Church Street, Ormskirk L39 3AN

With the permission of the Sub-Committee and in accordance with the Council's Hearing Procedure, the Licensing Officer introduced the application. The applicants acted in person. Sergeant Bushell presented the Police's case and was supported by PC Mick Gim.

Prior to the hearing the Police set out which parts of the application they had issue with and those that could be agreed. The applicant maintained that they wanted the Sub Committee to consider their application for extended hours and the amended hours suggested by the Police where not agreed.

The main area of contention were the extension of the hours allowing the sale of alcohol and regulated entertainment until 02.30 on a Friday and Saturday with the premises operating hours being extended until 03.00. The Police relied on evidence of problems that arose when the Premises had operated under a Temporary Event Notice (TEN) during freshers week. The Police indicated that they would withdraw their representation if either the terminal hours where reduced or if the applicant agreed to put two door supervisors on the door from 22.00hrs in the event licensable activities where to be undertaken until 02.00 or later.

In any event they required some of the conditions to be strengthened.

There were no other representations submitted either for or against the application.

The Sub-Committee heard evidence from the Applicant that the additional hours had been requested in order that they may operate for the same hours as other establishments within the town centre. They stated that at the moment customers were leaving their premises a lot earlier than their actual closing time to ensure that they were in other venues that opened later. They did not feel that they required door staff as the clientele did not warrant that level of security. In addition, they felt that the presences of door staff were not beneficial and that their existence often escalated a problem. They gave examples as to where they had had bad experiences with door supervisors.

As part of the hearing the Applicants confirmed that they would be happy to amend their application for Regulated Entertainment and Alcohol Sales to terminate at 02.00 with the operating hours terminating at 02.30 on a Friday and Saturday. They did not see why they should be expected to have door supervisors on the doors from 22.00hrs when they could currently open until 01.30 without the need for door staff. They stated that to employ two door supervisors for the hours stated was not financially viable, would put substantial pressure on them and would result

in the price of drinks increasing to cover the cost.

The applicant felt that as owners they were better placed to control who went in and out of the venue. They confirmed that they were on site most nights it was open to the public and in any event they had a senior member of staff with considerable experience who would be present if they were not there.

The Police gave evidence that whilst the premises had operated under a Temporary Event Notice to the extended hours there had been issues in particular people leaving the venue with drinks contrary to the premise licence conditions along with broken glass outside the premises. Later that night a group of 10 persons were seen outside the premises one of whom picked up a broken bottle and had to be dealt with by staff. The Committee heard that one of the staff was SIA registered and had come on the door following queries by the Police but this had left only one member of staff to deal with customers. The applicant was reminded that he could not legally self-deploy door staff without being registered.

The Applicant stated that the glass had not necessarily come from their establishment and that it was impossible to stop people coming out of their establishment with drinks. They gave examples of other premises who also allowed customers out of their venues with drinks.

The applicant was reminded that it was their responsibility to show the Committee that they were responsible retailers and that they could operate the additional hours without undermining the four licensing objectives. The Police questioned one of the applicants about the four licensing objectives and he had difficulty in answering. In addition, the applicants were asked if they could confirm what measures they were putting in place to promote the licensing objectives. Again they appeared to have difficulty answering but after being pressed confirmed that they would agree to be part of the radio link system and would ask patrons to leave quietly.

Information was presented that the training records were not kept on the premises and although the applicant stated that they did do risk assessments as to whether door staff were needed there was no record of this. In addition, there did not appear to be any incident or refusal logs in place.

The Police outlined that all the other premises that operated later had door staff and that they were worried that if this premises didn't employ door staff there was a risk that problem clientele would naturally migrate to this establishment as they would know that there were no door staff to prevent them from going in. The Police stated that although they had given examples of other premises that had door staff these conditions had been offered forward by the applicants and they knew of other establishments who would voluntarily employ door staff if they thought the situation warranted it.

The Applicant openly admitted he knew he was breaching his licensing conditions when allowing customers outside the venue with drinks but stated that it was impossible to stop. He stated that the Sub-Committee was "not in the real world" if they felt that they could be stopped or that door supervisors would prevent this

from happening.

Decision

When considering whether any of the four Licensing Objectives would be undermined by the application, the Sub-Committee concluded that on this occasion the “Prevention of Crime and Disorder” was potentially an issue.

The Prevention of Crime and Disorder

The Sub-Committee considered the issue of crime and disorder and the issues raised by the Police. The Sub-Committee noted that there had been problems when the premises had operated later hours under a TEN and that they Police had been required to offer assistance.

The Sub-Committee accepted the Police’s evidence that there may be issues with the migration of problem customers if Door Supervisors where not employed in this premises when they were required elsewhere and although the applicant had confirmed that they would be on the premises whenever late night activities were taking place they did not think this was sufficient to prevent the licensing objectives being undermined.

The Sub-Committee felt that better practices should be employed and training records, incident logs and refusal books should be in place and made available on reasonable request.

They had serious concerns about the applicant’s ability to properly manage the premises in light of their inability to recall the licensing objectives and/or disregard or inability to adhere to the licensing conditions already in place. The Sub-Committee did not accept that the Applicant could not stop people leaving the venue with glasses if proper provision was put in place.

The Sub-Committee did accept the Applicant’s argument that to employ Door Supervisors from 22.00 hrs would place a unreasonable financial burden on them when taking into account their current operating hours and there being no requirement for door supervisors.

The Sub-Committee considered paragraph 9.12 of the Guidance as well as paragraph 2.1, which states that a Licensing Authority should look to the Police as the main source of advice on crime and disorder. This was considered alongside the case of *Thwaites* and the examples of crime and disorder stated in the representations. The Sub-Committee considered the offer to use the Radio Link and the current conditions on the licence to see whether these proposals went far enough to ensure that the Prevention of Crime and Disorder Licensing Objective would not be undermined.

When taking into account all of the above, the Sub-Committee concluded that they gave greater weight to the fact that there had been evidence of issues of crime and disorder when the premises operated to a later hour under a TEN.. They believed that conditions already on the licence needed to be strengthened and that the

employment of Door Supervisors would be necessary to operate to the later terminal hours to ensure the Crime and Disorder objective would not be undermined.

They were minded to the fact that if there was evidence of problems in the future the Review procedure dictated by the 2003 Act could be used to reassess the effectiveness of the licence.

In considering this matter the Sub- Committee had regard to its Licensing Policy and the guidance issued under S.182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was 'the prevention of crime and disorder'.

On hearing evidence from the Applicant and Lancashire Constabulary the Sub – Committee:-

RESOLVED:

- A. That the sale of alcohol shall be permitted between 10.00 hours and 01.00 hours Sunday to Thursday and 10.00 hours to 02.00 hours Friday and Saturday.
- B. That the premises shall be open to the public between 09.00 hours and 01.30 hours Sunday to Thursday and 09.00 hours to 02.30 hours Friday and Saturday.
- C. That the provision of films shall be permitted between 10.00 hours and 01.00 hours Monday to Sunday.
- D. That the provision of recorded music shall be permitted between 10.00 hours and 01.30 hours Sunday to Thursday and 10.00 hours and 02.00 hours Friday and Saturday.

Annex 3 will be amended as follows:-

E. That the condition attached to Annex 3, stating that the operation of the premises be undertaken by a Designated Premises Supervisor with the minimum of 12 months experience in control of a Licensed Premises shall be removed.

F. That all staff shall be trained in relation to the licensing objectives and that this shall be documented, this document shall remain on the premises at all times and made available to any responsible authority upon request.

G. That on a Friday and Saturday or any other time the premises provides licensable activity until 02.00 hours or later there will be a minimum of 2 door supervisors on duty on duty from 12.00 Midnight until the premises is closed to the public.

H. That on any other trading night the provision of door supervisors will be on a risk assessment basis taking into account the nature and type of operation being conducted on that night. The risk assessment will be documented, retained on the premises and produced for inspection upon the request of any responsible authority.

The Sub – Committee added the following condition to Annex 3:-

I. That the premises will operate an incident log, which shall be retained on the premises at all times and be made available for inspection to any responsible authority upon reasonable request.

All other conditions at Annex 3 shall remain.

The Applicant agreed to the addition of the following condition to Annex 2:-

J. That the premises shall operate the radio link scheme whenever the premises are open to the public.



Junk

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Police Sergeant 1506 Anthony John Bushell

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Junk 12 Church Street	
Post town Ormskirk	Post code (if known) L39 3AN

Name of premises licence holder or club holding club premises certificate (if known) Burroughs & Boschetto Ltd
--

Number of premises licence or club premises certificate (if known) LN/000006083

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises ☐
 - b) a body representing persons living in the vicinity of the premises ☐
 - c) a person involved in business in the vicinity of the premises ☐
 - d) a body representing persons involved in business in the vicinity of the premises ☐
- 2) a responsible authority (please complete (C) below) ☒

3) a member of the club to which this application relates (please complete (A) ☐ below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Sergeant 1506 Anthony Bushell
Lancashire Constabulary
Southern Division Licensing Unit
Chorley Police Station
St Thomas Road
Chorley
Lancashire
PR7 1DR

Telephone number (if any)

01257 246227

E-mail address (optional)

anthony.bushell@lancashire.pnn.police.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

☒
☐
☐
☐

Please state the ground(s) for review (please read guidance note 1)

In January 2017 these premises were granted extended hours in addition to further conditions being imposed to assist the premises in promoting the licensing objectives.

The operators since this time have consistently failed to comply with the conditions attached to the licence and have therefore been committing criminal offences with regards the provision of licensable activity.

The failure of the operators to promote the licensing objectives have lead to incidents occurring at the premises which have required third party assistance to resolve as the operators do not appear to be able to manage the premises in accordance with the Licensing Act 2003 and are undermining the Crime and Disorder licensing objective .

Please provide as much information as possible to support the application
(please read guidance note 2)

On 25 November 2016 an application was received from Burroughs & Boschetto Ltd requesting an extension to the operating hours, the police at this time made representations against this application. Having made the representations the police sought to negotiate the hours and conditions in order to reach a position that would be agreeable to all parties and therefore alleviate the requirement for a hearing.

Unfortunately the operators would not look to mediate, the main area of contention being the requirement for door supervisors to be employed at the premises, a situation which has always been severely resisted by the applicants, therefore a hearing was listed.

On 5 January 2017 a visit was conducted at the premises which uncovered failures to comply with conditions on the licence.

On 24 January 2017 the hearing was held at the council offices in Ormskirk, where after hearing submissions from both parties the licensing sub-committee granted some extended hours but also imposed conditions.

The main conditions being the employment of door supervisors on a Friday and Saturday and the use of a town centre link radio, a condition which was in fact volunteered by the applicants.

At the conclusion of the hearing the applicants were informed that they would be sent written confirmation of the sub-committee decision and that they would have 21 days from receipt to appeal to the Magistrates Court.

On the night of 27 January 2017, PC Ginn, in an attempt to assist the operators visited the premises and dropped off a leaflet which detailed how the applicants could obtain a CCTV link radio.

On 1 March 2017 an e-mail was sent to the operators by West Lancashire Borough Council (WLBC) Licensing Officers outlining that this was the final day for lodging an appeal and that if this did not happen then the conditions and hours as agreed at the hearing would come into force.

A copy of the decision notice was also attached to this e-mail along with a warning of the consequences should any of the conditions not be complied with.

On 11 March 2017 PC Ginn visited the premises at 00:30 hrs where he spoke to Philip Boschetto. At the time of the visit it was found that there were no door supervisors employed nor were the premises in possession of a town centre link radio despite PC Ginn having dropped off the information.

It was pointed out to Boschetto that they were breaching their licence by not complying with the conditions at this time.

As a result of these breaches the police sent the operators a letter on 21 March 2017. The letter outlined the breaches, gave an explanation of the conditions and a warning regarding the consequences of failing to comply with the conditions on the licence.

On this date PC Ginn also issued the operators with another leaflet detailing how they could obtain a town centre CCTV radio.

On 22 March 2017 Boschetto contacted the police licensing department at Chorley in order to speak with PS Bushell. As the officer was not present the call was taken by a member of police staff who would say that Boschetto was very aggressive and abusive towards both the officer and herself.

Due to his demeanour the staff member contacted PS Bushell who attended Chorley police station and re contacted Boschetto as he had requested.

Boschetto was again very abusive and aggressive towards the officer, making allegations of harrasment and accusing the officer not not knowing what he was talking about. Despite the officers attempts to converse with Boschetto he would not listen and continued to shout over the officer, as a result the officer had no option but to terminate the call.

It would also appear that Boschetto had, that day, made similar calls to PC Ginn who also had to terminate the call and to the licensing officer at WLBC who had to warn him as to his deameanour.

A short time after the call made by PS Bushell to Boschetto, the officer received a call from Burroughs, this call was more rational and the officer was able to enter into a discussion with Burroughs around the contents of the letter and in particular in relation to the interpretation of the condition relating to doorstaff on a Friday and Saturday.

During the conversation Burroughs explained that his reading of the conditions meant he did not need to have door supervisors on duty if he did not operate till 02:00, it was accepted by the officer that it could be read this way but that this was not what the sub-committee intended and that the intention was that they required doorstaff on a Friday and Saturday if the operated past midnight.

The officer, in an attempt to resolve this offered to consult with the legal officer at WLBC to confirm the intention of the committee and would inform him of the outcome.

With regards the CCTV radio it was agreed by Burroughs that they had in fact offered this condition, that they still had not acquired one and that he was in fully understood that he was committing offences if he continued to operate without one.

On 27 March the officer met with WLBC's licensing manager and legal representative to discuss the doorstaff condition, it was conceded that there could be an adverse interpretation, however it was confirmed that the intention of the licensing sub - committee was that door supervisors should be employed from midnight on a Friday and Saturday and that should be the enforcement position.

Later that date PS Bushell sent Burroughs an e-mail outlining this decision and the polices' postion with regards this, there has been no response to the officer re the contents of the e-mail.

On 28 March 2017, WLBC sent out the varied licence which was accompanied by a letter outlining the council's position re the doorstaff condition.

On the same date WLBC officers received a phone call from Burroughs in response to the letter, he outlined that he understood what the intention of the committee was but as it had been written incorrectly he was going to maintain his position and not employ doorstaff if he was not operating till 02:00, he also maintained that the council was not operating in accordance with its own policy and that if he received any further letters he would instigate legal action.

On 30 March 2017 a visit was conducted at the premises by Special Constables experienced in licensing, to check the premises was in compliance with its new licence.

As a result of the visit the officers identified a number of issues with regards the operation of the premises;

- It was noted that the DPS was not in day to day control of the premises and was in fact only DPS in name only. As part of the variation application there was a request for the restriction on the DPS having 12 months licensing experience to be removed, this was agreed by the police as they believed it was the intention to transfer the DPS to either Burroughs or Boschetto. This understanding was confirmed to the officers on the visit however up to time of writing no such application has been submitted.

- The CCTV system was checked and found to be 6 minutes slow. The footage was reviewed in particular with regards the operation of the premises over the 25 into 26 March 2017, this being the date that the clocks went forward, so in effect at 01:00 the actual time would change and it would be 02:00. At a displayed time of 02:32, so in realtime taking into account the 6 minutes difference at 02:38, an incident occurred inside the premises involving a drunken female which staff at the premises had trouble dealing with. After about 15 minutes of the staff trying to eject this woman they were assisted by passing Street Pastors who removed her from the premises and escorted her home. It was explained by Burroughs that staff had been threatened and abused by this female, it was highlighted that if they had employed doorstaff as required this would not have been an issue.

- There was no incident book in place or being used at the premises and the incident involving the female was not recorded as required by the licence.

- The CCTV radio was still not in place, however it was stated that they had that day ordered one from Ebay, it was pointed out that this may not be compatible with the local system and may not work on the network. The reason for this was that the official system was too expensive.

- The documentation for staff training in relation to the licensing objectives and Challenge 25 has been produced but had not been delivered to staff, and in fact one member of staff was asked to sign the documentation there and then.

It would appear that early on in this visit Burroughs had to remove himself from the meeting as he was swearing initially and Burroughs was adamant that he knew the law and that he had no intention of employing doorstaff. His view was that Challenge 25 and preventing people from leaving with glasses is un-enforceable and so doesn't think he should try.

Enquiries with the Street Pastors on duty on the evening of 25/26 March 2017 confirm that they did indeed attend the premises to deal with the drunken female. It was especially noted that at this time the Street Pastors were accompanied on their rounds by Councillor Savage, who is the current mayor for Ormskirk.

The lead for the Street Pastors, David Mutch and Councillor Savage have both raised concerns around the incident and in particular to the behaviour of the bar staff/management indicating that one of the staff was very abusive towards the female.

The Mayor has particularly highlighted areas of concern from her point of view these being;

- The owner appearing to aggravate the situation

- No security personnel on duty to assist with the removal of the female
- That the customer had either gained access whilst inebriated or achieved that state whilst in the premises.

It should also be highlighted that on the date of the above incident the premises was in fact operating outside of its operating hours in that it should have stopped providing licensable activity at 02:00, but in fact was still operating after that time.

At 23:40 on 31 March 2017, PC Ginn visited the premises on the request of PS Bushell in order to obtain the CCTV coverage of the incident relating to the drunken female. Burroughs who was present at the premises stated he would send it by e-mail or put it onto a pen drive, however he declined one when offered by the officer.

At time of writing no footage has been received.

At 21:54 on 1 April 2017 PC Ginn was on Church Street in a liveried police vehicle when he was approached by a woman who complained about the conduct of a drunken female who had entered the Junk premises.

The circumstances being that the complainant was in the premises with her husband, family and friends to celebrate her birthday when a drunken female entered and joined them. The complainant approached the staff and the drunken female was escorted from the premises, however after a short while she returned and sat with the party again.

This second incident necessitated the complainant leaving the premises and approaching the doorstaff at the premises next door asking for help to remove the female, they however pointed to the officer in the vehicle.

PC Ginn accompanied the complainant back to the premises and escorted the female from the premises, whilst doing so he heard Boschetto say to the complainant "WHAT DID YOU DO THAT FOR" the officer formed the impression this was in relation to asking for police assistance.

At 00:17 on 2 April 2017, PC Ginn was on duty in company with his Sgt, driving along Church Street when he observed a male leaving the premises with almost a full pint of lager, the officers stopped this male and advised he return to the premises which he did reluctantly, clearly in breach of the condition on the licence.

On returning to the premises Burroughs was seen to speak to the male who was stood at the bar.

A short time later Burroughs approached the police officers to report that the male had again left the premises with two glasses, and didn't know what to do as trying to take them from the male may cause a fight. It was pointed out to Burroughs that the use of doorstaff would alleviate the problem.

PC Ginn whilst speaking to Burroughs formed the opinion that he was under the influence of alcohol at this time and it was confirmed that there were no doorstaff on duty at the premises.

The police have real concerns in relation to these premises and in particular to the operators Burroughs and Boschetto. It is clear that they do not have any regard for the Licensing Act, Licensing Objectives and have shown contempt for the responsible authorities charged with enforcing the legislation.

They have, despite a number of warnings, continued to ignore the conditions

attached to their licence and so in effect have been, and still continue to, operate the premises unlawfully since the time allowed for appeal expired on 1 March 2017.

This has led not only to the undermining of the crime and disorder licensing objective but fundamentally to the undermining of the partnership working that currently exists between the police, council licensing and the other operators within Ormskirk's nighttime economy.

The police do not have any confidence in their ability to operate a licensed premises within the night time economy.

As such the police submit this review application to bring the the premises licence before the licensing sub-committee for their attention and consideration as to what sanctions, available to them under this procedure, would be appropriate to ensure the licensing objectives are not further undermined or offences committed.

Please tick yes

Have you made an application for review relating to this premises before ☒

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

5th APRIL 2017.

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)
As Above

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Review of Premises Licence - Section 51 Licensing Act 2003

Applicant - Lancashire Constabulary

Respondent – Burroughs and Boschetto Ltd

JUNK

51 Church Street Ormskirk

Documents on which the Police would wish to rely;

Statement of PC Ginn (Note statement is un-signed having been received electronically, original signed copy will be produced for the hearing)

Doc 1 – Police representation letter dated 13 December 2016

Doc 2 – E-Mail from Sgt Bushell to Edward Burroughs dated 16 December 2016

Doc 3 – Record of licensing visit to Junk dated 05 January 2017

Doc 4 – Decision notice and reasons from WLBC

Doc 5 – E-mail from PC Ginn to Sgt Bushell dated 28 January 2017

Doc 6 – E-mail from WLBC to Edward Burroughs dated 01 March 2017

Doc 7 – E-mail from PC Ginn to Sgt Bushell dated 11 March 2017

Doc 8 – Letter from Sgt Bushell outlining breaches and consequences dated 21 March 2017

Doc 9 – E-mail from Sgt Bushell to Edward Burroughs re outcome of meeting with WLBC legal dated 27 March 2017

Doc 10 – Letter sent to Burroughs and Boschetto Ltd from WLBC

Doc 11 – E-mail from WLBC licensing officer regarding telephone call from Burroughs

Doc 12 – E-mail to Sgt Bushell from SC Newsham re visit to the premises on 30 March 2017

Doc 13 – E-mails from David Mutch and Councillor Savage re incident on 26 March 2017

Witness Statement

(CJ Act 1967, s.9 MC Act 1980, s.s.5A (3a) and 5B MC Rules 1981, r.70)

Statement of **Michael Ginn**Age if under 18 **Over 18** (if over 18 insert "over 18"). Occupation **Police Constable**

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the day of **April 2017**Tick if witness evidence is visually recorded ☐
(supply witness details on rear)

Signature

I am Police Constable 1560 Ginn of the Lancashire Constabulary, the Ormskirk Town Centre Community Beat Officer based at Ormskirk Police Station.

At 23:20hrs on Friday 27th January 2017, following a Licensing Committee hearing, I attended Junk, Church Street, Ormskirk, where I spoke to Mr Phil Boschetto and Mr Ed Burroughs, handing Mr Boschetto a leaflet detailing how to obtain a CCTV Radio from the supplier Darren Perrins at dcs2way.co.uk.

At 00:30hrs on Saturday 11th March 2017, I stopped outside Junk, Church Street, Ormskirk, in company with PC3799 Bahauddin. I could clearly see that there were no door staff present on the door.

Mr Boschetto left the premises and spoke with me through the passenger window of the police vehicle.

I asked why he didn't have door staff on and he replied that they were stopping serving at 01:00 and emptying by 01:30. I asked if this was the case last weekend. He states they closed at 00:15 and 01:00hrs so didn't have door staff on.

I asked why they didn't have a radio. Mr Boschetto stated he had lost the leaflet and was going to contact me on Monday. I told him I would drop another leaflet off.

I warned Mr Boschetto that he was breaching the licence by not having the radio and that they had agreed to purchase.

At 11:42hrs on 21st March 2017 I delivered another CCTV Radio leaflet under the door at Junk. I took 2 photographs of the leaflet being posted.

At 12:45hrs on Wednesday 22nd March 2017, I received a mobile call to my works SAMSUNG. I answered the call and a male started talking on the line. After a short while, I realised that the caller was Mr Boschetto.

Mr Boschetto started what I would call a rant about door staff and the CCTV Radio.

I explained that I did not manage to get a ShopWatch Radio leaflet to him until yesterday (21/3/17). I could hear Mr Boschetto talking over me as I talked to him.

He then said that PS Bushell and I should stop harassing him.

Signature

Signature witnessed by

I again tried to explain to Mr Boschetto who wasn't listening, interrupted and wouldn't let me speak.

The phone call was not constructive and Mr Boschetto was 'ranting' and not being reasonable.

I terminated his call.

At 23:40hrs on Friday 31st March 2017, I attended Junk, in company with PS253 Carr on behalf of PS Bushall to seize CCTV footage of an incident at the premises on 26/3/17. I spoke to Mr Burroughs inside the premises. I requested the CCTV footage which Mr Burroughs stated he would send to me in an email or download onto a pen drive or disc. Mr Burroughs was provided with my email address and declined a DVD disc and pen drive which I offered to provide.

Around 21:54hrs on Saturday 1st April 2017, I was static in a liveried police vehicle on Church Street, Ormskirk, when a female ('Sharon') knocked on the vehicle window. She stated it was her birthday celebration in Junk where she was sat with her husband, family and some friends. A very drunk female had entered Junk and sat with Sharon and her friends and family. They had established that the female was called 'Donna' but she was so inebriated that she was unable to recall any other detail or make any sense at all.

Sharon approached and spoke with Junk staff and 'Donna' was escorted out of Junk.

A short while after this, 'Donna' returned and sat with Sharon's party again again.

Sharon left Junk to seek help and spoke with Door Staff at Mi Mi and Gin asking for help to remove 'Donna'.

Door Staff pointed Sharon towards the police vehicle on Church Street.

I accompanied Sharon back to Junk and spoke with 'Donna' who was as described, very drunk. 'Donna' was slurring her words, unsteady on her feet, her eyes were glazed and she could not recall her own surname, address, how she had come to be in Ormskirk or whether she was with other people. 'Donna' smelt of intoxicants.

I escorted 'Donna' from Junk. As I left the premises, I saw Mr Boschetto with Sharon. Mr Boschetto clearly said to Sharon: "WHAT DID YOU DO THAT FOR?" I assume in reference in seeking police assistance.

Donna had to be supported as she walked to the police vehicle.

Donna was taken to an address in Skelmersdale which she finally recalled after much cajoling. Despite maintaining this was her home address, I had cause to disturb and get out of bed one of Donna's friends.

At 00:17hrs on the same date, I was on Nightsafe mobile patrol driving along Church Street, Ormskirk in company with PS253 Carr when we saw a male leaving the front door of Junk with an almost full pint glass of Estrella in each hand.

The male with the pint glasses headed towards the Parish Church. I stopped the police vehicle and requested that the male return the glasses to Junk. On the second request he reluctantly

Signature

Signature witnessed by

went back inside Junk. I saw Mr Burroughs inside the inner door of the premises. He spoke with the male. As we passed, I saw the male with the pint glasses stood at the bar.

We then parked up by the 'band stand' at Moor Street/Moorgate and Mr Burroughs knocked on the vehicle window a few minutes later.

Mr Burroughs informed us that the male with the pint glasses had left Junk again with the glasses. Mr Burroughs asked what he should do in such circumstances as he could probably take them off the male but this may start a fight.

PS Carr informed Mr Burroughs that this would not happen or be an issue if door staff were employed on the door.

Mr Burroughs was jovial and I formed the impression that he was under the influence of alcohol.

I made a search of Church Street, finding the male who had been in possession of the pint glasses in Subway on Church Street, he no longer had the glasses. I made a search of the immediate area but could not locate the pint glasses.

Mr Burroughs approached us again and repeated his earlier comments about what he should do in the circumstances. I informed him that it was his duty and one of his licensing conditions to ensure people did not leave the premises with glasses from his premises.

Throughout both incidents, no door staff were present on the premises or door of Junk.

Signature

Signature witnessed by



Licensing Unit, Preston Operating Centre, Lancaster Rd North
PR1 2SA

Tel: 01772 209794

e-mail: centrallicensing@lancashire.pnn.police.uk

Licensing Officer
West Lancashire Borough Council
Robert Hodge Centre
Stanley Industrial Estate
Stanley Way
Skelmersdale
WN8 6EE

13th December 2016

Dear Sirs

Re: Application to vary a premises Licence – Junk, 12 Church Street, Ormskirk.

The police have received an application from Philip Alexander Oliver Boschetto to vary the premises licence at the above premises.

The application seeks to make a number of variations these being;

- To amend and increase the hours for provision of licensable activity/closing time at the premises
- To add the provision of films as a licensable activity
- To remove a condition from Annex 3

With regards this application I will detail below the particular aspects of the application and the police comments in relation to the proposed variations;

B Films – The applicant seeks to introduce this licensable activity onto the licence requesting the hours of 10:00 to 01:00 Sunday to Thursday. – *With regards this the police make no representations.*

There is also a request to provide this activity from 10:00 until 02:00 Friday and Saturday – *With regards this the police would make representations however would seek to withdraw these representations if the hours were amended to the hours as applied for Sunday to Thursday (10:00 to 01:00)*

F Recorded music – The applicant seeks to increase the terminal hour for provision of this activity on Sunday to Thursday 10:00 to 01:30, this is an increase of 30 minutes to what is currently permitted. – *With regards this the police would make no representations*

There is also a request to increase the terminal hour of this activity on a Friday and Saturday 10:00 to 02:30, this is an increase of 1 hr 30 minutes on what is currently permitted - *With regards this the police would make representations however would*

seek to withdraw these representations if the hours were amended to the hours as applied for on Sunday to Thursday (10:00 to 01:30)

J Supply of alcohol – The applicant seeks to amend the hours for the provision of this activity on a Friday and Saturday from 10:00 to 02:30, this is an increase of 1 hr 30 minutes on what is currently permitted - *With regards this the police would make representations however would seek to withdraw these representations if the hours were amended to 10:00 to 01:30 Friday and Saturday.*

L Hours premises are open to the public – The applicant seeks to amend these hours on a Sunday to Thursday from 09:00 to 01:30, this is an increase of one hour at the start of business to what is currently permitted - *With regards this the police make no representations.*

There is also a request to amend the hours on a Friday and Saturday from 09:00 to 03:00, this is an increase of one hour at the start of business and an increase of 1hr 30 minutes on what is currently permitted at the end of business - *With regards this the police would make no representations to the increase in hours at the start of business, however would make representations against the terminal hours proposed. However the police would seek to withdraw these representations if the terminal hours were amended to show the premises closed at 02:00 Friday and Saturday*

In relation to the representations made above the police would say that the granting of the hours as applied for would undermine the prevention of crime and disorder and public nuisance licensing objectives. The grounds for this being that not long after opening these premises operated later hours using Temporary Event Notices during Freshers week. On police visiting issues were found which caused the police concern and advice to be given to the operators.

The application also seeks to remove a condition from the licence that stipulates the DPS at these premises needs to have 12 months experience, this condition was applied to the premises in relation to the previous operators and is not relevant to the current operators. *Therefore the police make no representations in the removing of this condition.*

It is also noted that the applicant has completed the boxes under Section M which relate to the promotion of the licensing objectives. Having looked at this the police feel that these entries do not add anything new to the conditions that already exist on the licence and would therefore recommended that these be disregarded. The conditions that currently exist on the licence should be retained with the exception of the condition as mentioned above.

Yours faithfully



PS 1506 Bushell
Licensing Manager
Preston Operating Centre

On behalf of the Chief Officer of Police

FW FW JUNK- PREMISES LICENCE VARIATION

From: Bushell, Anthony
Sent: 16 December 2016 10:36
To: ed@junktaproom.com
Cc: Murray, Michaela <Michaela.Murray@westlancs.gov.uk>
(Michaela.Murray@westlancs.gov.uk); Denton, Antony
(Antony.Denton@westlancs.gov.uk)
Subject: FW: FW: Junk- Premises Licence Variation

Ed

I have received your email below and in relation to your request I would say the following

I have initially suggested 1.30am so as to balance off allowing you extra time but keeping the security condition to the one currently attached to the licence ie risk assessed basis.

As you are relatively new operators and we had issues over Freshers, I would say that you could run the premises for 5/6 months

then if there were no issues we could consider increasing the hours gradually.

This is what has occurred with other premises in the town. If as you and Philip said yesterday that you would want till 2am to fall

in line with the other premises you have mentioned then I would consider 2am however I would use

your argument with regards falling in line with Styles and Mimi and Gin by

imposing a further doorstaff condition which stipulated you will employ a minimum of 2 door supervisors from a specified time till

close on days you operated till 2am. This would replicate the conditions on both premises you

mentioned, the condition on Mimi states they have to be on from 8pm, I wouldn't look for that early but

would certainly be looking from 10pm till close.

So if you want 2am with 2.30 (Friday and Saturday only) closing I would want the condition relating to doorstaff currently attached to the licence removing and replacing with the following,

* On a Friday and Saturday or any other time the premises provides licensable activity till 02:00 hrs or later the Premises will have a minimum of 2 door supervisors on duty from 22:00 till the premises is closed to the public

* On any other trading night the provision of door supervisors will be on a risk assessed basis taking into account the nature and type of operation being conducted on that night. This risk assessment will be documented, retained on the premises and produced for inspection on the request of any responsible authority.

I would also remind you that you are not in a position to self deploy doorstaff so you would need to engage the services of a company to provide the security.

If you are agreeable to the inclusion of the above two conditions I would agree to your request for timings of Friday and Saturday licensable activity till 02:00 closing at 02:30.

Let me know your thoughts
Regards

PS 1506 Tony Bushell
South Licensing (Preston, Chorley, South Ribble, West Lancs)
Police Operating Centre
Lancaster Road North
Preston

Summary

Premises	<u>JUNK</u>
Reference	LICENSING VISIT
Date and Time	05/01/2017 21:00
Description	PS 1506 REQUESTED SPECIALS VISIT TO RUN THROUGH THEIR LICENSING CONDITIONS - PHILIP BOSCHETTO IN CHARGE AT TIME OF VISIT. NO CUSTOMERS IN AT TIME OF VISIT. UNABLE TO PRODUCE PL. CURRENTLY APPLYING FOR EXTENSION TO HOURS. AT 21:15 HRS THE CCTV WAS SHOWING 22:19. EARLIEST RECORDING AVAILABLE IS 3RD DECEMBER 2016. CURRENTLY NO CCTV SIGNAGE DISPLAYED. 5 STAFF IN TOTAL NO RECORD OF LICENSING OBJECTIVE TRAINING. TO BE SCANNED AND EMAILED TO SGT. BUSHELL TOMORROW AS HE KEEPS THEM AT HOME. SEAN PHYSICK SIA BADGE # 0130 1105 2400 3093. HOLDS PL HOWEVER UNABLE TO PRODUCE AT TIME. DOSCHETTO HAD CLAIMED THAT THE ONLY ISSUES AT THE PREMISES RECENTLY WERE TWO BROTHERS HE EJECTED. WHEN ASKED FOR EVIDENCE ON AN ENTRY IN THE INCIDENT BOOK FOR THIS NONE WAS AVAILABLE. BOSCHETTO HAS LESS THAN 12 MONTHS EXPERIENCE AS A DPS AS PER LICENSING REQUIREMENTS REVISED IN NOVEMBER HOWEVER HIS STEP DAD AND HIMSELF ARE CURRENTLY APPLYING FOR A VARIATION TO HAVE THIS REMOVED.

[Send Letter](#)[Documents \(0\)](#)[Edit Details](#)

Officers

Code	Name
9024	NEWSHAM, MICHAEL - Special Constable
9483	COLL, JENNIFER - Special Constable

Responsible People

APPLICATION FOR A PREMISES LICENCE VARIATION IN RESPECT OF JUNK BAR, 12 CHURCH STREET, ORMSKIRK, L39 3AN

On the 24th January 2017 the Council's Licensing Sub-Committee (the Sub-Committee) considered an application for a variation to the Premises Licence from Burroughs & Boschetto Ltd (the applicant) submitted under Section 34 of the Licensing Act 2003 (the 2003 Act). This application was in respect of The Junk Bar, 12 Church Street, Ormskirk L39 3AN

With the permission of the Sub-Committee and in accordance with the Council's Hearing Procedure, the Licensing Officer introduced the application. The applicants acted in person. Sergeant Bushell presented the Police's case and was supported by PC Mick Gim.

Prior to the hearing the Police set out which parts of the application they had issue with and those that could be agreed. The applicant maintained that they wanted the Sub Committee to consider their application for extended hours and the amended hours suggested by the Police where not agreed.

The main area of contention were the extension of the hours allowing the sale of alcohol and regulated entertainment until 02.30 on a Friday and Saturday with the premises operating hours being extended until 03.00. The Police relied on evidence of problems that arose when the Premises had operated under a Temporary Event Notice (TEN) during freshers week. The Police indicated that they would withdraw their representation if either the terminal hours were reduced or if the applicant agreed to put two door supervisors on the door from 22.00hrs in the event licensable activities were to be undertaken until 02.00 or later.

In any event they required some of the conditions to be strengthened.

There were no other representations submitted either for or against the application.

The Sub-Committee heard evidence from the Applicant that the additional hours had been requested in order that they may operate for the same hours as other establishments within the town centre. They stated that at the moment customers were leaving their premises a lot earlier than their actual closing time to ensure that they were in other venues that opened later. They did not feel that they required door staff as the clientele did not warrant that level of security. In addition, they felt that the presences of door staff were not beneficial and that their existence often escalated a problem. They gave examples as to where they had had bad experiences with door supervisors.

As part of the hearing the Applicants confirmed that they would be happy to amend their application for Regulated Entertainment and Alcohol Sales to terminate at 02.00 with the operating hours terminating at 02.30 on a Friday and Saturday. They did not see why they should be expected to have door supervisors on the doors from 22.00hrs when they could currently open until 01.30 without the need for door staff. They stated that to employ two door supervisors for the hours stated was not financially viable, would put substantial pressure on them and would result

in the price of drinks increasing to cover the cost.

The applicant felt that as owners they were better placed to control who went in and out of the venue. They confirmed that they were on site most nights it was open to the public and in any event they had a senior member of staff with considerable experience who would be present if they were not there.

The Police gave evidence that whilst the premises had operated under a Temporary Event Notice to the extended hours there had been issues in particular people leaving the venue with drinks contrary to the premise licence conditions along with broken glass outside the premises. Later that night a group of 10 persons were seen outside the premises one of whom picked up a broken bottle and had to be dealt with by staff. The Committee heard that one of the staff was SIA registered and had come on the door following queries by the Police but this had left only one member of staff to deal with customers. The applicant was reminded that he could not legally self-deploy door staff without being registered.

The Applicant stated that the glass had not necessarily come from their establishment and that it was impossible to stop people coming out of their establishment with drinks. They gave examples of other premises who also allowed customers out of their venues with drinks.

The applicant was reminded that it was their responsibility to show the Committee that they were responsible retailers and that they could operate the additional hours without undermining the four licensing objectives. The Police questioned one of the applicants about the four licensing objectives and he had difficulty in answering. In addition, the applicants were asked if they could confirm what measures they were putting in place to promote the licensing objectives. Again they appeared to have difficulty answering but after being pressed confirmed that they would agree to be part of the radio link system and would ask patrons to leave quietly.

Information was presented that the training records were not kept on the premises and although the applicant stated that they did do risk assessments as to whether door staff were needed there was no record of this. In addition, there did not appear to be any incident or refusal logs in place.

The Police outlined that all the other premises that operated later had door staff and that they were worried that if this premises didn't employ door staff there was a risk that problem clientele would naturally migrate to this establishment as they would know that there were no door staff to prevent them from going in. The Police stated that although they had given examples of other premises that had door staff these conditions had been offered forward by the applicants and they knew of other establishments who would voluntarily employ door staff if they thought the situation warranted it.

The Applicant openly admitted he knew he was breaching his licensing conditions when allowing customers outside the venue with drinks but stated that it was impossible to stop. He stated that the Sub-Committee was "not in the real world" if they felt that they could be stopped or that door supervisors would prevent this

from happening.

Decision

When considering whether any of the four Licensing Objectives would be undermined by the application, the Sub-Committee concluded that on this occasion the "Prevention of Crime and Disorder" was potentially an issue.

The Prevention of Crime and Disorder

The Sub-Committee considered the issue of crime and disorder and the issues raised by the Police. The Sub-Committee noted that there had been problems when the premises had operated later hours under a TEN and that they Police had been required to offer assistance.

The Sub-Committee accepted the Police's evidence that there may be issues with the migration of problem customers if Door Supervisors were not employed in this premises when they were required elsewhere and although the applicant had confirmed that they would be on the premises whenever late night activities were taking place they did not think this was sufficient to prevent the licensing objectives being undermined.

The Sub-Committee felt that better practices should be employed and training records, incident logs and refusal books should be in place and made available on reasonable request.

They had serious concerns about the applicant's ability to properly manage the premises in light of their inability to recall the licensing objectives and/or disregard or inability to adhere to the licensing conditions already in place. The Sub-Committee did not accept that the Applicant could not stop people leaving the venue with glasses if proper provision was put in place.

The Sub-Committee did accept the Applicant's argument that to employ Door Supervisors from 22.00 hrs would place a unreasonable financial burden on them when taking into account their current operating hours and there being no requirement for door supervisors.

The Sub-Committee considered paragraph 9.12 of the Guidance as well as paragraph 2.1, which states that a Licensing Authority should look to the Police as the main source of advice on crime and disorder. This was considered alongside the case of *Thwaites* and the examples of crime and disorder stated in the representations. The Sub-Committee considered the offer to use the Radio Link and the current conditions on the licence to see whether these proposals went far enough to ensure that the Prevention of Crime and Disorder Licensing Objective would not be undermined.

When taking into account all of the above, the Sub-Committee concluded that they gave greater weight to the fact that there had been evidence of issues of crime and disorder when the premises operated to a later hour under a TEN.. They believed that conditions already on the licence needed to be strengthened and that the

employment of Door Supervisors would be necessary to operate to the later terminal hours to ensure the Crime and Disorder objective would not be undermined.

They were minded to the fact that if there was evidence of problems in the future the Review procedure dictated by the 2003 Act could be used to reassess the effectiveness of the licence.

In considering this matter the Sub- Committee had regard to its Licensing Policy and the guidance issued under S.182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was 'the prevention of crime and disorder'.

On hearing evidence from the Applicant and Lancashire Constabulary the Sub – Committee:-

RESOLVED:

- A. That the sale of alcohol shall be permitted between 10.00 hours and 01.00 hours Sunday to Thursday and 10.00 hours to 02.00 hours Friday and Saturday.
- B. That the premises shall be open to the public between 09.00 hours and 01.30 hours Sunday to Thursday and 09.00 hours to 02.30 hours Friday and Saturday.
- C. That the provision of films shall be permitted between 10.00 hours and 01.00 hours Monday to Sunday.
- D. That the provision of recorded music shall be permitted between 10.00 hours and 01.30 hours Sunday to Thursday and 10.00 hours and 02.00 hours Friday and Saturday.

Annex 3 will be amended as follows:-

E. That the condition attached to Annex 3, stating that the operation of the premises be undertaken by a Designated Premises Supervisor with the minimum of 12 months experience in control of a Licensed Premises shall be removed.

F. That all staff shall be trained in relation to the licensing objectives and that this shall be documented, this document shall remain on the premises at all times and made available to any responsible authority upon request.

G. That on a Friday and Saturday or any other time the premises provides licensable activity until 02.00 hours or later there will be a minimum of 2 door supervisors on duty on duty from 12.00 Midnight until the premises is closed to the public.

H. That on any other trading night the provision of door supervisors will be on a risk assessment basis taking into account the nature and type of operation being conducted on that night. The risk assessment will be documented, retained on the premises and produced for inspection upon the request of any responsible authority.

The Sub – Committee added the following condition to Annex 3:-

I. That the premises will operate an incident log, which shall be retained on the premises at all times and be made available for inspection to any responsible authority upon reasonable request.

All other conditions at Annex 3 shall remain.

The Applicant agreed to the addition of the following condition to Annex 2:-

J. That the premises shall operate the radio link scheme whenever the premises are open to the public.

CCTV RADIO

From: Ginn, Michael
Sent: 28 January 2017 01:52
To: Bushell, Anthony
Subject: CCTV Radio

Hi Tony

Dropped a Town Centre Link Radio leaflet off with Mr Boschetto and Mr Burroughs
also appeared,
23:20hrs Fri 27/1/17.

Thanks
Mick

Bushell, Anthony

From: Murray, Michaela <Michaela.Murray@westlancs.gov.uk>
Sent: 01 March 2017 15:00
To: Edward Burroughs
Cc: Bushell, Anthony; Ginn, Michael
Subject: Committee Decision Re: Junk, Church Street, Ormskirk
Attachments: junk committee decision.docx

Hi

I can confirm that the 21 day appeal deadline for the above is today. If you do not appeal the Licensing Sub Committee decision you will be required to implement all the conditions agreed at the hearing. I have attached a copy of the Committee decision for your information.

To date we have received no correspondence indicating an appeal has been lodged.

Please note that a breach of the premise licence conditions could be referred for prosecution or a review hearing requested.

Thanks

Michaela Murray
Senior Licensing Officer

Tel: 01695 577177 ext 5326

Direct Dial: 01695 585015

Fax: 01695 585126

e-mail: michaela.murray@westlancs.gov.uk

West Lancashire Borough Council
Robert Hodge Centre, Stanley Way, Skelmersdale WN8 8EE
www.westlancs.gov.uk

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Bushell, Anthony

From: Ginn, Michael
Sent: 11 March 2017 01:41
To: Bushell, Anthony
Cc: Murray, Michaela (Michaela.Murray@westlanes.gov.uk)
Subject: Junk [REDACTED]

Hi Tony

Spoke to Phil Boschetto at Junk 00:30 on Sat 11/3/17.

There were no door staff on and they have not purchased a Town Centre Link Radio.

I asked why he didn't have door staff on and he replied that they were stopping serving at 01:00 and emptying by 01:30. I asked if this was the case last weekend. He states they closed at 00:15 and 01:00hrs so didn't have door staff on.

I asked why they didn't have a radio (I dropped a leaflet off the day after the last hearing). Phil stated he had lost the leaflet and was going to contact me on Monday. I'll get another leaflet to them.

I warned Phil that he was breaching the licence by not having the radio and that they had agreed to that.

Phil states that neither Ed or himself have received ANY CORRESPONDANCE since the hearing. I can see that Ed is copied into one of Micheala's emails.

[REDACTED]

Thanks
MickG

PC1560 Mick Ginn
Ormskirk Neighbourhood Policing Team
01695 566444/566445
07815 448 155



Licensing Unit, Police Station, St Thomas's Road, Chorley, PR7 1DR

Tel: 01257 246215

e-mail: Anthony.bushell@lancashire.pnn.police.uk

Junk
12 Church Street,
Ormskirk,
West Lancashire.
L39 3AN

21 March 2017

Dear Sir

Breach of Premises Licence Conditions – Junk, 12 Church Street, Ormskirk

As you are aware a hearing was held at West Lancashire Borough Council (WLBC) offices on 24 January 2017 to discuss the proposed variation to the premises licence for Junk.

At the conclusion of the hearing the licensing sub-committee resolved to grant an extension to your hours and both amend and add further conditions to your licence.

You were informed on the day of the hearing that you had the right to appeal the committee's decision and that you had 21 days from receipt of the decision notice to do this.

I am aware that Edward Burroughs was sent an e-mail on 1 March 2017 by WLBC Licensing informing you that the 21 day appeal period expired on that date and as no appeal had been lodged the variation to the licence would come into effect.

On 11 March 2017, upon my request PC Ginn visited the premises at 00:30 hrs where he spoke to Philip Boschetto. Whilst there he noted that you were not complying with the conditions on your licence in that you did not have doorstaff on duty and you did not have a town centre radio.

By way of explanation;

- The doorstaff condition requires you to have a minimum of 2 door supervisors on duty at the premises from midnight on a Friday and Saturday, irrelevant of what time you operate till on those days. The discretionary aspect comes when you want to operate till 02:00 hrs on any other day, but there is no discretion as to the requirement for doorstaff on Friday and Saturday and you need to have them on if you go past midnight.
- You need to have a Town Centre Radio, there are no constraints on this and the condition is quite clear in that you need one at all times the premises is open

to the public, so from the time you open in the morning till you close at night. I am aware that PC Ginn provided you with details of how to obtain a radio the day after the hearing but you so far failed to do so.

Your failure to comply with these conditions means that your provision of licensable activity is unlawful and as such you are committing criminal offences. The punishment for this offence is a fine of up to £20,000 and or 6 months imprisonment.

In addition to this if it is found that the premises are also undermining the licensing objectives then you would be subject to review proceedings with the ultimate sanction of revocation.

I would urge you to ensure you are in full compliance with your premises licence conditions before you provide any further licensable activity from the premises, I would warn you that if you continue to breach your licence and the provision of licensable activity is found we would have no alternative but to consider prosecuting you for any offences disclosed and seek revocation of your licence.

If you wish to discuss this matter please do not hesitate to contact me

Yours faithfully

PS1506 Bushell
Licensing Manager
Chorley Police Station

C.C. Michaela Murray – West Lancashire Borough Council
Stephen Warbrick – Designated Premises Supervisor
Burroughs & Boschetto Ltd – Premises Licence Holder

JUNK - DOORSTAFF CONDITION

From: Bushell, Anthony
Sent: 27 March 2017 15:29
To: ed@junktaprooom.com
Cc: Murray, Michaela <Michaela.Murray@westlancs.gov.uk>
(Michaela.Murray@westlancs.gov.uk); Ginn, Michael
Subject: Junk - Doorstaff condition

Afternoon

Following on from our conversation last week regarding the interpretation of the doors supervisor condition and that I would seek clarification on this issue, I have had a meeting this afternoon with the Licensing department and the legal representative for West Lancashire Borough Council.

As a result of the meeting I can confirm that the intention of the licensing Sub-Committee in imposing the condition for doors supervisors is as outlined in my letter and that you should have doors supervisors employed from Midnight until the premises closes on a Friday and Saturday irrespective of whether you open till 02:00, as the licence authorises you to operate till 02:00 on those days only. This is further reinforced by the contents of the final paragraph at the bottom of page 3 and continuing onto page 4 of the decision notice.

I believe your premises licence will be issued to you shortly and will contain a covering letter explaining the intention of the condition.

Therefore with regards this condition it is still our position that if you operate after midnight on a Friday and Saturday you need to employ a minimum of 2 door supervisors from midnight until the premises closes and that if this is found not to be the case then the provision of licensable activity is unauthorised and therefore unlawful.

With regards the other condition breach relating to the town centre radio it was accepted by you that this is very clear in that if you do not have one at any time the premises is open this would also be a breach of a licence condition and again would render the provision of licensable activity unlawful.

Should you, after you have been issued with your licence, be found to be in breach of any conditions contained within then we would have no option then but to seek a review of the premises licence and return it before the Licensing Sub-Committee for their consideration.

Regards

PS 1506 Tony Bushell
South Division Licensing
(Preston, South Ribble, Chorley, West Lancs)
Chorley Office 01257 246227
anthony.bushell@lancashire.pnn.police.uk



Burroughs And Boschetto Ltd
27 Granby Close
Southport
PR9 9QG

Directorate of Leisure and Wellbeing Services

David P. Tilleray BSc (Hons) MBA MCIEH
Director of Leisure and Wellbeing

Robert Hodge Centre – Stanley Way
Skelmersdale – West Lancashire WN8 8EE
Telephone: 01695 577177

Website: www.westlancs.gov.uk

Email: Licensing.enquiries@westlancs.gov.uk

Date: 31 March 2017

Your Ref:

Our Ref: WK/000223764

Please ask for: Licensing

Direct Dial No: 01695 577177

Extension:

Dear Sirs

Licensing Act 2003 - Premises Licence Variation: Junk, 12 Church Street, Ormskirk, Lancashire, L39 3AN.

Please find enclosed the complete Premises Licence and Premises Licence Summary. Please ensure that the Summary is displayed prominently in your premises.

I have also attached a further copy of the Committee Decision from the hearing held on 24 January 2017 in respect on the above. I would draw your attention to condition G on the committee decision. It is the opinion of this Authority that if you operate after midnight on a Friday and Saturday, you need to employ a minimum of 2 door supervisors from midnight until the premises closes. If this is found not to be the case, then the provision of licensable activities are unauthorised and therefore unlawful.

Should you be found to be in breach of any conditions contained within your Premise Licence then we would have no option but to seek a review of the licence and return it before the Licensing Sub-Committee for their consideration.

Please contact me if you require any further information.

Yours sincerely

Michaela Murray
Senior Licensing Officer

Enc:

Premise Licence/Summary
Committee Decision

Bushell, Anthony

From: Jordan, Samantha <Samantha.Mullen@westlancls.gov.uk>
Sent: 28 March 2017 15:16
To: Bushell, Anthony
Subject: FW: Junk-Door Supervisor condition

Samantha Jordan
Senior Licensing Officer
West Lancashire Borough Council

Tel: 01695 577177 Ext: 5315
Direct dial: 01695 585015
Fax: 01695 585126
West Lancashire Borough Council
Robert Hodge Centre, Stanley Way,
Skelmersdale WN8 8EE

www.westlancls.gov.uk <<http://www.westlancls.gov.uk/>>

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From: Jordan, Samantha
Sent: 28 March 2017 15:13
To: Charlson, Paul <Paul.Charlson@westlancls.gov.uk>; Lovelady, Kay <Kay.Lovelady@westlancls.gov.uk>; Murray, Michaela <Michaela.Murray@westlancls.gov.uk>
Subject: Junk-Door Supervisor condition

Hello

Just had a call from Ed Burrows.

He said that he has received the letter in respect of Annex 3 and the premises being in breach of the door supervisors condition.

He said that the condition is in plain English the Committee have written something they didn't mean to write, he knows what they should have written but it doesn't state that and therefore he will be continuing as he has done and if he does not open until 2am he will not be having door supervisors.

He has spent all night reading the Licensing Act and also WLBC Licensing Policy and he believes we are not acting in accordance with our own Policy and believes we haven't got a leg to stand on. With regards to the £20,000 fine and up to 6 months imprisonment we shouldn't be making promises we can't keep. If the letters continue he will be taking legal action as we are wasting his time and acting vexatious and not within the spirit of the act.

He did not allow me to explain, when I asked if he wanted Michaela to phone him back he said "I know care."

Sam

Samantha Jordan
Senior Licensing Officer
West Lancashire Borough Council

Tel: 01695 577177 Ext: 5315
Direct dial: 01695 585015
Fax: 01695 585126

Bushell, Anthony

From: Newsham, Michael
Sent: 31 March 2017 01:34
To: Bushell, Anthony; Coll, Jen
Cc: Robson, Linda; Warburton, Beverley
Subject: RE: Junk-Door Supervisor condition

Good Morning Sergeant,

So we met Phil and Ed, I think this visit was one of the longest we've ever done however of note:

The registered DPS is not in day to day control of the business merely a name on the Licence. Phil has a PL and now the restriction on the 12 months experience has been removed plans to apply to be DPS.

On the day of the visit they have placed an order for a Pubnet Radio however due to the cost of the official scheme have ordered one from Ebay. I have informed them that the official Radio would be chipped/encrypted and a purchase from ebay, although the same model would not necessarily work on the network.

Documentation: No Incidents reported no book available. Documentation as agreed for the staff RE Licencing objectives and Challenge 25 has been produced however has not been delivered to staff. One member of staff was asked to sign the document whilst we were there.

Signage: CCTV Signage and leave Quietly signage is in place however signage asking not to drink or take glasses out is absent.

CCTV: Displayed time was 22:40 at the actual time of 22:46. CCTV footage was reviewed however it should be noted that the clocks went forward at 01:00 so in theory this premise should have been closed. There were no Door staff on duty by admission of Ed and also evidenced by CCTV. At a displayed time of 02:32 26/03/2017 there is a woman escorted from the premises who then falls to the floor in the entrance. She is clearly drunk and this is then followed by approx. 15 minutes of the staff trying to eject her. There isn't any audio however Ed has confirmed that the staff were being threatened by the woman and she was swearing at them. She was subsequently ejected by Street Pastors who dealt with her outside. We pointed out that this could have been dealt with earlier and perhaps prevented if Door Staff were employed. CCTV also shows Customers smoking and drinking on the front. Phil does challenge them however there isn't a designated smoking area for this premise.

Phil removed himself from the room early on in our meeting. He was swearing initially however I think we won him over in the end. Ed is adamant that the law, Barristers and the world is on his side and has no intention of employing door staff as he believes they will have a detrimental effect on the image of his business as well as the cost. He was claiming harassment from the Police and would be speaking to his MP at the next Surgery. Ed seems to want to die for this cause believing that Challenge 25 and Preventing people from removing glasses is un-enforceable so doesn't think he should try as lots of other Premises get away with more!

Sgt Bushell, PC Glinn and the WLBC Licensing team are all conspiring to close them down.

I think that's all from us. Thank you for the challenge I think we held our own knowledge wise.

Good luck with this one. If you need anything further please let us know.

See you soon

Jen & Mike

Bushell, Anthony

From: dave.mutch [REDACTED]
Sent: 31 March 2017 20:09
To: Bushell, Anthony
Subject: Re: Street Pastors 26/03/17

Hi Tony,

The Street Pastor team were on patrol on Saturday 26th March and on passing the JUNK bar at approximately 01.20 we heard an argument between a lady and the barman. The premises were empty apart from the one lady sitting at the bar. The barman was trying to get her to leave but he was very aggressive and using foul and abusive language towards her. We managed to get the lady outside and sat her on the bench in the street. There was another waiter and he was very helpful, whereas the main barman continued his verbal abuse. The WLBC Mayor Liz Savage was with us and she witnessed the incident. The lady was quite drunk but after a few minutes talking to her we found out where she lived and we escorted her home to Ravenscroft Ave.

If you require any further information please let me know.

Regards
Dave Mutch
Ormskirk Street Pastors Co-ordinator

On 31 March 2017 10:11:54 BST, "Bushell, Anthony" <Anthony.Bushell@lancashire.pnn.police.uk>

wrote:

Hi Dave

Wondered if you could let me have a contact telephone number so I can give you a call, just an enquiry in relation to the street pastors having to assist with the ejection of a drunken female from Junk on the above date

Thanks

Tony

PS 1506 Tony Bushell
South Division Licensing
(Preston, South Ribble, Chorley, West Lancs)
Preston Office 01772 209794
Chorley Office 01257 246227
Mob 07984650358
anthony.bushell@lancashire.pnn.police.uk

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Bushell, Anthony

From: [REDACTED] on behalf of Liz Savage [REDACTED]
Sent: 05 April 2017 12:03
To: Bushell, Anthony
Cc: Murray, Michaela
Subject: Junk Bar

Dear Tony and Michaela,

On Saturday 25th March, in my capacity as mayor, I went out around Ormskirk with the street pastors. During this time I saw good practise at the Green Room where a young lady had been refused entry on the grounds that she was already inebriated.

In the early hours of March 26th we were walking from the Clock Tower, up Burscough Street. As we approached the Junk Bar, a man shouted to us that he had a customer for us. He opened the door of the bar and started shouting at one of his customers to get " F..... get out of my bar as we don't want thieves in here" the F word was used more once. Dave Mutch one of the street pastors explained to him that in fact we weren't the police and he told us he knew that and that's why he was asking us to deal with the customer.

The customer came out and she was very drunk. She was barely able to stand and was in no fit state to walk herself home. The street pastors chatted to her and I approached a guy who had come out of the bar to ask him what had happened. He told me that she had leaned across the bar in an attempt to reach the crisps.

My concerns following the situation are:

1. The owner appeared to aggravate the situation - considering that he must be used to dealing with people who have been drinking and that training may be required.
2. When the situation arose that there was no security on the door to help remove the customer.
3. That the customer had been allowed to gain access in this inebriated state or had gained access prior to becoming this drunk and had therefore been served.

If you wish to know anymore about the events of the evening, please do not hesitate to contact me.

Cllr Liz Savage
Mayor West Lancashire

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Review of Premises Licence

JUNK

**12 Church Street
Ormskirk**

Police recommendations with regards review sanctions

Sanction - Removal of DPS

Section 4.3.1 of the Section 182 Guidance states;

Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder.

Current DPS is listed as Stephen Warbrick, who is understood to be the step father of Boschetto and resides in Tewkesbury as such he cannot be said to have “day to day” responsibility for running the premises.

The police would therefore recommend the removal of DPS to enable a more suitable DPS to be nominated.

Sanction – Modification of Conditions

The current licence has conditions listed under Annex 2 and also Annex 3, some of which are duplicated within each section, this makes the licence confusing both in compliance and enforcement.

There is also an issue in relation to the interpretation of the condition under Annex 3 relating to the provision of door supervisors at the premises, which in no small part has led to these review proceedings.

The police would recommend that the conditions contained within Annex 2 are removed and replaced with the wording “**See Annex 3**”

Annex 3 conditions should be modified to incorporate the existing conditions under both Annexes with the duplicated conditions removed.

Therefore the recommendation is that **Annex 3** should read as follows;

1. The premises shall install, maintain and operate a CCTV system which will be in use during all times the premises is open to the public and will comply with the following requirements;
 - i. The system will cover all internal public areas of the premises and any external areas used by customers of the premises
 - ii. The system will cover all entrances and exits and be capable of capturing a head and shoulders image of all persons entering the premises

- iii. The system will display the correct time and date and will be capable of time and date stamping any downloaded footage
 - iv. The system will be capable of retaining recorded images for a minimum of 28 days
 - v. At all times the premises is open to the public there will be a member of staff at the premises who can operate the system and provide any footage requested.
 - vi. The Data Controller will provide footage from the system, in a playable format, to any responsible authority on reasonable request and where that request complies with the Data Protection Act or equivalent legislation.
 - vii. Any requested footage will be provided as soon as practicable and in any event within 72 hours
 - viii. The premises will prominently display signage informing customers that CCTV is in operation at the premises
- (**NOTE** -CCTV conditions have been modified and additional wording added to cater for issues experienced in obtaining footage previously)
2. On a Friday and Saturday there will be a minimum of two door supervisors on duty at the premises from 22:00 until the premises is closed to the public. (**NOTE** – modified condition to remove misinterpretation of previous condition, also amended time to reflect incident occurring earlier than midnight and to correspond with recommendation made by the police at the variation hearing)
 3. Whenever the premises is authorised to provide licensable activity until 02:00 on a Sunday, Monday, Tuesday, Wednesday or Thursday, the provision of door supervisors will be the same as that for a Friday And Saturday. (**NOTE** – modified condition to remove misinterpretation of previous condition)
 4. On any day that the premises is not authorised by the premises licence to provide licensable activity till 02:00 or later (Sunday to Thursday) the provision of door supervisors will be on a risk assessed basis taking into account the nature and type of operation being conducted on that night.
 5. The above risk assessment will be documented, retained on the premises and produced for inspection to any responsible authority upon request.
 6. Notices will be displayed at public exits, in a clear and prominent position, requesting that patrons respect the needs of local residents and leave the premises and area quietly.
 7. Whenever regulated entertainment is taking place, regular assessments shall be made of any noise emanating from the premises. Wherever said assessments indicate that

noise is likely to cause nuisance to any local residents, remedial steps shall be taken to reduce the levels of noise.

8. The premises will operate a 'Challenge 25' policy whereby any person who appears to be under the age of 25 shall be required to provide identification to prove that they are over 18. The acceptable forms of proof of identification shall be either;
 - i. Passport
 - ii. A UK Photocard driving licence
 - iii. Official ID card issued by HM Forces or EU bearing a photograph and the date of birth of the holder
 - iv. Proof of age card accredited under the Proof of Age Standards Scheme (PASS)
9. All staff involved in the sale of alcohol will be trained in relation to the 'Challenge 25' policy, age related sales and the licensing objectives upon commencement of their employment. Staff will be subject to refresher training at regular intervals, this training will be documented and made available for inspection on request by any Responsible Authority
10. The Premises Licence Holder/DPS will prevent customers taking glasses and bottles outside the premises at any time
11. The Premises Licence holder/DPS will ensure the curtilage of the premises shall be kept clean and tidy and free from litter
12. A bound incident book shall be maintained at the premises which will be used to record the following;
 - i. Any challenges, both positive and negative, made to customers relating to the sale of age restricted products
 - ii. The time, date of the challenge, description and or name of the customer and details of identification produced
 - iii. Any incidents relating to the premises, its staff or customers
 - iv. This record will include the time, date, nature and outcome of the incident
13. The incident book will be made available for inspection by any responsible authority on reasonable request (*NOTE – modified wording for 11 & 12 due to current wording on the licence and the fact that incidents are not currently recorded*)

14. The premises will operate a 'Shopwatch' radio and be part of the Ormskirk Town Centre Radio Link Scheme. The radio will be operated at all times the premises is open to the public in accordance with the radio Link scheme protocols, which include the requirement to book on and off with Ormskirk CCTV operators. (**NOTE** – *modified wording to make the condition more understandable and enforceable as the condition is not currently complied with*)
15. The premises will be permitted to provide its authorised licensable activities for an additional hour on the following days;
- i. The last Friday before Christmas Eve
 - ii. Christmas Day
 - iii. Any Friday, Saturday, Sunday and Mondays of Bank Holiday Weekends
 - iv. From the end of permitted hours on New Year's Eve to the start of the permitted hours on New Year's day