

Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Wednesday, 27 September 2017 at the Council Chamber, Civic Centre, Poulton-le-Fylde.

Licensing Committee members present:

Councillors Colette Birch, Simon Bridge, Sue Catterall, Terry Lees, Patsy Ormrod, Sue Pimbley, Julie Robinson, Ann Turner, Matthew Vincent, Lynn Walmsley and Val Wilson

Apologies:

Councillor(s) Marge Anderton, Michael Barrowclough and Christine Smith

Officers present:

Niky Barrett, Licensing Manager
Carmel White, Solicitor
Carole Leary, Democratic Services Officer

Members of the public present:

Mr & Mrs Andrew (Applicants) for Item 3 only).
Mr R for Item 5 only.

No Members of the Press were present.

20 Councillor Vivien Taylor

A minutes silence was observed in memory of Councillor Vivien Taylor.

21 Declarations of Interest

None.

22 Application for a new Premises Licence - Charlie James Pie 'n' Mash, 123-125 Victoria Road West, Thornton Cleveleys, FY5 3LA

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Committee with information to assist them at a hearing to determine an application under Section 17 of the Licensing Act 2003 for a new Premises Licence.

The Application was for: a new Premises Licence in respect of Charlie James Pie 'n' Mash, Thornton Cleveleys. The applicant is seeking permission to sell alcohol Monday to Saturday 08:00 – 21:30, Sunday 11:00 – 21:30. The applicant also sought permission to provide regulated entertainment by way of recorded music between the following hours:- Monday to Saturday 08:00 – 21:30, Sunday 11:00 – 21:30 and to be open to the public Monday to Saturday 08:00 – 21:30 and on Sunday 11:00 – 21:30.

The applicants Mr Andrew and Mrs Andrew were present at the meeting.

The Committee noted that apologies had been received from Ms Blackhurst, who had objected to the application but considered it was appropriate to proceed to consider the application.

Mrs Andrew spoke to the Committee, explaining the circumstances of their application for a Premises Licence for their business; Charlie James Pie 'n' Mash, 123 – 125 Victoria Road West, Thornton Cleveleys, Lancashire, FY5 3LA. She said that it was intended to be a family run business and referred to their ideas for the future.

In reaching its decision, the Committee also had regard to:

- (i) Licensing Act 2003 (“Act”)
- (ii) Guidance published by the Secretary of State under s182 of the Act (“s182 Guidance”)
- (iii) Human Rights Act 1998
- (iv) The Council’s Licensing Policy

Members retired to consider the application in closed session. The Licensing Committee then reconvened and the Chairman announced the Committee’s decision.

RESOLVED that a new Premises Licence be granted in respect of Charlie James Pie 'n' Mash, Thornton Cleveleys for the licensable activities and conditions as applied for and subject to the additional conditions agreed with the Police Licensing Officer and Environmental Health Officer which were outlined in the report and listed below.

Reasons for the Decision

- Mrs Andrew informed the Committee that the Pie 'n' Mash premises was a new venture for herself and her husband. She stated that the food would be freshly made on the premises and would provide a further choice to local customers. The Committee heard that she wanted to strike the right balance between business and family life and was seeking to open the premises for breakfast and lunch during the week and on Sundays and intended to only open the premises to 21.30 hours on Friday and Saturday evenings.

- Mrs Andrew also informed the Committee that there was not going to be a separate bar area in the premises and food would be available at all times when alcohol was being sold.
- The Committee noted that consultation had taken place with the Police Licensing Officer and that Mrs Andrew had agreed to the additional conditions outlined in the Mediation Agreement which was set out in the Report.
- The Committee also noted that Mrs Andrew had agreed to include additional conditions recommended by the Council's Environmental Health Officer to address the potential for public nuisance arising from the licensable activities.
- Mrs Andrews commented on the objection received from Ms Blackhurst which she believed to be personal and unfounded. She stated that there was no real reason why her business would be detrimental to Ms Blackhurst as she explained that other premises in the vicinity opened later than 21.30 hours and were closer to Ms Blackhurst's residence.
- The Committee noted the objection from Ms Blackhurst but were satisfied that a grant of a new premises licence subject to the conditions would address the potential for public nuisance and would not undermine the Licensing Objectives.

ANNEX 1 – Mandatory Conditions

- 1.1 No supply of alcohol may be made under this licence
- a. at a time when there is no designated premises supervisor in respect of it
- or,
- b. at a time when the designated premises supervisor does not hold a personal licence or their personal licence is suspended
- 1.2 Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Mandatory conditions where Door Supervisors are provided
 All individuals who carry out security activities must be licensed by the Security Industry Authority (SIA)

Mandatory Licensing Conditions (October 2014)

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for

consumption on the premises

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
4. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Licensing Act 2003 (Mandatory Licensing Conditions) Order May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “permitted price” is the price found by applying the formula—
$$P = D + (D \times V)$$
where—
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4.
 - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to

sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 – Conditions Consistent with the Operating Schedule

1. The premises shall not provide any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concerns in respect of children.
2. Whenever the premises are open to the public all exit doors and gates from the premises or enclosure surrounding it shall be capable of being opened by any person without the use of a key, card, code or other similar means and shall be kept free from all fastening devices.
3. Seating, tables and other moveable structures shall be arranged so as not to obstruct any exit.
4. No person under 18 years of age shall be employed at the licensed premises.
5. A Challenge 25 proof of age policy shall be implemented and adhered to. Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:
 - A recognised proof of age scheme accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS).
 - Photo driving licence.
 - Passport.
 - Official ID card issued by HM Forces or European Union bearing a photograph and date of birth of the holder.

If no suitable identification is provided, the sale of alcohol to them will be refused

6. All staff involved in the sale of alcohol shall receive suitable training in relation to proof of age scheme to be applied upon the premises. All staff receive regular refresher training at intervals of at least 4 months. Records to evidence this will be made available to officers upon request.
7. Suitable signage will be displayed to specify the Challenge 25 policy is in place.
8. At least one personal licence holder will be contactable while the supply or sale of alcohol is being undertaken (whose identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.

9. Another member of staff shall be nominated to act for the DPS in their absence whose identity is known by all staff when such absence occurs.
10. An authorisation, signed and dated by the Designated Premises Supervisor, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises. All staff involved in sales will be at least 18 years of age.
11. Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by an authorised officer.
12. A zero tolerance drugs policy will be adopted at the premises.
13. No person in possession of a drink in a sealed or unsealed container will be allowed to enter the premises except for the purposes of delivery.
14. Staff shall ensure no drink is to be removed from the grounds or curtilage of the licenced premises in an unsealed container.
15. Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises.
16. The departure of customers from the premises shall be effectively managed by staff who will request patrons to leave quietly and to avoid causing noise, nuisance or disturbance in the area.
17. Any outside area which is used for the consumption of alcohol shall cease to be so used at 21:30hrs.
18. The primary purpose of the premise will be that of a restaurant / bistro / café serving food. The sale of alcohol will be ancillary to this uses. Food will be available at all times when alcohol is supplied on the premises.
19. Seating shall be provided for a minimum of 60% of the maximum floor area.
20. All drinking vessels will be made of toughened glass, polycarbonate or other non-glass containers.

21. CCTV will be installed at the premises and will comply with the following:

- The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary.
- The system will incorporate a camera covering the entrance doors and will be capable of providing an image which is regarded as identification standard.
- The system will display on any recording the correct time and date of the recording.
- The system will make recordings during all hours the premises are open to the public.
- Digital recordings shall be held for a minimum of 21 days after the recording is made and will be made available to the Police or any authorised persons acting for a Responsible Authority for inspection upon request.

22. A staff member who is conversant with the operation of the CCTV system will be on the premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Officer or to a Local Authority Enforcement Officer.

23. No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.

24. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency or for means of access and egress.

25. Refuse such as bottles shall be disposed of from the premises at a time when it is not likely to cause a disturbance to neighbouring residents.

26. There shall be no emission from the premises of any offensive smells which are likely to cause a nuisance.

27. Where there are any offensive smells created on the premises, provision shall be made for such smells to be vented from the premises so that they do not cause a nuisance to nearby premises.

28. Where the premises provide food to the public for consumption on or off the premises there shall be provided at or near the exits, sufficient waste bins to enable the disposal of waste food, food containers, wrappings, etc.

29. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrappings etc. at the end of trading on each day. Such refuse shall be placed in a contained designed for the storage and disposal of refuse and waste foods which shall be constructed, maintained and located so that access to it be vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

30. No light from the premises and any other light under the control of the premises shall be provided where that light causes a nuisance to any nearby premises.

31. The premises licence holder shall ensure that staff departing late at night when the business has ceased trading shall conduct themselves in such a manner to avoid disturbance to nearby residents.

ANNEX 3 - Conditions imposed by the Licensing Authority

N/A

ANNEX 4 – Plans

Plan ref: Pie 'n' Mash Sept 2017 p.1

Plan ref: Pie 'n' Mash Sept 2017 p.2

23 Exclusion of the Public and Press

RESOLVED that the public and press be excluded from the meeting whilst agenda item 5 (an application for a new dual drivers licence from an applicant with spent convictions) was being considered, because it was likely that their presence would involve the likely disclosure of exempt information as defined in category 1 (information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act, 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and, that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

24 New applicant for a Wyre dual driver licence with spent convictions

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Committee with information to assist them at a hearing.

The applicant, Mr R was, was present at the meeting, but he was not legally represented.

Mr R spoke to the Committee, explaining the circumstances of his spent convictions (August 2013 being the last) as referred to in the report.

Members asked questions of Mr R, and he provided explanations of the incidents which had led to his convictions and his conduct then and up to the

present date.

Members retired to consider the application in closed session. The Licensing Committee then reconvened and the Chairman announced the Committee's decision.

RESOLVED that Mr R be granted a three year Wyre dual driver's licence without any further conditions.

The Reasons for the Decisions were:

The Committee noted the convictions, but accepted Mr R's explanation and assurance that such conduct was in the past and considered Mr R to be a fit and proper person to hold a three year Wyre Council dual driver's licence.

The meeting started at 6.03 pm and finished at 6.55 pm.

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