



**Committee:** LICENSING SUB-COMMITTEE

**Date:** TUESDAY, 16 JULY 2019

**Venue:** LANCASTER TOWN HALL

**Time:** 10.30 A.M.

## **A G E N D A**

**1. Far Pavilion Restaurant, 25 Bye Pass Road, Bolton-le-Sands (Pages 1 - 35)**

Determination of Application for the Review of the Premises Licence.

### **ADMINISTRATIVE ARRANGEMENTS**

**(i) Membership**

Councillors Mel Guilding (Chair), Kevin Frea and Joan Jackson.

**(iii) Queries regarding this Agenda**

Please contact Sarah Moorghen, Democratic Services - telephone (01524) 582068 or email [smoorghen@lancaster.gov.uk](mailto:smoorghen@lancaster.gov.uk).

**(iv) Changes to Membership, substitutions or apologies**

Please contact Democratic Support, telephone 582170, or alternatively email [democraticsupport@lancaster.gov.uk](mailto:democraticsupport@lancaster.gov.uk).

KIERAN KEANE,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER, LA1 1PJ

Published on 4<sup>th</sup> July 2019.

**LICENSING ACT SUB COMMITTEE****LICENSING ACT 2003  
PREMISE LICENCE REVIEW – FAR PAVILION  
RESTAURANT, 25 BYE PASS ROAD, BOLTON-LE-SANDS****DETERMINATION OF APPLICATION FOR THE REVIEW OF  
THE PREMISE LICENCE****16th JULY 2019****Report of Licensing Enforcement Officer****PURPOSE OF REPORT**

To enable members to determine an application for a review of a Premise Licence under Section 51 of the Licensing Act 2003 submitted by Home Office Immigration Enforcement

**The report is public**

**RECOMMENDATIONS**

The Sub-Committee is requested to consider the application from Home Office Immigration Enforcement for the review of the premise licence, and any submissions made by the premises licence holder.

In accordance with Section 52 (3) and (4) of the Licensing Act 2003, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (a) to modify the conditions of the licence,
- (b) to exclude a licensable activity from the scope of the licence,
- (c) to remove the designated premises supervisor
- (d) to suspend the licence for a period not exceeding three months,
- (e) to revoke the licence

The matter for decision, therefore, is which, if any, of these steps should be taken.

## 1.0 Introduction

- 1.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 1.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives .
- 1.3 Home Office Immigration Enforcement has submitted an application for review of a premises licence under Section 51 of the Licensing Act 2003. The application relates to Far Pavilion Restaurant, 25 Bye Pass Road, Bolton-le-Sands. A copy of the application is at Appendix No1. The grounds for submitting the review are based on one of the four licensing objectives, namely;
- The prevention of crime and disorder
- 1.4 A copy of the premises licence for Far Pavilion Restaurant is attached at Appendix No.2. This licence was granted to the premises on 24<sup>th</sup> November 2005 and details the following licensable activity:-
- Sale & Supply of Alcohol : (Monday – Saturday) 10:00 hours to Midnight  
(Sunday) 12:00 hours to 23:30 hours  
Good Friday & Christmas Day 12:00 hours to 23:30 hours  
New Years' Eve (except a Sunday) 10:00 hours to Midnight  
New Years' Eve (on a Sunday) 12:00 hours to 23:30 hours
- 1.5 In accordance with the relevant Regulations, the parties have been given Notice of the Hearing. A copy of the Notice of Hearing is attached for Members attention at Appendix No.3.

## 2.0 Legal background to Review Application

- 2.1 Under Section 51 (1) of the Licensing Act 2003, a responsible authority or other person may apply to the licensing authority for the review of a licence.

The grounds for review must relate to one or more of the licensing objectives and as Members will be aware, these are:

- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance and
  - the protection of children from harm
- 2.2 An application for review must be copied to the premises licence holder and to the responsible authorities. Once such an application is received, the licensing authority must place a notice at the premises, and there is then a period of 28 days during which representations may be made to the licensing authority.

- 2.3 A copy of the notice which was displayed at the premises during the 28 day period is attached at Appendix No.4. Licensing Enforcement Officers made occasional checks throughout the 28 day period to satisfy that the notice was still in place.
- 2.4 Members are reminded that representations can either be in support of or against an application for review of a premises licence. The representation must relate to the likely impact of the grant of the licence in relation to one or more of the four licensing objectives, namely:
- Public Safety
  - The prevention of crime and disorder
  - The protection of children from harm
  - Prevention of public nuisance

During the statutory 28 day consultation period no representations were received either in support of the applicant or licence holder.

### 3.0 **Background information provided by Licensing Authority**

The application for review of the premises licence submitted by Home Office Immigration Enforcement is on the grounds that the licensing objective relating to the prevention of crime and disorder is not being observed at Far Pavilion Restaurant, 25 Bye Pass Road, Bolton-le-Sands, as illegal working has been identified at this premises on two separate occasions.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6<sup>th</sup> April 2017. The intention is to prevent illegal working in premises licensed for the sale by retail of alcohol or late night refreshment.

A visit to the premises was undertaken by Immigration Enforcement Officers on 18<sup>th</sup> July 2014 where three illegal workers were found and this was dealt with by way of a Notice of Potential Liability.

Following intelligence received that illegal workers were once again being employed at the premises a further visit was undertaken by Immigration Enforcement on 1<sup>st</sup> February 2019 where two arrests were made and another Notice of Potential Liability was served upon the proprietor.

Whilst this visit was conducted under Section 179 of the Licensing Act 2003 in attendance with a Licensing Enforcement Officer from Lancaster City Council, no breaches of the premise licence conditions were found. However, investigations found that three bedrooms and a bathroom off the kitchen area were being utilised by the illegal employees and concerns were subsequently raised with Lancashire Fire & Rescue Authority and the Council's Housing department.

Following a visit to the premises by the Fire Authority an Enforcement Notice was issued as they were satisfied it was grossly deficient with regard to fire safety with no detection equipment, emergency lighting or indeed a safe route to exit the building in the event of a fire. In order to avoid being served with a Prohibition Order, the owner of the restaurant assured the Fire Authority that no employees would stay overnight at the premises.

Home Office Immigration Enforcement are satisfied that the proprietor and licence holder of Far Pavilion Restaurant has displayed scant regard for both immigration and fire safety laws whilst being found to be employing illegal workers on two separate occasions in wholly unsafe conditions. Additional information regarding the Far Pavilion Licence Review is contained at Appendix 5.

3.1 **Government Guidance under Section 182 of the Licensing Act 2003 in relation to a review hearing following a representation involving Crime and Disorder**

Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

3.2 Government Guidance under Section 182 of the Licensing Act 2003 in relation to the Prevention of Crime and Disorder is attached at Appendix No.6 to this report.

3.3 The relevant parts of the Councils Statement of Licensing Policy are set out at Appendix No.7

3.4 **Natural Justice and Human Rights**

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

4.0 **Conclusion**

The management of Far Pavilion Restaurant have displayed scant regard to the crime & disorder licensing objective having been found to be employing illegal workers on two separate occasions in conditions considered grossly deficient in terms of fire safety by Lancashire Fire & Rescue Authority.

Members should consider the application for review of the premises licence and any steps it considers necessary for the promotion of the licensing objectives.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None.	
<b>FINANCIAL IMPLICATIONS</b>	
Financial Services have not been consulted as there are no financial implications.	
<b>LEGAL IMPLICATIONS</b>	
Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the magistrates court within 21 days	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> David Eglin <b>Telephone:</b> 01524 582387 <b>E-mail:</b> deglin@lancaster.gov.uk <b>Ref:</b> DWE
None	

Document is Restricted



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## Premises Licence

# LAPLWA0119

### Part 1 - Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

### Far Pavillion

25 Bye Pass Road, Bolton-le-Sands, Carnforth, Lancashire, LA5 8JA.

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- any playing of recorded music
- provision of late night refreshment
- the supply of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption ON the premises only	Monday-Saturday	10:00	00:00
	Sunday	12:00	23:30
	Christmas Day	12:00	23:30
	Good Friday	12:00	23:30
	New Year's Eve except a Sunday	10:00	00:00
	New Year's Eve on a Sunday	12:00	23:30

#### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday-Saturday	17:00	00:00
Sunday	12:00	00:00

#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON the premises only

### Part 2





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# Premises Licence LAPLWA0119

**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Hamied-UL-Nawshad Begh  
1 Cambourne Avenue, Crag Bank, Carnforh, Lancashire, LA5 9TS.  
Telephone 01524 735970 or 01524 823316  
[far-pavillion@hotmail.co.uk](mailto:far-pavillion@hotmail.co.uk)

**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**

**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Hamied-UL-Nawshad BEGH  
1 Cambourne Avenue, Crag Bank, Carnforh, Lancashire, LA5 9TS.  
Telephone 01524 735970 or 01524 823316

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. PA2958 Issued by Lancaster





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## Premises Licence

# LAPLWA0119

### ANNEXES

#### ANNEX 1

##### Embedded Conditions

Alcohol may be sold or supplied:

- a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10.00 hours to 00.00 hours (midnight)
- b) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12.00 hours (noon) to 23.30 hours
- c) On Christmas Day: 12.00 hours (noon) to 23.30 hours;
- d) On New Year's Eve, except on a Sunday, 10.00 hours to 00.00 hours (midnight);
- e) On New Year's Eve on a Sunday, 12.00 hours (noon) to 23.30 hours
- f) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00.00 hours (midnight) on 31<sup>st</sup> December)

The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the premises.

Suitable non-alcoholic beverages, including drinking water, shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

The premises must be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.

#### **Mandatory Conditions where the licence authorises the sale of alcohol**

- 1 No supply of alcohol may be made under the premise licence -
  - (a) at a time when there is no designated premise supervisor in respect of the licence, or
  - (b) at a time when the designated premise supervisor does not hold a personal licence, or his licence has been suspended.
- 2 The supply of alcohol under a premises licence must be made or authorised by a person who holds a personal licence.

#### **Irresponsible Drinks Promotions - Mandatory Conditions**

3. (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.





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## Premises Licence

### LAPLWA0119

- (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).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

### Age Verification Policy - Mandatory Condition

5. (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.



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## Premises Licence

# LAPLWA0119

- (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.

### Availability of different Measures - Mandatory Condition

6. 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.

### Mandatory condition where Door Supervisors are provided

All individuals who carry out security activities must be licensed by the Security Industry Authority (SIA)

### Alcohol Pricing

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 purpose of the condition set out in paragraph 1-
  - (a) "duty" is to be construed in accordance with the Alcohol Liquor duties Act (1979)
  - (b) "permitted price" is the price found by applying the formula -

$$P=D + (D \times V)$$

Where-



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## Premises Licence

### LAPLWA0119

- (i) P is the permitted price
  - (ii) D is the rate 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 premise licence -
- (i) The holder of the premise licence
  - (ii) The designated premise 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





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## Premises Licence

**LAPLWA0119**





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## Premises Licence Summary

# LAPLWA0119

### Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

### Far Pavillion

25 Bye Pass Road, Bolton-le-Sands, Carnforth, Lancashire, LA5 8JA.

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- any playing of recorded music
- provision of late night refreshment
- the supply of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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#### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
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#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON the premises only

#### NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Hamied-UL-Nawshad Begh  
1 Cambourne Avenue, Crag Bank, Carnforth, Lancashire, LA5 9TS.





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# Premises Licence Summary

## LAPLWA0119

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Hamied-UL-Nawshad BEGH

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED





**LANCASTER CITY COUNCIL**

**LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS)  
REGULATIONS 2005**

**NOTICE OF HEARING**

To: The Applicant: **Home Office Immigration Enforcement**

The Licence Holder: **Mr Hamied-UL-Nawshad Begh**

**THE LANCASTER CITY COUNCIL, AS LICENSING AUTHORITY, HEREBY GIVES YOU NOTICE** that a hearing before a Sub-Committee of the Licensing Act Committee to consider a request for a review of the licence under Section 51 of the Licensing Act 2003 in respect of premises known as **Far Pavillion Restaurant, 25 Bye Pass Road, Bolton-le-Sands, Carnforth, LA5 8JA**, will take place on the **16th July 2019** at **Lancaster Town Hall**, commencing at **10.30am**

**AND TAKE NOTICE THAT** each party as listed above is required to give to the Licensing Authority by no later than five working days before the day of the hearing a notice in writing stating whether that party intends to attend or be represented at the hearing, and whether he or she considers a hearing to be unnecessary.

**AND TAKE NOTICE THAT** if a party wishes any other person (other than the person he/she intends to represent him at the hearing) to appear at the hearing, the notice given by that party and referred to in the preceding paragraph must contain a request for permission for such other person to appear at the hearing, and must set out details of the name of that person and a brief description of the point or points on which that person may be able to assist in connection with the matter to be considered by the Sub-Committee.

**GIVEN** this day of 21st June 2019 by the Lancaster City Council as Licensing Authority.

## INFORMATION TO ACCOMPANY NOTICE OF HEARING

### 1. Right of attendance, assistance and representation

A party may attend the hearing and may be assisted or be represented by any person, whether or not that person is legally qualified.

The hearing will generally take place in public. However, the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking part in public. In such circumstances, a party and any person assisting or representing a party may be treated as a member of the public. The Sub-Committee will exclude the public (and the parties and their representatives) during the decision making process.

The Sub-Committee may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing, and may refuse to permit that person to return, or permit him to return only on such conditions as the Sub-Committee may specify. However, such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which he would have been entitled to give orally had he not been required to leave.

### 2. Representations and Supporting Information

At the hearing a party shall be entitled to:

- (a) Give further information as applicable in response to a point upon which notice has been given to that party that clarification is required. (Note – if such clarification is required from a party this will have been indicated in the Notice of Hearing).
- (b) Question any other party, but only if given permission by the Sub-Committee; and
- (c) Address the Sub-Committee

### 3. Failure of Parties to attend the Hearing

If a party has given notice that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or hold the hearing in the party's absence. If the hearing proceeds in a party's absence, the Sub-Committee will consider and give appropriate weight to the application, representation or notice given by that party in their absence.

### 4. Representations and Evidence

A party who wishes to rely on information or documentary evidence that has not been submitted in advance of the issue of the Notice of Hearing should ensure that such

information or evidence, together with sufficient copies for all the parties, is submitted to the Licensing Manager at least **7 days before** the day of the hearing.

Parties are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of all the other parties.

A party who wishes to produce audio/visual evidence should make such evidence available as soon as practical, and should give a minimum of two clear working days notice to the Licensing Manager to facilitate arrangements for the appropriate equipment to be available at the hearing.

## **5. Procedure**

A summary of the procedure that will normally be followed at the hearing is enclosed.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all hearings.

However, depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to):

- Whether to proceed in the absence of a party
- Whether to admit new documents/information submitted at the hearing
- Whether it is in the public interest to exclude members of the public from the hearing or any part of the hearing (other than the decision making process)
- Whether any party wished to withdraw representations previously submitted

## **6. Special Needs**

Any person who intends to attend a hearing and who has special needs, for example in connection with access, language, hearing or vision, should inform the Licensing Manager as soon as practical prior to the day of the hearing, so that appropriate provision or arrangements may be made.

### **PROCEDURE TO BE FOLLOWED AT HEARINGS TO WHICH THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 APPLY**

1. The Chairman will introduce the Members and the Legal Adviser and Democratic Support Officer.
2. The Chairman will ask the parties to introduce themselves and any persons with them.
3. The Chairman will confirm that there is no reason why any of the three sub-committee Members should not participate in this matter.
4. The Chairman will confirm that this is a discussion led by the authority that any questions should generally be put through the Chairman, and that cross-examination will only be permitted if the Sub-Committee considers that it is necessary.
5. The Chairman will ask the parties if they have any requests to cross-examine, and such requests will be considered by the Sub-Committee.

6. The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
7. The Chairman will explain to the parties that the procedure to be followed will be the published one (unless the circumstances of the case require the normal procedures to be varied) – that is,
  - that the Licensing Manager (or his representative) will introduce the details of the application, the reason for the hearing, and the documentation,
  - that each party making representations will address the sub-committee in turn and will call other persons where permission has been given
  - that the applicant/licence holder will present his case and will call other persons where permission has been given
  - that Members may ask questions of all parties and persons
  - that questions from the parties must be directed through the Chairman unless cross-examination has been permitted under 4 above
  - that all parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word
  - that the Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask its Legal Adviser and the Democratic Support Officer to join it in order to assist in documenting the decision and the reasons, or to provide clarification on any point. The decision will be announced in public and confirmed in writing. (In certain circumstances, the decision may not be made on the same day as the hearing). In the event that the Legal Adviser has been asked for clarification on any point then the point raised and the advice given will be declared to all parties.
8. The Chairman will indicate the maximum period of time each party will be allowed in which to present their case, and will seek comments from the parties before the Sub-Committee makes its final indication on this point.
9. The hearing will then proceed following the procedure in 7 above. The Chairman will arrange for reasonable comfort breaks throughout the hearing.

## **NOTICE OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE FOR:**

Premises: Far Pavillion Restaurant, 25 Bye Pass Road,  
Bolton-le-Sands, Carnforth

**TAKE NOTICE THAT Home Office Immigration Enforcement** have applied to Lancaster City Council (The Licensing Authority), for a **Review of the Premises Licence** in respect of the above premises.

The grounds of the application for review as stated by the Home Office Immigration Service are offences under the Licensing Act 2003.

The review relates to the following licensing objective:-

### **Prevention of Crime and Disorder**

Any interested parties or responsible authorities may make representations on this application to the Licensing Authority, and any such representations should be submitted in writing by the **18<sup>th</sup> June 2019** to:

The Licensing Manager, Morecambe Town Hall, Morecambe, LA4 5AF or by email to [licensing@lancaster.gov.uk](mailto:licensing@lancaster.gov.uk).

The full application may be viewed at Town Hall Dalton Square Lancaster or Morecambe Town Hall Marine Road East Morecambe between 10.00 – 12.00 and 14.00 and 16.00 Monday – Friday.

**IT IS AN OFFENCE**, to knowingly or recklessly make a false statement in connection with an application, and the maximum fine for which a person is liable on summary conviction for the offence is £5000.

**Dated this 22nd day of May 2019**

Jennifer Curtis, Licensing Manager, Morecambe Town Hall, Morecambe LA4 5AF

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

## Public safety

- 2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.7 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11-2.12, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.8 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.33-8.41), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## Ensuring safe departure of those using the premises

- 2.9 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.



## Maintenance and repair

- 2.10 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## Public nuisance

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;

#### **14.0 The prevention of crime and disorder**

- 14.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.
- 14.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.
- 14.3 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.
- 14.4 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:
- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
  - Use of metal detection or other search equipment or procedures
  - Crime and disorder risk assessment in relation to the proposed activities
  - Measures to prevent the use or supply of illegal drugs and procedures for searching customers
  - Ensuring that all staff are appropriately trained
  - Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
  - Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of doorstaff required for the particular premises.
  - Ensuring that a register of door staff and their working times is maintained
  - Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.

- Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
  - Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
  - Adopting the “Night Safe Initiative” and “Safer Clubbing Guide” as statements of best practice
  - Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
  - Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
  - Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
  - Maintaining an incident log
  - The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.
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- Glasses and glass bottles can be dangerous weapons. As such the Licensing Authority would encourage the use of polycarbonate glasses, in premises. Where a particular issue has been highlighted, particularly if the premises has been brought to review by a responsible authority, a condition to this effect may be imposed.
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- It is important that that glasses and bottles are frequently collected to ensure that empty containers do not accumulate in or around the licensed premises. Staff also must prevent the removal of bottles or glasses from the curtilage and grounds of licensed premises, to prevent them being used to cause harm.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

14.5 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.