

Minutes of Sub-Committee of the Licensing Committee

Meeting Date: Thursday, 16 November 2023, starting at 10.00 am
Present: Councillor I Brown (Chairman)

Councillors:

S Brunskill

S O'Rourke

In attendance: Helen McKee and Solicitor and Licensing Officer

492 WELCOME

493 APOLOGIES AND RE-CONSTITUTION OF THE COMMITTEE MEMBERSHIP

There were no apologies for absence.

494 DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS

There were no declarations of disclosable pecuniary, or other registrable and non-registrable interests.

495 THE FRIARY, 34 KING STREET, WHALLEY, BB7 9SL

The Sub-Committee met to consider the application by the Friary, 34 King Street, Whalley, BB7 9SL for a Premises Licence.

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services and its appendices. The Council's Solicitor introduced the premises licence application and outlined the options available to Members. It was highlighted that due under Cumulative Impact Assessment (CIA) for Whalley, the onus was on the Applicant to show that the licensing objectives were not going to be undermined.

The Applicant, Mr Daniel Stevenson, made verbal representations to the Sub-Committee. He explained that during the covid pandemic, the Friary had adapted by offering home deliveries. This had proved very popular and they were now looking to enhance the home delivery option by including the sale of alcohol. He advised that the Friary do employ their own delivery drivers and do not rely on taxis. They were predominantly looking to sell Asian beers that are not generally available in the local area which would pair well with their Chinese food.

The Applicant advised the Sub-Committee that he had consulted with local residents and the police as to his proposals. He had taken on board the concerns of a neighbour in relation to selling alcohol on the premises and had agreed that this wouldn't be done, nor would alcohol be displayed in the shop. It was submitted that the intention was for the sale of alcohol to be purely for home deliveries and to enhance this side of the business.

The Applicant outlined that the Friary delivered within a 5 mile radius and confirmed that 70% of their deliveries were to areas outside of Whalley. He further outlined details of how orders were received, the platform they used (Just Eat and Food Hub) and arrangements for deliveries.

The police had advised of situations where caution should be exercised e.g. if an order was made to a place which wasn't a fixed address or if an order came through with a small amount of food and a comparatively large amount of alcohol. The applicant advised that they had the ability to reject such orders and confirmed that deliveries would only be made to a customer's home address or to a holiday let. He also submitted that his drivers would undergo a short training course through Trading Standards.

The Applicant then explained the reasons behind the request for the Licence until 10pm. He advised that an order may be taken prior to the shop closing at 9pm, but delivery could often take between 30 to 40minutes, which would take them to after 9pm. He had not wanted to fall foul of the Licence and hadn't appreciated that the sale would be classed as taking place at the point of appropriation of the alcohol to fulfil the order. He therefore submitted that he would be content for the Licence to be amended to provide for the sale of alcohol until 9pm.

It was also submitted that there are four other businesses within Clitheroe who offer similar services, where they can deliver food and alcohol to residents in Whalley.

The Applicant responded to several questions raised by the Sub-Committee and a resident who had made representations. He provided further details as to the delivery drivers, information as to how order records would be kept, how any issues/concerns would be flagged, and the steps that drivers would operate a Challenge 25 procedure upon delivery. He advised that drivers would take steps to record the proof of identification that was provided and this would need to match with the name on the order. The Applicant provided reassurances that the Friary were not looking to sell spirits and confirmed that were willing to adhere to numerous conditions, including:

- Only delivering alcohol with a food order
- Joining Pub Watch
- Only serving alcohol in sealed containers
- Not serving alcohol to customers who appear to be inebriated

The resident raised a concern that if the Licence was granted, it would morph into another kind of Licence in due course. She was advised that any future variations would need a further application and would be considered on its own merits.

The Licensing Sub-Committee gave careful consideration to the representations made by all parties, both verbal and written and considered the requirements of the Licensing Act 2003, the Statutory Guidance, the licensing objectives, the relevant regulations, the Council's licensing policy, and the CIA.

Having considered all of the above the Sub-Committee resolved to grant the Applicant's application for a premises licence as applied for (and clarified at the hearing), subject to additional appropriate conditions as considered at the hearing and in correspondence with the police and subject to an earlier terminal time for the sale of alcohol.

Having taken all matters into account, the Sub-Committee were satisfied in the particular circumstances that the Applicant had discharged the burden in the Statement of Licensing Policy and had demonstrated how the application would not undermine the licensing objectives.

The Sub-committee also determined that the conditions proposed by the Applicant and as agreed with the police and those agreed at the hearing should be incorporated into the licence subject to incorporation of appropriate conditions.

The Sub-committee reached this decision because it considered that the licence, as applied for, and with the conditions imposed would not breach the licensing objectives of the Licensing Act 2003.

496 EXCLUSION OF PRESS AND PUBLIC

There were no items under this heading.

The meeting closed at 10.52 am

If you have any queries on these minutes please contact the committee clerk, Jenny Martin jenny.martin@ribblevalley.gov.uk.

The Sub-Committee notice of determination is contained on the next page.



Ribble Valley
Borough Council
www.ribblevalley.gov.uk

SECTION 18 LICENSING ACT 2003
NOTICE OF DETERMINATION IN RESPECT OF A HEARING
WHICH TOOK PLACE ON THURSDAY 16 NOVEMBER
TO DETERMINE AN APPLICATION BY DANIEL STEVENSON
FOR A PREMISES LICENCE IN RESPECT OF THE FRIARY, 34 KING STREET, WHALLEY,
CLITHEROE, BB7 9SL.

The Licensing Sub-Committee met on 16 November 2023. The Sub-Committee comprised the following members:

Councillor I Brown - Chair
Councillor S Brunskill
Councillor S O'Rourke

Also in attendance:

Solicitor (RVBC)
Licensing Officer (Alcohol & Entertainment) (RVBC)
Committee Clerk (RVBC)
Daniel Stevenson – Applicant
Christopher O'Connor – Applicant's business partner
Mrs Lesley Luckin – Relevant representation

The Sub-Committee met to consider the application of Daniel Stevenson for a premises licence in respect of The Friary, 34 King Street, Whalley, Clitheroe, BB7 9SL.

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services and its appendices ("Report").

The solicitor explained the application and drew specific attention to the Cumulative Impact Assessment (CIA) for Whalley and Painter Wood, as contained in the Council's Statement of Licensing Policy 2021-2026. The Sub-Committee was reminded of the written representations received, where one of the individuals who had made representations was not able to attend the meeting.

The Applicant and his business partner explained the background to the application. Home deliveries were an expanding part of the business, and this had expanded during the pandemic, using their own drivers, and having taken on extra staff for this purpose. It was intended to deliver beers to complement food deliveries, consisting largely of low alcohol Asian beers to accompany Chinese meals which were not available in local supermarkets, and possibly white wine or prosecco to accompany fish and chips. There

was no intention to provide spirits, and the applicant was content for this to be stipulated in any licence. Alcohol would not be on display, and would be stored in a fridge at the rear of the premises. Following receipt of an order, delivery would be made to a customer's home address or to a holiday let.

The Applicant explained the business model and delivery arrangements. Orders were received by phone or over the internet and usually paid for in advance. Delivery could be up to 30 or 40 minutes after the order was placed, which was the reason for the request for later hours for supply of alcohol than the premises opening hours. However, the alcohol would be appropriated to the contract at the point of sale and dispatch, with final internet orders being taken at 8.40pm, and the applicant was content to amend the application for the terminal time for supply of alcohol to be 9.00pm.

In response to questions by the sub-committee and Mrs Luckin, the age profile of the current staff drivers was explained. A printed record of deliveries was retained, and the system enabled red flags to be placed to indicate any problem addresses. Driver would operate the Challenge 25 procedure on delivery, and would make a record of the identification produced, possibly by photographing it, and such identification would need to match the identity of the person who had placed the order.

The Applicant was prepared to join the local Pubwatch or equivalent, and was content for conditions providing for no sale of alcohol without food and for all sales to be made in a sealed container. Drivers would be instructed not to supply alcohol to customers who appeared to be inebriated, and the refund system was explained.

Mrs Luckin was invited to address the sub-committee, and explained concern that, if granted, a further application might subsequently be made for variation of the licence. It was explained that any such application would be considered on its merits at the time.

The Licensing Sub-Committee gave careful consideration to the representations made by all parties, both verbal and written. The Sub-Committee also considered the requirements of the Licensing Act 2003, the Statutory Guidance, the licensing objectives, the relevant regulations, the Council's licensing policy, and the CIA.

Having considered all of the above the Sub-Committee resolved to grant the Applicant's application for a premises licence as applied for (and clarified at the hearing), subject to additional appropriate conditions as considered at the hearing and in correspondence with the police and subject to an earlier terminal time for the sale of alcohol.

Having taken all matters into account, the Sub-Committee were satisfied in the particular circumstances that the applicant had discharged the burden in the Statement of Licensing Policy and had demonstrated how the application would not undermine the licensing objectives.

The operating schedule for the premises is as amended and as set out below:

Opening hours of the premises:	
Mon	16.30 – 20.00
Tues	11.30 – 13.30 and 16.30 – 21.00
Wed	11.30 – 13.30 and 16.30 – 21.00
Thurs	11.30 – 13.30 and 16.30 – 21.00
Friday	11.30 – 21.00
Sat	11.30 – 21.00
Sun	17.00 – 21.00
Supply of alcohol OFF the premises:	
Mon	16.00 – 21.00
Tues	16.00 – 21.00
Wed	16.00 – 21.00
Thurs	16.00 – 21.00
Fri	16.00 – 21.00
Sat	16.00 – 21.00
Sun	16.00 – 21.00

The mandatory conditions will apply to the licence as set out in **Appendix 1** to this notice.

The Sub-committee also determined that the conditions proposed by the Applicant and as agreed with the police and those agreed at the hearing should be incorporated into Annex 2 of the licence. Those conditions shall be incorporated as follows:

- Sales of alcohol shall be for consumption off the premises and shall only be supplied with, and ancillary to, a takeaway meal delivered to the customer's address.
- Any sales of alcohol shall be in a sealed container.
- A record will be retained at the premises of the name, address and contact details of the customer ordering alcohol. This record will be retained for six months and made available to the police or an authorised officer of the local authority on request.
- The premises licence holder shall ensure that a sticker or other marking is applied to all consignments of alcohol stating "This package contains age restricted products; ensure recipient is over 18" (or similar wording to the same effect).
- A refusals record must be kept at the premises which details all refusals to sell alcohol. The record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be retained for twelve months and be made available to the police or an authorised officer of the local authority on request.
- A record will be made of the identification produced at the point of delivery and retained for a period of six months, and be made available to the police or an authorised officer of the local authority on request.
- No alcohol will be delivered to anyone who appears to be under the age of 25 years, unless they produce approved identification by way of the following
 1. A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS).
 2. Photo driving licence
 3. Passport
 4. Citizen card supported by the Home Office
 5. Official ID card issued by HM Forces or European Union Member State bearing a photograph and date of birth of the holder

- No deliveries shall be made to any street locations such as parks and will only be made to a customer's address.
- The premises licence holder shall ensure that all delivery drivers and staff receive online training regarding the Challenge 25 scheme via the Lancashire County Council Trading Standards website. Records of such training shall be retained and be made available to the police or an authorised officer of the local authority on request.
- The premises licence holder shall ensure that all employees of any third party engaged in the delivery of alcohol, eg couriers, have also been trained by their employers regarding the Challenge 25 policy. This training may be carried out via the Lancashire County Council Trading Standards website. Records of such training shall be retained and be made available to the police or an authorised officer of the local authority on request.
- The DPS will be an active member of the local Pubwatch for the area. Either the DPS or a person nominated by them will regularly attend the meetings and support the scheme.
- No alcohol shall be displayed or stored in any part of the premises to which the public have access.

The Sub-committee reached this decision because it considered that the licence, as applied for, and with the conditions imposed would not breach the licensing objectives of the Licensing Act 2003.

The parties are hereby notified that they may appeal against this decision to the Magistrates Court within 21 days beginning with the date of notification of this decision.

ANNEX 1

MANDATORY LICENSING CONDITIONS

1. Section 19 of the Act provides that where a premises licence authorises the supply of alcohol, the licence must include the following conditions:
 - (1) No supply of alcohol may be made under the premises licence -
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence; or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
 - (2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
2. Section 19A of the Act provides that where a premises licence authorises the supply of alcohol for consumption on the premises, the licence must include the following conditions:
 - (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 a disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
4. (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.
5. 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: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml;
 - (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.
6. (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.