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Blackpool Council

Dear Councillor

LICENSING PANEL - TUESDAY, 13TH JUNE, 2023

Please find attached additional information for Tuesday, 13th June, 2023 meeting of the Licensing Panel, which were received after the agenda had been despatched.

Agenda No Item

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| 4 | <u>APPLICATION FOR THE VARIATION OF A PREMISES LICENCE- RONNIE'S BAR AND EATERY, 54-56 WHITEGATE DRIVE (Pages 1 - 14)</u> |
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Yours sincerely

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Written Submission

Re; Variation of existing premises licence for Ronnies Bar and Eatery

General Background

1. The documentation is submitted in advance of the hearing scheduled for 10 am on the 13th of June 2023 to set out why the Committee should consider the application favourably.
2. The application has attracted one objection from an interested party, the contents of which will be addressed in this submission.
3. The application is made by Craig Allen who has been the Premises Licence Holder since the Licence was granted in December 2020.
4. The Licence was granted without opposition from any Responsible Authorities or interested parties and Mr Allen signed a mediation with the police adopting the recommendations on conditions the Police felt were necessary. A copy of the agreement is attached as **Appendix 1**
5. The application to vary the hours was submitted with careful thought and consideration, especially regarding the views of the Responsible Authorities. The application can be described as modest as it simply seeks 1 hour extra for alcohol sales from Sunday to Thursday requesting a terminal hour of midnight, 7 days per week. As such pre-application contact was made with the Police in April 2023 to discuss the proposal. No contact was made with other Responsible Authorities such as Environmental Health as there were no proposed changes to the hours for Regulated Entertainment albeit all statutory bodies will have been consulted in the normal way when the application was formally submitted.
6. It is fair to say that the Police had no concerns with the application and an e-mail has been provided by PC Emma Pritchard which confirms the pre-application discussion and that there were no areas for concern. This e-mail is attached as **Appendix 2**
7. As a result of this diligent and considerate approach no objections have been submitted by the relevant Responsible Authorities.

Policy and Guidance Considerations

8. The application accords well with numerous paragraphs of the Section 182 Guidance as well as the Statement of Licensing Policy. Paragraphs 8.41-8.48 from the Guidance are shown below with comments (in blue text) that demonstrate due consideration to best practice has been made.



8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

The applicant was aware of the expectations of Responsible Authorities by conducting pre-application consultation.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand: 56 | Revised Guidance issued under section 182 of the Licensing Act 2003 • the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate; • any risk posed to the local area by the applicants' proposed licensable activities; and • any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

The applicant is very familiar with the local issues and has demonstrable capabilities to overcome issues that may arise from his experience of operating the premises since December 2020.



8.45 *The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include: • the Crime Mapping website; • Neighbourhood Statistics websites; • websites or publications by local responsible authorities; • websites or publications by local voluntary schemes and initiatives; and • on-line mapping tools.*

8.46 *While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.*

The applicant through his representative took advice from the Police to ensure that the Operating Schedule was fit for purpose.

9. The Policy areas highlighted largely replicate the requirements of the guidance but provide a useful tick list which again demonstrates the careful and considerate approach to the application.

4.4.1 *The authority wishes to encourage high quality, well-managed premises. The operating schedule should describe how these high management standards will be achieved. In particular, applicants will be expected to demonstrate:*

- *Knowledge of best practice*
- *That they understand the legal requirements of operating a licensed business*
- *Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003*

The applicant's track record operating the premises has meant that no Responsible Authorities have objected. The reason for this is the application was seen as modest and the premises in general terms have not flagged up areas for concern.

4.1.2 *The operating schedule must include all of the information necessary to enable the licensing authority, responsible authorities and members of the public to assess whether the steps outlined for the promotion of the licensing objectives are sufficient. This will mean that applicants will need to complete their own risk assessments on their businesses. Where the operating schedule does not provide enough detail, there is an increased likelihood that representations will be made.*

The applicant already has a detailed and comprehensive operating schedule that has been moulded by the Police on the initial application, they clearly deem the schedule to be sufficient and have offered no further suggestions for additional controls other than what already exists on the Licence.



4.1.3 Applicants are not required to seek the views of responsible authorities before submitting their applications however they may find them a useful source of expert advice about the local issues that should be taken into consideration when making an application. Discussions with the responsible authorities, and where relevant local residents, before applications are submitted may minimise disputes during the application process.

4.1.4 The authority will expect that the completed operating schedule is specific to the premises subject to the application and the licensable activities to be carried out rather than containing general or standard terms. Key Message: Applicants are expected to demonstrate knowledge of the local area in which they propose to operate and an understanding of the problems and issues in that area

The applicant has excellent local knowledge of the area understanding the demographic and issues that he needs to be mindful of.

4.1.5 For an applicant to assess what steps are appropriate for the promotion of the licensing objectives, they must first understand the area in which they intend to operate. By way of example the controls required in an area suffering from a high level of deprivation, alcohol dependency and street drinking may be completely different to those required in other areas. Applicants are expected to make their own enquiries and demonstrate how they have considered the following in the operating schedule:

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate;*
- Any risk posed to the local area by the proposed licensable activities; and*
- Any local initiatives (for example local crime reduction initiatives or voluntary schemes which may help mitigate potential risks)*

4.4.1 There are no standard permitted hours for the sale of alcohol prescribed in the Act instead the Council has the power to make decisions on hours based on local knowledge. In some circumstances, staggered licensing hours will allow for a more gradual dispersal of customers reducing potential disorder and disturbance at for example late night food outlets and taxi ranks. There is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times

The applicant considered the operating hours of premises in the locality such as the Bell Vue and the Guards Club both of which have a midnight terminal hour for alcohol sales 7 days per week. He chose his operating hours to mirror those of his competitors. The reason for this is he believes that staggered closing times in an area such as this may only seek to exasperate issues of migration. Whilst some schools of thought encourage staggered closing times, in this location, it is not a good idea. If all premises close at a similar time customers are left with little or no choice but to go home rather than make their way to nearby premises that perhaps have a later terminal hour.



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Relevant Representations

10. Mr Pritchard states; (our comments inserted in blue text)

"I am sending this correspondence in regard to the application of an extension of licensing hours at Ronnies bar 54-56 Whitegate Drive Blackpool FY3 9DQ

*The application number is **091991** and it is for an extension from 9 am till 12 pm, as it stands the noise is already unacceptable."*

The application is to increase the hours relating to the sale of alcohol only on Sunday, Monday, Tuesday, Wednesday, and Thursday from a 23.00hrs terminal hour to midnight. In effect, this is 5 hours extra over a 7-day trading period. The applicant has not sought to increase the hours that relate to regulated entertainment.

"The neighbours in this residential area are not prepared to put up with any more additional noise."

Mr Pritchard indicates that other residents are aggrieved by the application by referring to neighbours in the plural. Mr Allen has not received any adverse remarks from other residents and has obtained a supporting letter from a resident who lives in the immediate vicinity which confirms that Mr Pritchard does not speak on behalf of all the neighbours.

If these concerns had serious merit the experts would have made their opinions clear and lodged an objection.

The letter received from Mr Walters is undated but has been received outside the 28-day consultation period and is attached as **Appendix 3**

"I am strongly opposing the application due to the current licensing conditions that seem to have been breached.

The outside seating area is supposed to be vacated by 10 pm however there are still people standing outside drinking till midnight, there are also people sat shouting in the seating area around 1 am, all outside doors are left open back and front after 10 pm this is causing noise disturbance to all residential neighbours"

There is a condition on the Licence that controls the use of the outdoor space which states the following.

Any outside area used for the consumption of alcohol will cease to be so used from 10pm. Any removable furniture shall be cleared away by this time.

Mr Allen's understanding of this condition is that the area will not be used for the consumption of alcohol beyond 10 pm but he has always allowed the area to be used for customers to smoke. He has no choice but to prohibit smoking indoors as this has been a legal requirement since 2007. He cannot use the rear yard for smokers as this is a utility space for waste and other work equipment.

The area has no removable furniture so is always laid out as a seating area. He has used the area to allow smokers only after 10 pm since he opened in December 2020 and has never received advice that the style of use is contrary to his conditions of licence. He concedes that on occasion people enter the area after 10 pm with a drink but staff are always quick to intervene and advise customers that no alcohol can be consumed in the area after 10 pm. He also has signage posted in the premises to advise customers on the limitations of use on the outside area.

Mr Allen believed he would receive an objection from Mr Pritchard before he submitted the application. He believes there is a bad feeling following an incident in November 2022 where Mr Allen called the Fire Brigade.

The brief circumstances were that Mr Pritchard was burning rubbish in his back yard and Mr Allen feared that the fire was getting out of control. The Fire Service attended and extinguished the fire, Mr Allen was thanked by the attending Officer who made a remark that his neighbour Mr Pritchard has passed a comment to the Fire Brigade that "he (Mr Allen) would pay for this. The Fire Officers gave Mr Allen reassurance that they had documented the comments and for him not to worry.

On the 22nd May 2023 contact was made with a representative of Lancashire Fire and Rescue (LFRS) to establish firstly if they attended an incident and secondly if the comments that Mr Allen had relayed to him had been documented.

LFRS confirmed the existence of an incident report which they attended on the 5th of November 2022 at 17.22hrs. It was recorded as a refuse fire and the occupant was advised of the no-burn policy. No other remarks were recorded but this does indicate that there could be an underlying tension between Mr Pritchard and the applicant.

By way of concluding this section, Mr Allen wishes to state the following

"We have not used the police or ambulance service once since opening and the only time we have used the fire service is for the incident next door.

We have helped the police on at least 6 occasions that in can think of with providing cctv for crimes committed within close proximity as other business cctv doesn't work.

We support and sponsor local mental health charity called Blackpool football therapy. This is a group of men and women who play football to evade the normal day to day struggles. They use Ronnies as a hub to meet before and after the training sessions, some sessions don't finish till 10pm and they also would love an extension on time.



We also work alongside brain house and trinity hospice. We hold various charity fundraising events at Ronnies including the ever growing Jordan banks memorial”.

Relevant Case law

- 10.1 Passing reference within the submission has been made to the absence of any Responsible Authority in these proceedings. It is of considerable importance to highlight this as they are the Licensing Authorities experts in their respective fields.
- 10.2 The case of Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin), CO/5533/2006 deals with many points.
- 10.3 Commentators will pull out the relevant parts of the case to assist their own arguments one of which is there must be tangible or empirical evidence to support any representations, mere speculation will not be enough.
- 10.4 The GOV.UK web site provides a short narrative about the case which is as follows;

This case, referred to as ‘the Thwaites case’, is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them.

This case is sometimes misconstrued as requiring decisions to be based on ‘real evidence’, and that conditions cannot be imposed until problems have actually occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications.

The Honourable Mrs Justice Black said:

[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act’s approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure



their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.

10.5 The Government summary of the case focuses on the issue of Responsible Authorities being experts in their respective fields and the absence of those Authorities, in this case, supports the following comments.

The Applicant has a good track record, and enjoys the confidence of the Authorities (particularly the police)



The proposal submitted in both pre-application communication and the application itself has given the Authorities the necessary confidence that the Licence Objectives will not be harmed.

There is a belief that the applicant will deliver on any commitments made or will adjust his style to rectify any concerns raised.

10.5 For all the reasons raised in this submission we believe the Committee can have confidence in the applicant and if granted, this licence with the conditions proposed will not have an adverse impact on the Licensing Objectives.

A handwritten signature in black ink, appearing to read 'M. Marshall'.

Mark Marshall FCILEX
Director

Blackpool Council Licensing Service			
Notification of Mediation Agreement			
Premises Details			
Name of Premises:			
Premises Address:	54-56 Whitegate Drive, Blackpool		
Post Code:	FY3 9DQ		
Responsible Authority			
Service / Department	Lancashire Constabulary		
Officer (Print Name)	PC 4107 Emma Pritchard		
Signature			
Proposed changes to Application Operational Schedule			Mark one
Adequate changes proposed during the representation period. No representation made.			<input checked="" type="checkbox"/>
Some changes proposed. Representation will follow for remaining concerns.			<input type="checkbox"/>
Some changes made after representation submitted. Continue to hearing.			<input type="checkbox"/>
Full and adequate proposals made after representation. Representation withdrawn.			<input type="checkbox"/>
Applicant's consent to amend Licence Application			
I the undersigned am the applicant and hereby authorise Fylde Licensing Service to amend my application as detailed below. I understand that these amendments may be included as conditions on the Premises Licence should one be issued.			
Applicant's Name (Please <u>print</u> clearly)	Mr Craig Allen		
Applicant's Usual Signature			
Date of signing	08	12	2020
Amendments			
1	<p><i>The following conditions to be added to the operating schedule:</i></p> <ol style="list-style-type: none"> 1. An adequate number of licensed door supervisors shall be on duty as appropriate to any risk assessment. 2. Security arrangements are sufficient to discourage the sale and consumption of drugs and shall ensure such arrangements include regular checks of toilet areas. 3. All staff shall receive suitable training in relation to the proof of age scheme to be applied upon the premises as well as serving to drunks training. Records to evidence this shall be made available to an authorised officer upon request. Refresher training shall be conducted every 6 months as a minimum. 		

4. Suitable signage will be displayed to specify that a Challenge 25 Policy is in place.
5. At least one personal licence holder will be contactable at all times the premises is open, (their identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.
6. 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.
7. Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises.
8. Any outside area used for the consumption of alcohol will cease to be so used from 10pm. Any removable furniture shall be cleared away by this time.
9. The outside area of the venue will be regularly checked by a competent person.
10. In the outside area, all customers consuming alcohol shall be seated.
11. Appropriate measures will be taken to ensure staff prevent the removal of bottles or glasses from the curtilage and grounds of the licensed premises or any outside area under the control of the premises licence holder.
12. Children under 16 shall vacate the premises by 21.00 hours.
13. Any children under 16 remain the responsibility of the accompanying adult when using the premises. Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.
14. Functions which specifically target young people aged 17-18 years (for example birthday parties) will not be allowed to take place on the premises

2 *The following conditions to be removed from the operating schedule:*

N/A

Ronnie's



Pritchard, Emma <Emma.Pritchard@lancashire.police.uk>
To: Mark Marshall

Reply Reply All Forward

Thu 25/05/2023 11:34

54 WHITEGATE DRIVE MEDIATION.docx
.docx File

Good Morning Mark,

As previously discussed; in April I recall a pre-consultation discussion in relation to an extra hour during week days at Ronnies Bar and said on behalf of the Police we would have no concerns with this, especially as I had previously completed a mediation agreement to add conditions to the operating schedule in order to ensure the licensing objectives were adequately promoted when the premises licence was originally submitted (as per attached).

With thanks,

Emma

*PC 4107 Emma Pritchard
West Licensing Department
Bispham Police Station
Blackpool
01253 604073
07815 448093*

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To whom it may concern,

I would like you to accept this statement of support for a local business I frequent.

I would like to express my feelings and thoughts towards this application.

I like directly to the rear of Ronnie's Bar and Eatery situated on Whitegate Drive in Blackpool. This venue has

become such a great place to socialise and meet new people. It's also a great way to talk about the struggles of life very welcoming.

When I'm not socialising I'm at work or at home chilling. I have never needed to complain regarding the venue, the noise or the punters.

Friday and Saturday nights are

The only nights that live entertainment is supplied, the sound is slightly higher but the owners reassured me that the bass would be down at its lowest

Yours sincerely

Jaxon Walters