



FYLDE BOROUGH COUNCIL



Meeting Agenda

Licensing Hearing
Studio Room, Lowther Pavilion, Lytham
Thursday 28th August 2008, 10:00am

LICENSING PANEL

MEMBERSHIP

Convenor Councillor Lyndsay Greening

Councillor John Davies

Councillor Angela Jacques

Contact: Peter Welsh, St. Annes (01253) 658502, Email: peterw@fylde.gov.uk



Licensing Objectives

Fylde Borough Council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are:

- 1. The prevention of crime and disorder;**
- 2. Public safety;**
- 3. The prevention of public nuisance; and**
- 4. The protection of children from harm.**

In carrying out its licensing functions, Fylde Borough Council must also have regard to:

- 1. Our licensing statement published under section 5 of the Licensing Act, and**
- 2. Any guidance issued by the Secretary of State under section 182 of the Licensing Act**



A G E N D A

PART I - MATTERS DELEGATED

ITEM	PAGE
<p>1. DECLARATIONS OF INTEREST: <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Legal Services Executive Manager in advance of the meeting. (For the assistance of Members an extract from the Councils Code of Conduct is attached).</i></p>	4
<p>2. APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR: DERBY ARMS, STATION ROD, KIRKHAM</p>	7 – 11



LICENSING ACT 2003

THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

PROCEDURE FOR THE CONDUCT OF HEARINGS

1. Preliminary

- 1.1. Under the regulations, the Licensing Authority is required to determine the procedure that it proposes to follow at any hearing under the Act. This document sets out the procedure that Fylde will normally follow.
- 1.2. A panel may decide to follow a different procedure at any hearing. If it does, it will specifically draw attention to any departures from the procedures set out in this document and the reasons for them.
- 1.3. Please refer to the regulations for other rules about procedure

2. Interpretation

In this procedure, the following words or phrases have the following meanings:

applicant	an applicant for a licence or any person who has a licence which may be reviewed or revoked as a result of the hearing
act	The Licensing Act 2003
licence	Includes any consent or permission under the act
panel	A sub-committee established by Fylde Borough Council under section 10 of the act
regulations	The Licensing Act 2003 (Hearings) Regulations 2003, and any reference to a numbered regulation is to the regulation so numbered in that statutory instrument
witness	A person given permission to appear at the hearing under regulation 8(2)

3. Before the hearing

- 3.1. At least ten days before the hearing, the panel will meet to consider:
 - 3.1.1. If the circumstances set out in regulation 9(1) apply, whether to dispense with holding a hearing;
 - 3.1.2. What, if any, particular points it considers it will want clarification on at the hearing from a party under regulation 7(1)(d), and
 - 3.1.3. What time limit to set under regulation 24.
- 3.2. If it is not practicable for the panel to meet to consider these matters, the convenor may ascertain the views of panel members separately and give effect to the majority view as if it had been reached in a meeting of the panel.

4. Opening the hearing

- 4.1. The convenor will identify all parties to the hearing who are present. The convenor will also identify any persons who are present who intend to assist or represent any party and any witnesses.
- 4.2. The convenor will then explain to the parties the procedure to be followed at the hearing, specifically drawing attention to any departures from the procedures set out in this document

and the reasons for them. The convenor will also inform the parties that the proceedings will be recorded.

- 4.3. The panel will then consider any request by a party under regulation 8(2) for another person to appear at the hearing. The convenor will give any party who has made such a request (or their representative) which the panel proposes to deny an opportunity to address the panel about their request. The panel will then re-consider the request.
- 4.4. The convenor may invite any officer to carry out any functions under this paragraph.

5. *Listening to the parties*

- 5.1. Each of the parties will then be invited to:
 - 5.1.1. Open their case by addressing the panel;
 - 5.1.2. Give any further information requested by the panel under regulation 7(1)(d);
 - 5.1.3. Present the evidence of any witness; and
 - 5.1.4. Conclude their case by addressing the panel.
- 5.2. The order in which the parties will be invited to put their cases will be in the discretion of the panel, except that a party who is an applicant will be invited to put their case last.

6. *Questioning the parties*

- 6.1. Members of the panel may, following the conclusion of the case of each party, ask questions of that party or any witness appearing for them.
- 6.2. A party or their representative may only question another party if they have asked for permission from the panel after the panel members have finished questioning that party or their witness. The panel will only give permission if it is satisfied that the questioning will provide useful information about a matter relevant to their determination which is unlikely to be placed before the panel without such questioning

7. *Time limits*

Each party will be limited to the time set by the panel under regulation 24 in which to exercise their rights provided in paragraphs 5 and 6.2. The convenor will require the party or their representative to close their case or cease their questioning immediately this time limit is reached.

8. *Considering the decision*

- 8.1. The panel will consider their decision in private.
- 8.2. No officers will retire with the panel except for the committee administrator. The committee administrator may, if requested to do so, provide procedural, but not legal or technical, advice to the panel. The committee administrator will also assist the panel by drafting and finalising the wording of the panel's decision, if requested by the panel.
- 8.3. The panel may, while it is considering its decision, seek advice from legal or licensing officers. Officers will limit their advice to the specific issue identified by the panel and will leave the room where the panel is considering its decision as soon as that advice has been given and understood.

9. *Announcing the decision*

- 9.1. When the panel has made its decision, the public part of the meeting will resume.
- 9.2. The convenor will read out the decision of the panel, or may invite the committee administrator to do so. The meeting will then close or move on to the next business.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING & PROTECTION	LICENSING PANEL	AUGUST 2008	2

**APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR:
DERBY ARMS, STATION ROAD, KIRKHAM**

Summary

The Licensing Authority has received an application to vary a Premises Licence to specify an individual as Designated Premises Supervisor at the Derby Arms, Station Road, Kirkham.

There has been a representation from the Police who are a Responsible Authority under the Act.

Report

Application

1. The application is to vary a Premises Licence to specify an individual as Designated Premises Supervisor at the Derby Arms, Station Road, Kirkham.
2. The application has been referred to the panel because a relevant representation has been received from the Police.

Papers

3. The following papers are relevant and have been made available to panel members:
 - The application

- The statutory guidance for licensing authorities issued by the secretary of state under section 182 of the Licensing Act 2003
- The council's statement of licensing policy
- Representation from the Police

Consideration

4. The licensing objectives are:

- The prevention of crime and disorder;
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

5. However, in relation to this matter, a representation may only be made where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.

5. The Police have served such a notice and it is the duty of the panel to take such of the steps set out below as it considers necessary for the promotion of the crime prevention objective. The steps are:

- (a) reject the application if it is considered necessary,
- (b) take no further action.

6. The guidance issued by the secretary of state and the council's statement of licensing policy will be material in considering the application, but cannot override the licensing objectives.

7. The following parts of the secretary of state's guidance appear to be particularly relevant to the application and the relevant representations:

4.19 – 4.27 Specification of new Designated
Premises Supervisors

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the guidance.

8. The following parts of the council's statement of licensing policy appear to be particularly relevant to the application and the relevant representations:

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the policy.

Procedure

9. The applicant and Police have been invited to attend or be represented at the hearing.
10. The panel is asked to use the attached procedure in the hearing.

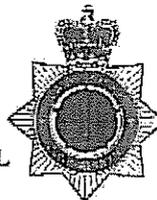
REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	(01253) 648422	30 th July 2008	

Attached documents

Police Representation

LICENSING DEPARTMENT

Western Division, Central Police Office, Bonny Street, Blackpool FY1 5RL
Tel: 01253 604153 Fax: 01253 604119



**Lancashire
Constabulary**

police and communities together

Fylde Borough Council
Town Hall
Lytham St Annes
Lancashire
FY8 1LW

30th July 2008

Dear Sirs

**Re Application to Vary Designated Premises Supervisor of
Derby Arms, Station Road, Kirkham to**

WAYNE ALAN TATTERSALL

I am in receipt of an application to vary the designated premises supervisor at the Derby Arms, Wesham, from Marilyn Tattersall to Wayne Alan Tattersall.

On behalf of the Chief Officer of Police, the police believe there are exceptional circumstances and make formal objection on the following crime prevention grounds:-

Mrs Tattersall, the applicant's mother, took over the premises licence and the role of Designated Premises Supervisor at the George Hotel, Kirkham on 23rd June 2006. This was a family run operation with all members of the family involved in the operation, including the applicant.

The premises were not well run and between 15th July 2006 and 9th June 2007 (the period during which Mrs Tattersall held responsibility for the premises) a total of 43 incidents, including 9 crimes, were reported to the police. Three successive positive test purchases for sales of alcohol to a person under 18 years were recorded within a 3 month period at the premises. On 6th August 2007, Review Papers were submitted to the Licensing Committee. However, before the Review could be heard, Mrs Tattersall left the premises and went to live in Spain, without first informing the relevant authorities, thus avoiding the Hearing.

The Tattersalls returned to the UK this year and in June 2008 took on the tenancy of the Derby Arms, Wesham. Marilyn applied to be the DPS and this was formally objected to by the police, who had grave concerns as to her ability to run a licensed premises. The application was subsequently withdrawn and a fresh application was made in the name of Wayne Tattersall for the role of DPS.

The George Hotel was run by the Tattersall family. Wayne Tattersall worked in the pub and through his own admissions learnt the trade through his mother.

A number of attempts over several days were made to contact Wayne Tattersall at the Derby Arms in order to process his application. On each occasion, Marilyn Tattersall answered the telephone and reported that Wayne would not be available until some time after 5pm because he was at work on a building site. She had no way of contacting him in the meantime.

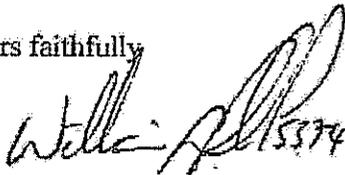
A licensing officer eventually spoke to Wayne Tattersall when he telephoned the police licensing department. During the telephone conversation, Mr Tattersall stated that his only experience in the licensing trade had been when he helped his mother (Marilyn Tattersall) when she was at the George in Kirkham. He has had no other input or formal training other than his personal licence course.

At this time Police believe Mr Tattersall is the DPS in name only and is a front for Marilyn. He is not involved in the every day running of the premises and is currently working full time as a builder.

The role of the DPS is one that carries a considerable amount of responsibility. He is the single point of contact for the relevant authorities and can also be held criminally liable for the actions of his staff. The Derby Arms is a big operation and the potential for issues to arise is increased. His antecedence in the trade is not impressive to say the least coupled with our inability to contact him for the simple matter of processing his application gives the police grave cause for concern that all four licensing objectives would be undermined.

Mediation is sought in this matter and if agreement is reached it would negate the need for a hearing.

Yours faithfully

A handwritten signature in black ink, appearing to read 'W. Giffin' with a large flourish at the end. Below the signature, the number '15374' is written.

PS W. GIFFIN
Western Division Licensing Department
Lancashire Constabulary

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Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.