



SECTION 18 LICENSING ACT 2003
NOTICE OF DETERMINATION IN RESPECT OF A HEARING
WHICH TOOK PLACE ON MONDAY 11 JULY 2022
TO DETERMINE AN APPLICATION BY TAPAS FORTY SEVEN LIMITED
FOR A PREMISES LICENCE IN RESPECT OF TAPAS FORTY SEVEN, 47 KING STREET,
WHALLEY, CLITHEROE, BB7 9SP.

The Licensing Sub-Committee met on 11 July 2022. The Sub-Committee comprised the following members:

Councillor S Brunskill - Chair
Councillor S Hore
Councillor S O'Rourke

Also in attendance:

Solicitor (RVBC)
Licensing Officer (Alcohol & Entertainment) (RVBC) (Both part time officers)
Committee Clerk (RVBC)
Kellie Hughes (Director of Applicant)
Danielle Roberts (Director of the Applicant)
Councillor John Threlfall (Whalley Parish Council)

The Sub-Committee met to consider the application of Tapas Forty Seven Limited for a premises licence in respect of Tapas Forty Seven, 47 king Street, Whalley, Clitheroe, BB7 9SP.

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services dated 11 July 2022 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 and as contained in part 2 of the CIA 2022-2025. The Sub-Committee was reminded of the written representations received, where two of the individuals who had made representations were not able to attend the meeting.

The Directors of the Applicant made verbal representations to the Sub-Committee and explained that they were seeking to open a high-end dining establishment, which was family orientated. Final orders for food would be taken at 20.30 hours and for drinks at 21.15 hours. They anticipated that 85% of customers would have booked in advance. All customers would be seated – customers would not be allowed to stand at the bar to consume alcohol. No customers would be allowed in to the premises purely for the purpose of drinking – all customers would be dining customers. They anticipated that the premises would accommodate approximately 25 to 30 covers.

In response to questions, the Directors of the Applicant confirmed that the premises would close promptly at 22.00 hours; that arrangements were in place for disabled access and that there was engagement with the authorities in relation to disabled toilet facilities; that they had spent £6000 on sound -proofing; that there would be immediate access to CCTV recordings for Environmental Health and Licensing Enforcement officers as well as the police; that they would be willing to accept a condition requiring the frontage of the premises to be tidied after closing time to avoid any litter from smoking customers; that they would be willing to accept a condition preventing bottle sorting and disposal between 22.00 hours and 08.00 hours; that they would accept a condition restricting the supply of alcohol to customers who were dining at the premises; and that they would be selling wine, spirits, Sangria and perhaps one draft lager (possibly Spanish in origin).

Councillor Threlfall reiterated the terms of the CIA, and advised the sub-committee that the Parish Council did not hold a meeting without Anti-social behaviour coming up as an issue. The Parish Council were of the view that "enough is enough". Whilst the venue was described as family orientated, this was not likely to be the case on evenings before school days. There was a real concern about where customers would go next on leaving the premises, and how they would behave. These premises would be one more source of concern, albeit that this was up to 22.00 hours. He drew particular attention to the other two written representations contained in the report, as well as the ongoing problems reported by residents in the Queen Street and Accrington Road area.

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 conditions as considered at the hearing and in correspondence with the police and the Council's licensing enforcement officer and subject to an earlier terminal time for the sale of alcohol. Members were mindful of the steps being taken to promote the licensing objectives to address concerns about the operation of premises which could have been open later had there not been a premises licence in place for the hours requested.

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	17.00 – 22.00
Tues	17.00 – 22.00
Wed	17.00 – 22.00
Thurs	12.00 – 22.00
Friday	12.00 – 22.00
Sat	12.00 – 22.00
Sun	12.00 – 22.00
Supply of alcohol ON the premises:	
Mon	17.00 – 21.30
Tues	17.00 – 21.30
Wed	17.00 – 21.30
Thurs	12.00 – 21.30
Fri	12.00 – 21.30
Sat	12.00 – 21.30

Sun	12.00 – 21.30
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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 licensing enforcement officer and those agreed at the hearing should be incorporated into Annex 2 of the licence. Those conditions shall be incorporated as follows:

General

- Upon commencement of their employment, all staff who are involved in the sale of alcohol will be trained in relation to the licensing objectives so as to reduce crime and disorder, promote public safety, prevent public nuisance and promote the protection of children from harm. Refresher training will be provided at least once every twelve months and all training will be documented, kept on the premises and made available to an authorised officer on request.

The prevention of crime and disorder

- An incident register will be maintained at the premises and will record details of any public order offences and any refusals of the service of alcohol. This register will be made available on request to an authorised officer.
- The supply of alcohol shall only be to a person seated and dining at the premises and for consumption as ancillary to their meal
- The premises shall operate a zero tolerance drugs policy.
- The premises shall be equipped with a CCTV system that shall comply with the following criteria:-
 1. The system shall be maintained in proper working order
 2. The system shall display on any recording the correct time and date of the recording
 3. The system shall be recording during all operating times
 4. The recorded VCR tapes or digital recording media shall be held for a minimum of 31 days after the recording is made and shall be made available to the police or an authorised officer for inspection on request as soon as reasonably practicable.
 5. CCTV signage shall be displayed

The prevention of public nuisance

- Any disposal of glass into the external bins will not take place between the hours of 18.00 and 08.00.
- Notices will be displayed in a prominent position at the public exits requesting that patrons respect the needs of local residents and leave the premises and the area quickly and quietly
- At the end of the evening's trading, a member of staff will clean the frontage of the premises on King Street to ensure that any cigarette ends or other waste is removed.

The protection of Children from harm

- Children under the age of sixteen will be required to be accompanied by an adult.
- The premises shall have in place a written Challenge 25 Policy. This policy shall be actively promoted and state that any person to which the sale or supply is being made who looks or appears to be under 25 years of age shall be asked to provide identification that they are 18 years of age or over. The following forms of identification are acceptable:-
 1. Passport
 2. Photo driving licence
 3. PASS accredited holographic proof of age card, or

4. Any other form of identification agreed with the Police Licensing Unit

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.

NOTICE OF DETERMINATION

Appendix 1

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;

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- (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 -

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- (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.