

BOROUGH OF BARROW-IN-FURNESS

LICENSING SUB-COMMITTEE

Meeting: Thursday, 5th December, 2019
at 2.30 pm (Drawing Room)

A G E N D A

PART ONE

1. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

2. Declarations of Interest

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

3. Apologies for Absence/Attendance of Substitute Members.

4. Confirmation of Minutes

3 - 8

To confirm the Minutes of the meeting held on 4th June, 2019.

FOR DECISION

PART TWO

**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPH 2 OF PART
ONE OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972
AND ACCESS TO INFORMATION (VARIATION) ORDER 2006**

(D) 5. Application for a Personal Licence

NOTE (D) – Delegated
 (R) – For Referral to Council

Membership of Committee

Councillors Callister (Chairman)
 Hall
 Seward (Vice-Chair)

For queries regarding this agenda, please contact:

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Published: Wednesday, 27th November 2019

LICENSING SUB-COMMITTEE

Meeting: Tuesday 4th June, 2019
at 1.00 p.m. (Committee Room No. 4)

PRESENT:- Councillors Callister, Hall and Seward.

Officers Present:- Graham Barker (Public Protection Manager), Katherine Benson (Licensing Officer), Jane Holden (Principal Legal Officer) and Sharron Rushton (Democratic Services Officer).

Others:- Paul O'Donnell (Local Authority Retained Solicitor).

1 – Appointment of Chairman for 2019/2020

Nominations were requested for the appointment of Chairman of the Licensing Sub-Committee for 2019/2020.

Councillor Seward moved that Councillor Callister be appointed as Chairman for 2019/2020. This was duly seconded and it was

RESOLVED:- That Councillor Callister be appointed Chairman of the Licensing Sub-Committee for 2019/2020.

COUNCILLOR CALLISTER IN THE CHAIR

2 – Minutes

The Minutes of the Licensing Sub-Committee held on 18th May, 2017 were taken as read and confirmed.

3 – The Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985 and Access to Information (Variation) Order 2006

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act 1972 the public and press be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 2 (Minute No. 5) of Part One of Schedule 12A of the said Act.

4 – Application for a Premises Licence - Island Express, 19 Ramsden Dock Road, Barrow-in-Furness

The Licensing Officer's report set out details of an application for a Premises Licence from Island Express, 19 Ramsden Dock Road, Barrow-in-Furness. Valid objections had been received from residents living in close proximity of the

premises, which therefore required consideration and determination by the Sub-Committee in accordance with the scheme of delegation.

The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment were licensable activities under Section 1 Licensing Act 2003. Authorisation from the Council, in its role as the Licensing Authority, was required in order to carry on any of these activities at premises within the Borough.

The Act provided several forms of authorisation for different scenarios. Persons or organisations wishing to carry on activities at premises on a regular basis, or at larger one-off events, required a premises licence to authorise those activities. Members' clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate.

Under Section 17(1) an application for a premises licence must be made to the relevant Licensing Authority subject to Subsection 54 and 55 (form of application and fees to accompany an application). The Council was the Licensing authority for the Borough of Barrow-in-Furness.

The application must be accompanied by:-

- a) An operating schedule;
- b) A plan of the premises to which the application related; and
- c) By a form of consent (where the application included the sale of alcohol) given by the person whom the applicant had designated as premises supervisor.

Under the scheme of delegation adopted by the Council, the Licensing Sub-Committee was responsible for the exercise of many of the functions of the Licensing Authority, including determination of premises licence applications where representations had been received.

On 3rd April, 2019, under Section 17(1) of the Act, an application was made to the Licensing Authority by Island Express, 19 Ramsden Dock Road, Barrow-in-Furness for a premises licence. The application sought authorisation for the following:-

Supply of Alcohol (off the Monday to Sunday 11am - 11pm premises)

Opening Hours of the Premises Monday to Sunday 11am - 11pm

In accordance with Section 17(5) the Applicant had advertised the application within the prescribed period in the prescribed form and manner. A notice had been displayed on the premises for a 28 day period and the notice had been published in the local newspaper.

Additionally notice of application had been given by the Applicant through service of a copy of the application to the specified responsible authorities:-

- Licensing Authority;
- The Local Planning Authority;
- Environmental Protection Team;
- Chief Officer of Police;
- Health and Safety Officer;
- Divisional Officer, Cumbria Fire and Rescue;
- Trading Standards;
- Public Health;
- Safeguarding and Review, Child Protection; and
- Home Office Immigration Enforcement.

Failure to comply with these requirements would render an application invalid.

A copy of the full application including the operating schedule, plan of premises and form of consent was attached to the report for information.

The Licensing Department provided pre-application advice to the Applicant on 2nd January, 2019, where assistance was given in completing the application form and advice given about what to include.

On 29th April, 2019, the Council received a representation from Planning, who were a responsible authority. The representation was appended to the report.

There had been no other representations from Responsible Authorities.

Relevant objections to the granting of the licence had been received from residents living in close proximity of the premises.

The objections received raised concerns over the Applicant's ability to promote the licensing objectives which were:-

- Prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- Protection of children from harm.

An objector attended the meeting and addressed the Sub-Committee.

Copies of the representations received from residents were attached as appendices to the report for information.

Following the representations being received the Reporting Officer contacted the applicant on 16th April, 2019 and recommended that they put forward some further information about their application and what measures they proposed to put in place to promote the 4 Licensing objectives. Some further information had been put forward by the Applicant and was attached as an appendix to the report.

The Reporting Officer had acted as the mediator between the Applicant and Objectors to try and agree on terms that would satisfy all parties concerned.

The Licensing Officer informed the Sub-Committee that they must ensure that all Licensing decisions had a direct relationship to the promotion of one or more of the Licensing objectives. Every application should be considered on its merits, and there must not be a blanket policy to the extent that it was applied so rigidly that an exercise of discretion in each individual case was precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.

The Applicant had set out in the operating schedule of the application what measures would be put in place to promote each of the Licensing objectives.

The Applicant, along with the Personal Licence Holder attended the meeting and addressed the Sub-Committee. Members questions were answered accordingly.

Where it was felt the measures proposed by the Applicant could be improve, the Reporting Officer had amended the conditions accordingly, to ensure it could be managed by the Applicant, proportionate to the type of premises in promoting the Licensing objectives and enforceable.

The provisions of Chapter 10 of the statutory guidance highlighted that only precise, appropriate and proportionate conditions, which promoted one or more of the Licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as were necessary to promote the Licensing objectives arising out of the consideration of the representations received, and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions were not considered to be appropriate.

All parties with the exception of Councillors, Paul O'Donnell (Legal Representative), Jane Holden (Principal Legal Officer) and Sharron Rushton (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

RESOLVED:- That the Premises Licence for Island Express be granted subject to:-

- (i) Conditions which are consistent with the Operating Schedule, modified to such extent as the Licensing Authority considers necessary for the promotion of the licensing objectives;
- (ii) Any applicable mandatory conditions

5 – Application for a Personal Licence – Licensing Act 2003

The Licensing Officer submitted a report concerning an application for a Personal Licence made under Section 117 of the Licensing Act 2003. She submitted information which had been drawn to her attention concerning the applicant.

The Licensing Officer informed the Sub-Committee that the Disclosure Certificate had a relevant offence as listed under Schedule 4 of the Act and that the Police Authority had issued an Objection Notice concerning the application.

A copy of the application together with a copy of the Disclosure Certificate and the Notice of Objection had been appended to the report.

The Applicant attended the meeting, addressed the Sub-Committee and answered Members' questions. Sergeant Seath, a representative from the Police Authority had also addressed the Sub-Committee and answered Member's questions.

All parties with the exception of Councillors, Paul O'Donnell (Legal Representative), Jane Holden (Principal Legal Officer) and Sharron Rushton (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

RESOLVED:- That the Sub-Committee refused the application for a Personal Licence.

The meeting closed at 2.32 pm.

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