

Licensing Sub-Committee

RECORD OF DECISION

Date Of Meeting: 4th June, 2019

Agenda Item: 8 – Application for a Premises Licence

Findings of any relevant facts:

- On 3rd April, 2019 the Licensing Authority had received an application for a Premises Licence made under s.17(1) Licensing Act 2003 (the Act) from Island Express, 19 Ramsden Dock Road, Barrow
- The application sought authorisation for:
 - Supply of Alcohol (off the premises): Mon-Sun 11am-11pm
 - Opening Hours of the Premises: Mon-Sun 11am-11pm
- Barrow Borough Council was the licensing authority
- The Licensing Sub Committee was responsible for the exercise of many of the functions of the licensing authority, including determining of premises licence applications where representation had been received
- In accordance with s 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
- A notice had been published in the local newspaper
- Notice of application had been given to the specified responsible authorities

- The supply of alcohol, provision of regulated entertainment and sale of late night refreshments were licensable activities under s.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, would require a premises licence to authorise those activities
- Members clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate

- Under s.17(1) an application for a premises licence must be made to the relevant Licensing Authority subject to ss 54 and 55 (form of application and fees to accompany an application)

- The application must be accompanied by an operating schedule, a plan of the premises, consent given by the person whom the applicant had designated as premises supervisor
- S 18(3) of the Act states that where relevant representations were made, the authority must hold a hearing to consider them
- Valid representations had been received from 3 local residents
- The Licensing Authority had given notice of the hearing to the applicant and those who had made valid representations (as defined by s 18(6)) as required by Sch 2 Regulation 6 Licensing Act 2003 (Hearings) Regulations 2005
- The Council had consulted with:
 - Licensing Authority
 - 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
 - Home Office Immigration Enforcement
- A Licensing Authority must carry out its function under the act with a view to promoting the licensing objectives and its licensing statement (s.4)
- On 29th April, 2019 a representation from the Local Planning Authority was received and stated there was no objection as the alcohol license applied for stayed within the hours of operation restricted by the planning permission
- No other representations from responsible authorities had been received
- Relevant objections had been received from residents living in close proximity of the premises
- Objections received raised concerns over the applicant's ability to promote the licensing objectives:
 - Prevention of crime and disorder
 - Public Safety
 - Prevention of public nuisance, and
 - Protection of children from harm
- Representations had been received on 10th April, 2019, 11th April, 2019 and 12th April, 2019. Copies of the objections had been attached to the report
- One representative attended the meeting and addressed the committee and expressed a number of concerns:
 - Noise
 - Rubbish
 - Anti Social Behaviour
 - Traffic Congestion
 - Increased alcohol sale
 - Uncertainty of delivery recipients

- Following discussions with the Reporting Officer the applicant had put forward further information about the application and what measures they proposed to put in place to promote the four licensing objectives
- A detailed operating schedule had been attached to the report
- The applicant and representative attended the meeting and addressed the committee, clarifying all questions and queries put forward, including:
 - Alcohol would only be sold with food deliveries
 - Alcohol would not be sold over the counter
 - Relevant training would be provided to all staff by the current Personal Licence Holder and she would be accompanying drivers to all premises for the first month to ensure correct procedures were followed
 - The Manager was undertaking training to become a Personal Licence Holder
 - Records of deliveries would be kept
 - Proof of identification would be recorded and logged
 - Alcohol would not be given to anybody without the correct identification
 - Records would be kept of all delivery refusals
 - The premises had double yellow lines outside so parking was prohibited
- The Committee considered the operating schedule
- When considering applications the Licensing Authority would need to have regard to:
 - The Licensing Act and licensing objectives
 - Government Guidance issued under Section 182 of the Licensing Act 2003
 - Any supporting regulations
 - The Statement of Licensing Policy
- The Licensing Sub Committee must ensure 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 own merits
- Applicants must be considered with regard to the principles of fair process and the Human Rights Act

Committee decision:

That a Premises Licence be granted to Island Express, 19 Ramsden Dock Road, Barrow in Furness, Cumbria, subject to the mandatory conditions in accordance with s.19 Licensing Act 2003 and conditions consistent with the Operating Schedule put forward by the Applicant with the exception of refusal of sale to any person in the presence of a minor (under 18).

Reasons for decision:

- a) Details provided in the operating schedule and modified conditions clearly outlined the steps the Applicant would take in promoting the licensing objectives

Measures to ensure the protection of children from harm included operating a Challenge 25 Policy and no alcohol to be sold at the premises (delivery only)

- b) No representations were made by the Police; no concerns were raised regarding the potential for an increase in crime and disorder in or around the premises
- c) The Licensing Authority was approached by the Applicant pre-application to discuss intended measures and for guidance on the application. It was the Reporting Officers' opinion that this displayed a willingness to co-operate with responsible authorities in the promotion of the licensing objectives
- d) The Applicant voluntarily offered a reduction in opening hours to meet the needs of nearby residents in satisfying their concerns regarding public nuisance
- e) It was the Members' view that the operating schedule mitigated all the objections and the concerns raised by the resident in attendance at the hearing
- f) It was the Reporting Officers' opinion that the modified conditions provided a balance between the Applicant's duty to promote the licensing objectives and the residents' rights to peace and quiet.

Reasons for not adopting other available options:

As stated in Reasons for decision.

Date:

Signed:

(Chairman)