

BOROUGH OF BARROW-IN-FURNESS
LICENSING SUB-COMMITTEE

Meeting: Thursday 6th January, 2022
at 1.00 pm. (Banqueting Hall)

PRESENT:- Councillors Biggins, Hall and McEwan.

Officers Present:- Katherine Benson (Senior Licensing Officer), Ivor Churcher (Commercial Team Leader, Public Protection Services), Paula Westwood (Scrutiny and Democratic Services Team Leader) and Sandra Kemsley (Democratic Services Officer).

Also Present:- Paul O'Donnell (Local Authority Retained Solicitor)

6 – Appointment of Chairman

Nominations were requested for the appointment of Chairman of the Licensing Sub-Committee for the meeting.

Councillor Biggins moved that Councillor McEwan be appointed as Chairman for the meeting. This was duly seconded by Councillor Hall and it was,

RESOLVED:- That Councillor McEwan be appointed Chairman of the Licensing Sub-Committee for the meeting.

COUNCILLOR McEWAN IN THE CHAIR

7 – Minutes

The Minutes of the Licensing Sub-Committee held on 9th September, 2021 were taken as read and confirmed.

8 – Application for a New Premises Licence – Lakeland Service Station, Abbey Road, Barrow-in-Furness

The Senior Licensing Officer's report set out details of an application for a Premises Licence under section 17(1) of the Licensing Act 2003 for Lakeland Service Station, Abbey Road, Barrow in Furness, Cumbria. The applicant was Park Garage Group PLC.

The application had been subject to one valid representation. The representation was objecting to the application, therefore a hearing was required.

The applicant and parties making the representations had been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing

Act 2003 (Hearings) (Amendment) Regulations 2005 “the Regulations”. Information to accompany the notice of hearing had been provided to the applicant and the parties making representations in accordance with “the Regulations”.

The supply of alcohol, provision of regulated entertainment and provision of late night refreshment were licensable activities under Section 1 of the 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 Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:-

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

Each objective was of equal importance. There were no other statutory licensing objectives, so the promotion of the four objectives was a paramount consideration at all times.

Under the Scheme of delegation adopted by the Council, the Licensing Sub-Committee has responsibility for the exercise of many of the functions of the Licensing Authority, including the determination of Premises Licence applications where representations had been received.

On 2nd November 2021, under s.17(1) of the Act, an application had been made to the Licensing Authority by Park Garage Group PLC, in relation to premises Lakeland Service Station, Abbey Road, Barrow in Furness, Cumbria for a premises licence.

Members had been requested to note that the application was for a licence only. If the application for a premises licence was refused, the shop would still be able to operate without selling alcohol, but they must comply with any applicable duties which may be imposed by other relevant legislation.

The application sought authorisation for the following:

Supply of Alcohol (off the premises)	Monday – Sunday 00:00 - 24:00
Late Night Refreshment (supply of hot food or hot drink between 23:00 - 05:00)	Monday – Sunday 23:00 - 05:00
Opening Hours of the Premises	Monday – Sunday 00:00 - 24:00

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 and the notice had been published in the local newspaper.

In addition, notice of application had been given by the applicant through service of a copy of the application to the specified responsible Authorities (this obligation had been fulfilled by Officers where the application had been given electronically, sent on 2nd November, 2021) satisfying s.17(6) of the Act.

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

A full copy of the application, including the operating schedule, plan of premises and form of consent had been included as an appendix to the report.

The applicant had provided details within Section 18 of their application of the steps they intended to take to meet the four licensing objectives. These steps would in turn, where applicable, be made into conditions to be attached to the Premises Licence, should the application be granted.

Section 18(3) of the Act states that where relevant representations were made, the Authority must hold a hearing to consider them, unless the Authority, the applicant and each person who had made representations agreed that a hearing was unnecessary.

The Licensing Authority had received relevant representations and therefore had given notice of the hearing to the applicant and those persons who had made relevant representations.

The Council had consulted with the following Responsible Authorities:-

- Licensing Authority (Barrow Borough Council*);
- 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 (The Immigration Act 2016 made the Secretary of State a responsible Authority in respect of premises licensed to sell alcohol)

*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 3rd November, 2021 Planning had stated that the sale of alcohol did not impact on the planning status of the filling station (evidenced at Appendix 2 to the report).

On 25th November, 2021 Cumbria Fire and Rescue had confirmed that they would not be making any representation regarding the application. This had been subject to the premises having a suitable and sufficient fire safety risk assessment as required by the Regulatory Reform (Fire Safety) Order 2005 (evidenced at Appendix 3 to the report).

There had been no other representations from Responsible Authorities.

There had been one representation received from another party, which had been included as an appendix to the report and had been summarised as follows:-

Concerns raised	Licensing objective(s)
<ul style="list-style-type: none"> - People drinking in the street - Bottles being left in the street - Gangs hanging around the forecourt - Potential underage drinking - Anti-social behaviour 	Public safety Prevention of crime and disorder Protection of children from harm Prevention of public nuisance

An attempt at mediation had taken place between the applicant's agent and the person making the representation, however the objection had not been withdrawn.

The table below summarises nearby premises licensed to sell alcohol and their licensable hours for supply of alcohol off the premises. The Sub-Committee had been requested to note that although premises were licensed to supply alcohol until a certain time, they may choose not to remain open until that time. Some licences also had seasonal variations, for example to supply alcohol for a longer period on Bank Holidays, at Christmas etc.

Name of Premises	Licensable hours for supply of alcohol
Co-op, Abbey Road (approx. 0.0 miles away)	06:00 – 23:00 Monday - Sunday
Nisa, Oxford Street (approx. 0.5 miles away)	06:00 – 23:00 Monday - Sunday
Co-op, Harrel Lane (approx. 0.6 miles away)	08:00 – 23:00 Monday – Saturday 10:00 – 22:30 Sunday
Bargain Booze, Settle St (approx. 0.6 miles away)	08:00 – 23:00 Monday – Saturday 10:00 – 22:30 Sunday
Brighton Street Off Licence, Brighton Street (approx. 0.6 miles away)	08:00 – 23:00 Monday – Saturday 10:00 – 22:30 Sunday

Lakes Parade, Dalton Lane (approx. 0.8 miles away)	05:30 – 21:00 Monday - Sunday
Lesh Lane Post Office (approx. 0.8 miles away)	08:00 – 20:00 Monday - Sunday
Lesh Lane Stores (approx. 0.8 miles away)	07:00 – 23:59 Monday - Sunday

The premises had previously held a premises licence from 2014 - 2021. This licence had authorised the supply of alcohol 06:00 - 00:00 Monday to Sunday and late night refreshment 23:00 - 05:00 Monday to Sunday. On 13th October, 2015 a minor variation had been submitted which removed the supply of alcohol from the licence, so the licence only authorised late night refreshment. The licence had then been surrendered on 10th May 2021.

On Friday 10th December, 2021 the Council had received two complaints that the premises had begun selling alcohol without an authorisation in place. Officers had advised the site operator that alcohol must not be sold without a valid authorisation. The alcohol had immediately been removed from sale and the premises had been visited to check compliance. Temporary Event Notices had subsequently been submitted to allow the sale of alcohol over the Christmas period.

Supporting documentation had been received from Licensing Matters representing Park Garage Group and had been circulated to the Sub-Committee on 4th January, 2022.

The objector had attended the meeting and addressed the Sub-Committee and raised his concerns.

The applicant's agent had attended the meeting and addressed the Sub-Committee and answered Members' questions and representations raised.

When considering applications, the Licensing Authority must have regard to:

- The Licensing Act and licensing objectives;
- Government guidance issued under Section 182 of the Licensing Act 2003;
- Any supporting regulations; and
- The Statement of Licensing Policy.

Revised guidance issued under Section 182 of the Licensing Act 2003 (Sections 2, 8 and 9) had been attached as appendices to the report.

The provisions of Section 10 of the statutory guidance highlighted that only precise, appropriate and proportionate conditions, which promoted one or more the licensing objectives, should be attached to the licence or certificate.

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings Regulations) 2005 (as amended) it was moved by Councillor McEwan and duly seconded to move into Part Two to enable a decision to be made as it was felt that holding discussions in public would, or would be likely to, inhibit substantially, the free and frank exchange of views for the purposes of deliberation. Private thinking space was essential to enable all facts, policies and legislation to be properly considered and appropriate legal advice obtained.

All parties with the exception of Councillors Biggins, Hall and McEwan, Paul O'Donnell (Legal Representative), Paula Westwood (Scrutiny and Democratic Services Team Leader) and Sandra Kemsley (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

RESOLVED:- To unanimously agree to grant the application for Park Garage Group PLC, Lakeland Service Station, Abbey Road, Barrow-in-Furness for the supply of alcohol (off the premises) Monday – Sunday 00:00 - 24:00 and late night refreshment (supply of hot food or hot drink) Monday – Sunday 23:00 - 05:00 as per the terms of the application dated 2nd November, 2021 which shall be subject to the conditions proposed at Section 18 of the application, subject to one alteration, namely Condition 3 which shall read:-

A CCTV system will be in operation at the premises recording each alcohol sale and general activity in the garage forecourt and parking areas; those recorded images shall be retained for a period of 31 days.

The full details of the decision would be confirmed to the parties to the hearing within 5 days.

All parties to the hearing were advised that they have a right to appeal the decision to the Magistrates Court within 21 days.

The meeting closed at 2.16 pm.