



BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Thursday, 11th May, 2023

PRESENT

MEMBERS Councillor Anne Kelly (in the chair)

Councillors K Ingham and D Whitaker

OFFICERS

Sajada Khan	– Litigation and Regulatory Solicitor
Karen Davies	– Environmental Health and Licensing Manager
Lisa Tempest	– Licensing Compliance Officer
Carol Eddleston	– Democracy Officer

ALSO IN ATTENDANCE

Carole Berry - Resident
Susan Brydges - Resident
Brenda Hegarty - Resident
Julie Hegarty - Resident
Charles Holland – Counsel for the applicant
Gill Sherratt – Licensing Matters
Rajkumar Palinisamy - Applicant
Jill Wolfendale – Environmental Health

1 Opening of Meeting at 11:00a.m. on Wednesday 26th April 2023

At the opening of the meeting it was confirmed that the applicant and their representative(a) were unable to attend the meeting.

RESOLVED: That in the interests of fairness and natural justice, the hearing of the application to vary the Premises licence of Padiham Service Station be adjourned to the **11th of May 2023 at 10.30am.**

2 Opening of meeting at 10:30a.m. on Thursday 11th May 2023

The reconvened meeting opened.

3 Apologies for Absence

There were no apologies for absence.

4 Declaration of Interest

There were no declarations of interest from anybody present in relation to the application under consideration.

5 Determination of a Premises Licence Application

The sub-committee considered a report relating to an application under section 34 of the Licensing Act 2003 (The Act) received from Park Garage Group PLC to vary a premises licence for Padiham Service Station, Burnley Road, Burnley Road, Burnley.

The variations requested were:

- To increase the sale of alcohol for consumption off the premises to 24 hours from Monday to Sunday inclusive from 0700 to 2200 Monday to Sunday
- To add late night refreshment between 2300 and 0500 Monday to Sunday
- To add specified conditions (section M of the application form at Appendix A).

During the prescribed period, representations had been received from Environmental Health and from nine members of the public.

Following presentation of the report by Lisa Tempest on behalf of the Licensing Authority, the applicant's Counsel, Mr Charles Holland, informed the sub-committee that the applicant wished to withdraw the application for a 24 hour premises licence and instead wished to seek to vary the existing licence as follows:

- To increase the sale of alcohol for consumption off the premises to 0600 to 0200 from Monday to Sunday inclusive (from 0700 to 2200 Monday to Sunday)
- To add late night refreshment between 2300 and 0200 Monday to Sunday
- To increase the opening hours on the face of the licence, from 0600 to 0200 from Monday to Sunday inclusive (from 0700 to 2200 Monday to Sunday)

At 10:59 Members RESOLVED to adjourn the meeting for 15 minutes to allow all parties time to consider the applicant's request to withdraw the application for a 24 hour premises licence and instead to vary the existing licence.

The meeting reconvened at 11:17.

Jill Wolfendale presented the case on behalf of Environmental Health which, she informed the meeting, she considered to be still valid in spite of the applicant's request to withdraw the application for a 24 hour premises licence and instead to vary the existing licence.

All parties had an opportunity to ask questions.

Mr Holland asked a number of questions on behalf of the applicant and Ms Wolfendale responded accordingly.

The residents present considered that their representations were still valid in spite of the applicant's request to withdraw the application for a 24 hour premises licence and instead to vary the existing licence.

Mr Heggarty made representations to the Sub-committee.

All parties had an opportunity to ask questions.

Members of the Sub-committee and Mr Holland asked a number of questions and Mr Heggarty responded accordingly.

Ms Berry made representations to the Sub-committee.

All parties had an opportunity to ask questions.

Members of the Sub-committee asked a number of questions and Ms Berry responded accordingly.

Ms Brydges made representations to the Sub-committee.

All parties had an opportunity to ask questions.

Members of the Sub-committee asked a number of questions for clarification purposes arising from Ms Brydges' representation to which Mr Holland responded.

Ms Tempest read out the written representations of objectors who were not in attendance.

Mr Holland, Mr Palinisamy and Ms Sherratt presented the applicant's case.

All parties had an opportunity to ask questions.

Members of the Sub-committee and their Legal Advisor asked a number of questions.

Mr Holland, Mr Palinisamy and Ms Sherratt responded accordingly.

At 13:07 Members RESOLVED to adjourn the meeting for 25 minutes for a comfort and refreshment break.

The meeting reconvened at 13:32.

Members of the public asked a number of questions.

Mr Holland, Mr Palinisamy and Ms Sherratt responded accordingly.

Each party was given an opportunity to sum up.

Members RESOLVED to go into private session to consider the request to vary the existing licence and to receive legal advice.

DECISION AND REASONS FOR DECISION

In coming to its decision, the Sub-committee had regard to Burnley Borough Council's Statement of Licensing Policy and Guidance issued by the Home Office under Section 182 of the Licensing Act 2003.

RESOLVED: that, having taken the above into consideration, and having carefully considered the representations of all parties, the application to VARY the licence with conditions be granted.

REASON FOR DECISION:

The reason for the decision was that, after considering the application, the revised hours, the additional conditions offered by the applicant at Appendix E and the representations of all parties, the Sub-committee determined to grant the VARIATION to the licence as follows in order to prevent public nuisance arising:

- (1) The premises opening hours are from 0600 until midnight Sunday to Thursday and from 0600 to 0200 Friday to Saturday.
- (2) The sale by retail of alcohol from 0600am until midnight Sunday to Thursday and 0600am to 0200am Friday to Saturday.
- (3) The provision of late-night refreshments from 2300 until midnight Sunday to Thursday and 2300 to 0200 Friday to Saturday.
- (4) The additional Operating Schedule conditions were amended to remove Condition 3 of Appendix E (the hatch) and a further condition imposed to prevent the use of forecourt machinery, other than pumps, to be used between 2200 and 0600.