

## REPORT TO LICENSING SUB-COMMITTEE



DATE	29 <sup>th</sup> January 2019
PORTFOLIO	Streetscene
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Licensing Act 2003 Determination of an application for a premises licence

## PURPOSE

- To consider an application received from Clau & Chris Limited for the grant of a premises licence under the Licensing Act 2003.  
**The application is attached at Appendix 'A'**
- The premises are European Foods, 260 Colne Road, Burnley, BB10 1DZ

The proposed designated premises supervisor (DPS) is PERSON A, XX XXXXXX Street, Burnley, BB10 XXX.

## RECOMMENDATION

- Members are recommended to make a determination with a view to promoting the licensing objectives.
  - The prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm

The committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- Grant the application as asked.
- Modify the conditions of the licence, by altering, omitting or adding to them.
- Reject the whole or part of the application

## REASONS FOR RECOMMENDATION

- Members of the Licensing Committee are responsible for determining such applications.

## SUMMARY OF KEY POINTS

5.

The application is for a premises licence under Section 17 of the Licensing Act 2003

The licensable activities applied for are:

The sale of alcohol for consumption off the premises.

The proposed hours that the premises would be open for the sale of alcohol are:

00.00hrs to 2359hrs Monday to Sunday (24hrs)

In December 2017 the Licensing Sub Committee considered a review application submitted by Trading Standards in relation these premises, the application from Trading Standards followed a lengthy history of illegal activity surrounding trade in illicit products. The committee determined that the Premises Licence be revoked. Following an appeal the magistrate's court upheld the decision and dismissed the appeal on the 16<sup>th</sup> August 2018.

Representations have been received from Lancashire Trading Standards Service, the representation relates to recent visits to the premises in August 2018 resulting in further seizures of illicit tobacco. Further concerns have also been expressed in relation to the previous owners still being involved with the applicant. **(Details of the representation are appended in appendix 'B' )**

Representations have also been received from Lancashire Police these relate to joint visits with Trading Standards and Burnley Council in August 2018 where evidence of un authorized sales of alcohol was found at the premises and quantities of alcohol seized. **(Details of the representation are appended in appendix 'C' )**

Further representations have been received from Public Health Lancashire surrounding the negative impact the grant of this application would have on the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives. **(Details of the representation are appended in appendix 'D' )**

Representations have also been received from the Burnley Councils' Licensing Unit in relation to a test purchase which took place at the premises on the 9<sup>th</sup> January 2019 when alcohol was illegally sold by the Designated Premises Supervisor named in this application. Legal proceedings are currently being considered in relation to this offence. **(Details of the representation are appended in appendix 'E' )**

A representation has been received from Burnley Councils' Streetscene Solicitor in relation to the service of a Community Protection Warning Notice on the responsible person at the premises outlining the ASB concerns and the steps that the council required him to take to mitigate those concerns. **(Details of the representation are appended in appendix 'F' )**

Members are reminded that representations are only relevant if they relate to one or more of the 4 licensing objectives which are:

- PREVENTION OF CRIME & DISORDER
- PUBLIC SAFETY
- PREVENTION OF PUBLIC NUISANCE
- PROTECTION OF CHILDREN FROM HARM

A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

If this Committee approves the application the licence would be granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

The applicants have, in their operating schedule, detailed what steps they intend to take to promote the four licensing objectives. Compliance with this schedule becomes a condition of any licence granted. Those steps are:

- a) All staff will be trained before making sales of alcohol in their responsibilities under the Licensing Act 2003. Refresher training will take place at 6 monthly intervals. All training will be documented and made available to the authorities on reasonable request.
- b) A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 28days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA
- c) An incident register will be maintained at the premises and made available to the authorities on request
- d) All staff at the store will be trained in how to manage any person who they suspect may create a public nuisance in the area of the store. Such people will be asked to leave the area quietly (if safe to do so) an entry will be made in the incident register.

Notices of a hearing have been sent to the applicant and to each of the persons from whom the licensing authority has accepted a representation.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

6. None

## **POLICY IMPLICATIONS**

7. The following paragraphs from Burnley Borough Council’s Statement of Licensing Policy 2016 – 2021 are relevant to this application:

3.1 We will promote the 4 licensing objectives, namely

- the prevention of **crime and disorder**
- **public safety**
- the prevention of **public nuisance**; and
- the **protection of children** from harm, and all our decisions will reflect these objectives.

3.2 We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises. Licensing law is not a mechanism for the general control of anti-social behavior by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.

3.7 Under the Crime and Disorder Act 1998, the authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder. Where its discretion is engaged, the authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Lancashire County Council Community Safety Action Plan and any local community safety priorities or emerging threats identified Burnley Community Safety Delivery Group (MATAC)

3.8 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.

9.1 The authority may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.

9.2 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

## DETAILS OF CONSULTATION

8. The statutory consultation has taken place

**BACKGROUND PAPERS**

9. Burnley Borough Council Statement of Licensing Policy.  
Licensing Act 2003.

**FURTHER INFORMATION****PLEASE CONTACT:****John Yardley ext 249067**