

REPORT TO LICENSING SUB-COMMITTEE



DATE	Friday 21st February 2020
PORTFOLIO	Governance, Law & Regulation
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Licensing Act 2003 application to vary the Premises Licence
Lowerhouse Mills Function Room, Lowerhouse Lane, Burnley.

PURPOSE

1. To consider an application received from Christopher Anthony GORTON and Kirk Leigh GORTON to vary a premises licence under the Licensing Act 2003.
2. The premise is Lowerhouse Mills Function Room, Lowerhouse Lane to be known as Lowerhouse Pub Canteen.

A copy of the application is attached at Appendix A

RECOMMENDATION

3. 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:

- To grant the application, subject to the mandatory conditions and conditions consistent with the operating schedule;
- To impose additional relevant conditions to such an extent as is considered appropriate for the promotion of the licensing objectives;
- To exclude any of the licensable activities to which the application relates
- To amend the times for all or some of the licensable activities;
- To refuse the application

REASONS FOR RECOMMENDATION

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

SUMMARY OF KEY POINTS

5. **Variation application** – The application is for variation of a premises licence under section 34 of the Licensing Act 2003.

The variation applied for is:

- To extend the area for which Licensable Activities can take place
- To have the hours and days for Licensable activity as outlined in the application

To give some background there is a Club Premises Certificate in place for the Lowerhouse Mills Club and this is for the whole of the building - this is attached at Appendix B

There is also a Premises Licence for part of the building – the Lowerhouse Mills Function Room – this is attached at appendix C

The applicants want to change the premises to a 'Pub', to do this they need to extend the area to which their existing Premises Licence covers to include the whole building. If this is successful then they have the option to surrender the Club Premises Certificate.

Copies of the application were sent to all Responsible Authorities and there were no objections from any of these.

So there were no representations from the Lancashire Constabulary in respect of this application.

The Environmental Health Department of Burnley Council did engage in early discussions with the applicant and this resulted in some changes to the application.

As a result there are no representations from that agency or any other responsible authority.

There were several representations made from local residents, these are listed (in no particular order) below;

Representation	2
Representation	3
Representation	4
Representation	5
Representation	6
Representation	7
Representation	8
Representation	9
Representation	10
Representation	11
Representation	12
Representation	13
Representation	14
Representation	15
Representation	16

The applicant has been given all details of the people making the representations above with the exception of Representations 15 and 16. Their names and addresses are not included in this document as they have been redacted. There was a Representation 1 but this was withdrawn

Full details of the representations are attached at Appendix 'D' of this report, they are listed as Appendix D and the number above.

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 to vary, then licence would be amended and issued to the applicants

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.:

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:

1.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.

1.15 We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are met.

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 centred 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.

3.3 Licensing law is not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.

3.4 We will not deter an individual making an application and having that application judged on its individual merits.

3.5 We will not deter any person from making representations in respect of any application or seeking a review of a license.

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.

3.16 The authority will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.

7.1 We will consider each application upon its individual merits and the basis of any application will be the draft-operating schedule. We welcome risk assessment documents being submitted in which the licence applicant will specify how they will support the four licensing objectives.

7.2 Flexible licensing hours will be important to ensure that the concentration of customers leaving premises simultaneously are avoided, minimising the possible sources of friction at fast food outlets and taxi ranks, thereby reducing the potential for violence and disorder and fear of such.

7.3 We will avoid fixed or artificial early closing times, which produce peaks of disorder and disturbance by customers merging into the streets simultaneously. We will balance this with stricter conditions being expected in relation to noise control in areas of dense residential accommodation.

7.4 However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

7.6 The hours requested by the applicant will normally be approved where the applicant can show in their risk assessment and operating schedule that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area or undermine one or more of the licensing objectives.

7.7 Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party has the ability to object to the issue or variation of a licence or request a review of an existing licence.

7.8 The onus to provide the evidence will always be on the person or organisation making the objection or review application.

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.

9.3 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned

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).

The following extracts from the Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003, issued in 2018 are also relevant

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

DETAILS OF CONSULTATION

The statutory consultation has taken place

BACKGROUND PAPERS

9. Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.
Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003,
issued in 2018

FURTHER INFORMATION

PLEASE CONTACT:

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ALSO:

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