

REPORT TO LICENSING SUB-COMMITTEE

DATE	Tuesday 9 th June 2020
PORTFOLIO	Governance, Law & Regulation
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Licensing Act 2003 application for a New Premises Licence
Lowerhouse Pub Canteen, Lowerhouse Lane, Burnley.

PURPOSE

1. To consider an application received from Christopher Anthony GORTON and Kirk Leigh GORTON for a new Premises Licence for Lowerhouse Pub Canteen, under the Licensing Act 2003.
2. The premises is a New Application for a Premises Licence for Lowerhouse Pub Canteen. There is already a Premises Licence for Lowerhouse Club function room in the name of the applicants, and there is also a Club Premises Certificate for the Lowerhouse WM Club all at the same address.

There was a hearing held at Burnley Town Hall on Friday 21st February 2020 in respect of an application to vary the existing Premises Licence for the Lowerhouse Club function room. On this date a decision was made that the requested change was a substantial change so that application was withdrawn. This hearing is in relation to a new application for a Premises Licence.

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

The applicants have also cooperated with Burnley Council Licensing Officer John Clucas and have now had also to pay for two press advertisements for this application, and the previous one which was the subject of the hearing on the 21st February 2020.

There are four representations made from local residents

J [REDACTED], Burnley this is attached at Appendix D
[REDACTED], Burnley, this is attached at Appendix E and
[REDACTED] Burnley and this is attached at Appendix F
Resident 4 (personal details withheld in this report), and this is attached at Appendix G

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.

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

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