

**REPORT TO LICENSING SUB-COMMITTEE**



<b>DATE</b>	<b>Monday 21<sup>st</sup> June 2021</b>
<b>PORTFOLIO</b>	Community & Environment
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Licensing Act 2003 application for a New Premises Licence  
Burnley Bargain Foods, 54 Church Street, Burnley.

**PURPOSE**

1. To consider an application received from Burnley Bargain Foods Ltd for a new Premises Licence for Burnley Bargain Foods, The basement 54 Church Street, Burnley, under the Licensing Act 2003.
2. 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. **New Premises Licence Application** – The application is for new premises licence under the Licensing Act 2003.

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

There are two representations made from individuals who have business interests adjacent to the address where the applicant will trade from.

Mubashar Lone is the owner and has a Premises Licence for 52 Church Street, Burnley. The representation from Mr Lone is attached at Appendix B  
Fiyaz Ahmed operates Burnley & Crown Taxis which has an office base near to the applicants premises  
The representation from Mr Ahmed is attached at Appendix C

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

2020 – 2025 are relevant to this application:

1.10 We will endeavour to carry out our licensing functions in a way that:

- ensures public safety
- supports well managed premises where licence holders who seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
- protects residents' quality of life.

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.

3.5 We will not deter any person from making representations in respect of any application or seeking a review of a license. Where a representation is received which is not from a responsible authority the licensing authority will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.

Relevant representations are representations:

- about the likely effect of the premises licence on the promotion of the licensing objectives;
- which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.

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

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

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:**

**Karen Davies ext 249058**