

REPORT TO LICENSING SUB-COMMITTEE



DATE	26th April 2023
PORTFOLIO	Community & Environment
REPORT AUTHOR	Lisa Tempest
TEL NO	01282 425011
EMAIL	licensing@burnley.gov.uk

Licensing Act 2003 application to Vary a Premises Licence
Padiham Service Station, Burnley Road, Burnley

PURPOSE

1. To consider 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.
2. A copy of the application is attached at Appendix A, together with a copy of the current premises licence and plan at Appendix B.

RECOMMENDATION

3. Members are recommended to make a determination under section 35 of the Act 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;
- To modify the conditions of the licence, (ie alter, omit or add new conditions), to such an extent as are considered appropriate for the promotion of the licensing objectives;
- To reject the whole or part of the application.

The licence will remain subject to the Mandatory Conditions laid out in the Act.

REASONS FOR RECOMMENDATION

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

SUMMARY OF KEY POINTS

5. An application to vary the premises licence under the Licensing Act 2003 was received by the Licensing Authority on 27th February 2023.

Details of the variations requested are detailed in the application form and they are summarised as follows:

- To vary the hours for the sale of alcohol. The current licence permits the sale of alcohol for consumption off the premises from 7am to 10pm Monday to Sunday. The application seeks to change/increase the sale of alcohol for consumption off the premises to 24 hours Monday to Sunday inclusive.
- To add late night refreshment between 11pm and 5am Monday to Sunday
- To add specified conditions (section M of the application form at Appendix A)

Copies of the application were sent to all Responsible Authorities.

During the prescribed period, representations were received from the Environmental Health Officer on 23/02/2023 and they are included at Appendix C.

Relevant representations were also received within the prescribed period from 9 individuals and copies of those representations are attached at Appendix D.

Members are reminded that representations are relevant where they relate to the likely effect of the grant of the application on 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

The applicant has, at section M, detailed the steps they intend to take to promote the four licensing objectives. This schedule is incorporated into the licence as conditions when a licence is granted. Sub-Committee can modify, i.e. alter, omit or add to these conditions following a hearing.

Notice of a hearing has 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 2022 – 2027 are relevant to this application:

1.2 The policy sets out how the Licensing Authority will carry out those functions and make licensing decisions. Departures from this policy may be appropriate in exceptional situations depending on the individual circumstances of the case. The aim of this policy is to outline how the Licensing Authority intends to apply the licensing regime to promote a vibrant entertainment and cultural industry that boosts the local economy, whilst securing the safety and amenity of residential and business communities and enhancing community wellbeing.

1.4 The licensing function is carried out with a view to promoting the four licensing objectives which are:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each licensing objective has equal importance.

1.5 Licensing functions will be discharged with integrity and objectivity, and in accordance with the Equality Act 2010. As required, each application will be considered on its own individual merits. Unless representations are received an application must, and will, be granted in the terms sought, i.e. in accordance with the licensable activities applied for, the licensed hours applied for, the operating schedule and mandatory conditions.

1.6 The 2003 Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. It is recognised that the Act is not the primary mechanism for controlling nuisance by individuals once they are away from the premises, and beyond the control of the holder of a licence, club certificate or temporary event authorisation.

1.8 The Licensing Authority is committed to cooperative, partnership working with the trade, police, fire and rescue service, Responsible Authorities, Burnley Business Improvement District, local businesses, residents and others to promote the licensing objectives.

The following extracts from the Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003, issued in 2022 are also relevant:

9.12 Each responsible authority will be an expert in their respective field, and in some cases, it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing

authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

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.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

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 2022.

FURTHER INFORMATION

PLEASE CONTACT:

Lisa Tempest at licensing@burnley.gov.uk

ALSO:

Karen Davies at licensing@burnley.gov.uk