

REPORT TO LICENSING SUB-COMMITTEE

DATE	15th March 2018
PORTFOLIO	Governance, Law & Regulation
REPORT AUTHOR	John Yardley
TEL NO	0114 3999067
EMAIL	jyardley@burnley.gov.uk

Licensing Act 2003 Determination of an application for a review of a premises licence

PURPOSE

1. To advise members of the requirement to determine an application for review under Section 52 of the Licensing Act 2003.
2. The premises are Lifestyle Express (Anglesey Off Licence) 5 Anglesey Avenue, Burnley, BB12 6AY

RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding three months; or
- e. to revoke the licence.

REASONS FOR RECOMMENDATION

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

SUMMARY OF KEY POINTS

5. The Licensing Objectives are:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm

The premises currently hold a licence which authorises the supply of alcohol for consumption OFF the premises Monday to Sunday from 8.00am to 11.00pm.

The holder of the premises licence and Designated Premises Supervisor is Humera Zafar.

Conditions attached to the licence:

ANNEX 1 – Mandatory conditions

The licence is 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.

ANNEX 2 - Conditions consistent with the Operating Schedule

CCTV will be installed and maintained at the premises in accordance with the minimum requirements of Lancashire Constabulary, namely:

The licensed area of the premises shall be equipped with a Closed Circuit Television system (CCTV), which should comply with the following criteria:

1. It will record to a Digital Video Recorder (DVR), with an evidential burn to Cassette Disc (CD) with software facility.
2. The system will be maintained in proper working order. Any faults will be rectified Without delay.
3. It will be a colour system and will display on any recording the time and date of the recording.
4. The system will be operated during all permitted hours.
5. Recordings will be held for 28 days; thereafter the DVR can be allowed to overwrite if desired.
6. The 28 day recorded data to be made available to police or local authority licensing officers for inspection and retention on request.
7. Camera's shall be sufficient in number to view point of sale, stock, staff, customers, street exit/entry and shall cover the rear door and yard.
8. CCTV cameras will be robust and conspicuous in presence.
9. Clear signage deployed to indicate CCTV use both prior to entry and whilst

A Refusals register will be maintained at the premises and completed on each occasion a refusal of alcohol is made. The Register will be checked and signed by the DPS or Premises Licence Holder on a monthly basis and will be made available to the Authorities on request.

All staff will be trained before making sales of alcohol, within their responsibilities under the LA2003.

All training will be documented, refreshed every quarter and will be made available to the Police & Authorised Officers of the Council upon request.

Any person who looks or appears to be under the age of 21 shall be asked to provide suitable identification that they are over the age of 18.

Signage will be displayed at the premises informing customers that a "Challenge 21" scheme is in operation.

The full existing premises licence is appended at Appendix 'A'.

- 6 On the 18th January 2018, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of Lifestyle Express, 5 Anglesey Avenue, Burnley. The grounds for the application being that the licensing objectives relating to the prevention of crime and disorder and the protection of children from harm are not being observed at the premises.

Trading Standards say that a lengthy history of illegal activity at the premises represents a flagrant and systematic disregard for the relevant licensing objectives.

The trade in illicit tobacco products has been discovered on more than one occasion. A recent history of underage sales of both alcohol and tobacco have been recorded whilst the sale of alcohol to a 14 year old child ended in near fatal circumstances.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for Lifestyle Express (Anglesey Off Licence).

The review application submitted by Trading Standards is appended at Appendix 'B'.

The Licensing Authority has received representations from Lancashire Police with regards to the application submitted by Trading Standards. Details of these representations are contained in the document provided by Police Sergeant Jason Middleton from Lancashire Police which is appended at Appendix 'C'.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. None

POLICY IMPLICATIONS

8. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy are relevant to this application:

1.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

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

- ensures public safety
- supports well managed premises where licence holders 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.

3.28 This Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Lancashire Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, responsible retail training, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

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)

14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.

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

9. The statutory consultation has taken place.

BACKGROUND PAPERS

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

Home Office Guidance issued under Section 182 of the Licensing Act 2003

FURTHER INFORMATION

PLEASE CONTACT:

John Yardley ext 249067

ALSO:

Peter Henderson ext 249061