

REPORT TO LICENSING SUB-COMMITTEE



DATE	5 th June 2018
PORTFOLIO	Governance, Law & Regulation
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Licensing Act 2003 Determination of an application for a premises licence

PURPOSE

- To consider an application received from Anthony Jack Edwards for the grant of a premises licence under the Licensing Act 2003.
The application is attached at Appendix 'A'
- The premises are Sycamore Convenience Store, 5 Anglesey Avenue, Burnley, BB12 6AY

The proposed designated premises supervisor (DPS) is Benjamin James, 22 Kiddrow Lane, Burnley, BB12 6LH.

RECOMMENDATION

- 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:

- Grant the application as asked.
- Modify the conditions of the licence, by altering, omitting or adding to them.
- Reject the whole or part of the application

REASONS FOR RECOMMENDATION

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

SUMMARY OF KEY POINTS

5.

The application is for a premises licence under Section 17 of the Licensing Act 2003

The licensable activities applied for are:

The sale of alcohol for consumption off the premises.

The proposed hours that the premises would be open for the sale of alcohol are:

07.00hrs to 22.00hrs Monday to Friday and 09.00hrs to 21.00hrs on Saturday to Sunday

A representation have been received from Lancashire Trading Standards Service, the representation relates to a past history of the premises failing to meeting the Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives. Concerns have also been expressed in relation to the previous owners still being involved with the applicant.

In March 2018 the Licensing Sub Committee considered a review application submitted by Trading Standards in relation these premises, the previous owners chose to surrender the premises licence prior to the hearing, hence the new application for a premises licence by Mr Edwards.

Full details of the representation and a copy of the review application are attached at Appendix 'B' of this report

The applicant has responded to the representation from Trading Standards.

Details of Mr Edwards response is attached at Appendix 'C' of this report.

No representations have been received from interested parties or other responsible authorities.

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 representation received from Standards is deemed relevant owing to the premises having a history of failing to meet the Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives.

If this Committee approves the application the licence would be 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.

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. Those steps are:

- a) All staff will be trained to understand their responsibilities with regards to the sale of alcohol by retail. Records of all staff training will be maintained and updated accordingly every 12 months.
- b) A 6 camera CCTV system is in place covering all licensed areas. There will be a monitor positioned where it can be viewed by customers. The system will remain in use when the premises are being used for licensable activities and during all times customers remain on the premises. All recordings will be stored for a minimum of 31 days and will be available to be accessed on site if required. Any images will be made available to any authorised officers or responsible authorities upon request. The premises licence holder will ensure that the system is maintained at regular intervals to ensure the system is always working correctly. A record will be kept detailing all refused sales of alcohol. These will be made available on request to the police or any authorised officers from any responsible authorities, at all times the premises are open.
- c) The premises will be maintained in a safe manner at all times. All exits will be cleared of hazards. All staff will be trained in emergency procedures and records maintained.
- d) All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas in a clean and presentable manner at all times.

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:

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 centered 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. Licensing law is not a mechanism for the general control of anti-social behavior by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.

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)

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.

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.

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

8. The statutory consultation has taken place

BACKGROUND PAPERS

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

FURTHER INFORMATION

PLEASE CONTACT:

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ALSO:

Peter Henderson ext 249061