

# **BOROUGH OF BARROW-IN-FURNESS**

## **LICENSING COMMITTEE**

Meeting, Thursday 3rd January, 2013  
at 2.00 p.m.

### **A G E N D A**

#### **PART ONE**

1. To note any items which the Chairman considers to be of an urgent nature.
2. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.
3. Admission of Public and Press  
  
To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.
4. Declarations of Interest  
  
To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.  
  
Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).  
  
Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.
5. Apologies for Absence/Attendance of Substitute Members.
6. To confirm the Minutes of the meeting held on 22nd November, 2012 and to note the Minutes of the Licensing Sub-Committees held on 8th November and 4th and 10th December, 2012 (copies attached).

## **FOR DECISION**

### **Environmental Health Manager's Reports**

(D) 7. Taxi Licensing Working Party.

#### **Membership of Committee**

Callister (Chairman)  
Irwin (Vice Chairman)  
Biggins  
Graham  
W. McClure  
Maddox  
Opie  
Pemberton  
Roberts  
Seward  
C. Thomson  
Wall

**For queries regarding this agenda, please contact:**

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# **BOROUGH OF BARROW-IN-FURNESS**

## **LICENSING COMMITTEE**

Meeting: 22nd November, 2012  
at 2.00 p.m.

PRESENT:- Councillors Callister (Chairman), Irwin (Vice-Chairman), Biggins, Maddox, Opie, Richardson, Roberts, Seward, Sweeney, C. Thomson and Wall.

### **33 – The Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985 and Access to Information (Variation) Order 2006**

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act, 1972 the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 2 and 7 (Minute Nos. 42-45) of Part One of Schedule 12A of the said Act.

### **34 – Declarations of Interest**

Councillor Biggins declared an other registrable interest in Agenda Item No. 11 – Barrow Amalgamated Engineers Club and Trades Club – Withdrawal of Club Premises Certificate (Minute No. 41) as he was a member of the Engineers Club.

Councillor Richardson declared an other registrable interest in Agenda Item No. 13 – Hackney Carriage Driver Renewal Application (Minute No. 43) as the applicant was known to him. He left the meeting during consideration of this item.

Councillor D. Roberts declared an other registrable interest in Agenda Item No. 13 – Hackney Carriage Driver Renewal Application (Minute No. 43) as the applicant was known to him. He left the meeting during consideration of this item.

Councillor C. Thomson declared an other registrable interest in Agenda Item No. 11 – Barrow Amalgamated Engineers Club and Trades Club – Withdrawal of Club Premises Certificate (Minute No. 41) as he was a member of the Engineers Club.

### **35 – Apologies for Absence/Attendance of Substitute Members**

Apologies for absence were submitted from Councillors Graham, W. McClure and Pemberton.

Councillors Sweeney and Richardson had replaced Councillors Graham and W. McClure respectively for this meeting only.

### **36 – Minutes**

The Minutes of the meeting held on 11th October, 2012 were taken as read and confirmed.

### **37 – Licensing Sub-Committee Minutes**

The Minutes of the Licensing Sub-Committee held on 8th October, 2012 were noted.

### **38 – Application for Street Trading Consent – Flass Lane, Barrow-in-Furness**

The Environmental Health Manager reported that she had received a request from Mr Nathan Morgan trading as Hot “n” Saucy Catering to operate a catering trailer on land adjacent to Flass Lane/Riverside Gardens, Barrow-in-Furness between 8.30 a.m. and 4.30 p.m. on Wednesdays and Thursdays.

The Environmental Health Officer reported at the meeting that the applicant had informed her that he wished to withdraw this application.

RESOLVED:- That the position be noted.

### **39 – Application for Street Trading Consent – School Street, Barrow-in-Furness**

The Environmental Health Manager reported that she had received a request from Mr Nathan Morgan trading as Hot “n” Saucy Catering to operate a catering trailer on land adjacent to School Street, Barrow-in-Furness between 8.30 a.m. and 4.30 p.m. on one Sunday each month which coincided with the local auction house operations. Standard conditions for street trading consents within the Borough stated that the trader must operate his/her business on a mobile basis and could, therefore, stop only ten minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.

To enable Mr Morgan to trade, the ten minute rule would need to be relaxed. No comments had been received from consultees.

Mr Morgan attended the meeting to address the Committee and answered Members' questions.

RESOLVED:- That the relaxation of the ten minute rule be approved and that consent be issued subject to no objections being received from consultees.

### **40 – Application for Street Trading Consent – James Freel Close, Barrow-in-Furness**

The Environmental Health Manager reported that she had received a request from Mr Nathan Morgan trading as Hot “n” Saucy Catering to operate a catering trailer on James

Freel Close, Barrow-in-Furness between 8.30 a.m. and 5.00 p.m., Monday to Friday. Standard conditions for street trading consents within the Borough stated that the trader must operate his/her business on a mobile basis and could, therefore, stop only ten minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.

To enable Mr Morgan to trade, the ten minute rule would need to be relaxed. No comments had been received from consultees.

Mr Morgan attended the meeting to address the Committee and answered Members' questions.

RESOLVED:- That the relaxation of the ten minute rule be approved and that a Street Trading consent be issued.

#### **41 – Notice of Withdrawal of Club Premises Certificate (CP003) – Barrow Amalgamated Engineers and Trades Club, 48 Abbey Road, Barrow-in-Furness**

The Environmental Health Manager reported that the above Club had held a Club Premises Certificate since 24th November, 2005. This was a requirement under the Licensing Act 2003 if a Club wanted to supply alcohol or provide regulated entertainment. In order for a Club to obtain such a certificate it must be established and conducted "in good faith" and also satisfy the criteria for it to be classed as a "qualifying club". It had come to her attention that the above mentioned Club was not complying with the following Sections of the Licensing Act 2003:-

- 1) Section 63 required that a Club was established and conducted "in good faith" - a consideration under this Section referred to "any arrangements restricting the Club's freedom of purchase of alcohol". The Engineers Club had confirmed that it is currently tied into a contract with a brewery which contravened this requirement. A further consideration in this Section related to giving members of the Club information about the Club's finances and keeping the Club's accounts to ensure the accuracy of financial information. Officers had advised her that the Club was not complying with these requirements.
- 2) Section 62 required that a Club had to be classed as a "Qualifying Club" and therefore had to satisfy specified conditions, one of which was that a Club was established and conducted "in good faith". Because of the contraventions relating to Section 63 outlined above, the Club could not be classed as a "Qualifying Club".

The Licensing Officer and PC John Irving met with the Club's secretary on 21st August, 2012 to discuss the issues of non compliance stated above as well as the mismanagement of the Club. As a result, the Club was given 56 days to rectify the issues causing non compliance so it could again be classed as a "Qualifying Club" and keep its

Club Premises Certificate. The Club was also advised that because of the way it was operating, it may be more appropriate to apply for a premises licence for the sale of alcohol and regulated entertainment. This would allow the Club to operate with more freedom in that there would no longer be a restriction allowing only Club members and their bona fide guests to enter the premises.

In October 2012, the Licensing Officer contacted the Club Secretary because he had not received any information since the meeting in August 2012. As a result the Club Secretary advised that he would be applying for a premises licence and surrendering his club premises certificate. This application was received on 18th October, 2012 but at the time of writing her report it could not yet be deemed valid because the Club had not sent copies to all the Relevant Authorities or placed an advertisement in the local paper, despite frequent requests by Licensing Officers to do so.

The Club's Committee had been invited to today's meeting to provide information required to either prove the Club was compliant with the relevant criteria and was therefore a "Qualifying Club" or confirm that the Club wishes to surrender its club premises certificate. The Environmental Health Manager reported that she had received information that the Club were surrendering their certificate by notification by way of e-mail but she had not received this by the beginning of today's Committee therefore her recommendations remained the same.

When a Club didn't satisfy the criteria that would enable it to be classed as a "Qualifying Club", Section 90 of the Licensing Act 2003 stated that the Licensing Authority must give notice to the Club withdrawing the Club Premises Certificate.

RESOLVED:- That Members give notice to the Barrow Amalgamated Engineers and Trades Club and withdraw the Club Premises Certificate.

#### **42 – Private Hire Driver Renewal Application**

The Environmental Health Manager reported on an application she had received from a currently licensed private hire vehicle driver, Mr G. H. She submitted information which had been drawn to her attention concerning the applicant and set out details of the Committee's policies regarding such matters.

Mr G. H. attended the meeting and addressed the Committee. A Police Representative was also present.

RESOLVED:- That the application for the renewal of a Private Hire Driver's Licence be approved and a severe written warning be issued as to his future conduct.

#### **43 – Hackney Carriage Driver Renewal Application**

The Environmental Health Manager reported on an application for a renewal for a current Hackney Carriage Driver, Mr S. H. She submitted information which had been

drawn to her attention concerning the applicant and set out details of the Committee's policies regarding such matters.

Mr S. H. attended the meeting and addressed the Committee. A Police Representative was also present.

RESOLVED:- That the application for a Hackney Carriage Driver Renewal application be approved and a severe written warning be issued as to his future conduct.

#### **44 – Application for Private Hire/Hackney Carriage Driver**

The Environmental Health Manager reported on an application she had received for a Private Hire/Hackney Carriage Driver, Mr S. J. M. She submitted information which had been drawn to her attention concerning the applicant and set out details of the Committee's policies regarding such matters.

Mr S. J. M. attended the meeting and addressed the Committee. A Police Representative was also present.

RESOLVED:- That the application for a Private Hire/Hackney Carriage Driver's Licence be approved and a caution be issued in the form of a written warning.

#### **45 – Private Hire Driver Renewal Application**

The Environmental Health Manager reported on a renewal application for a current Private Hire Vehicle Driver, Mr R. O. She submitted information which had been drawn to her attention concerning the applicant and set out details of the Committee's policies regarding such matters.

Mr R. O. attended the meeting and addressed the Committee. A Police Representative was also present.

RESOLVED:- That the application for a renewal of the Private Hire Vehicle Driver's Licence be approved and a severe written warning be issued.

<b>REFERRED ITEM</b>
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<b>THE FOLLOWING MATTER IS REFERRED TO COUNCIL FOR DECISION</b>
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#### **46 – Gambling Act 2005 – Review of Statement of Gambling Policy**

The Environmental Health Manager reported that there was a legal requirement for the Borough Council to review their Statement of Gambling Policy under the requirements of the Gambling Act 2005 on a 3 yearly cycle. This review was last carried out in October 2009. A review of the policy had now been undertaken with consultations taking place as required.

The Environmental Health Manager attached as an appendix to her report a copy of the reviewed document showing changes and a summary of consultations received with appraisal and recommendations thereon.

Most of the amendments to the policy had resulted from changes in statutory guidance and regulations.

The review of the policy had been carried out in partnership with the other five Cumbria Licensing Authorities. This was to ensure consistency and to assist businesses and responsible authorities to carry out their work.

The effective date for the policy to come into force was 31st January, 2013 with the document being published and advertised four weeks prior to the effective date. The date of the next scheduled Council meeting where this policy could be approved was 22nd January, 2013 which was after the date for the document to be published. It would, therefore, be necessary for this matter to be referred to a Special Council meeting on 12th December 2012 for adoption as Borough Council Policy.

**RECOMMENDED:-** The Council approve the Statement of Gambling Policy for adoption as Borough Council policy.

The meeting closed at 2.57 p.m.



## LICENSING SUB-COMMITTEE

Meeting: 8th November, 2012  
at 10.25 a.m.

PRESENT:- Councillors Callister (Chairman), Irwin and Pemberton.

### **10 – The Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985 and Access to Information (Variation) Order 2006**

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act, 1972 the public and press be excluded from the meeting for the following item of business on the grounds it involved the likely disclosure of exempt information as defined in Paragraph 7 (Minute No. 12) of Part One of Schedule 12A of the said Act.

### **11 – Minutes**

The Minutes of the meeting held on 8th October, 2012 were taken as read and confirmed.

### **12 – Application for a Premises Licence – 36 Cavendish Street, Barrow-in-Furness**

The Environmental Health Manager submitted a report for an application for a Premises Licence at 36 Cavendish Street, Barrow-in-Furness from Mr M. K. The application was to allow late night refreshments from 23.00 – 05.00 hours.

The application had been advertised as required by statute for a 28 day period and had also been copied to the relevant responsible authorities.

The Environmental Health Manager reported to the Sub-Committee that relevant representations had been received from Cumbria Constabulary and two businesses in the vicinity of the premises. A copy of the application together with a copy of the representations were appended to the report.

**The applicant, Mr M. K. along with two other representatives, Mr Y. D. and Mr A. K. attended the meeting and addressed the Sub-Committee and answered Members questions.**

**Sergeant McIntosh and P. C. Irving from the Police Authority also addressed the Sub-Committee and answered Members questions.**

**Representatives from businesses within the vicinity, namely Ms A. O., Ms T. R. and Ms S. M. also addressed the Sub-Committee and answered Members questions.**

RESOLVED:- That in accordance with Section 100A (4) of the Local Government Act 1972 and Access to Information (Variation) Order 2006, members of the public (including the press) be excluded from the meeting during the deliberations of the Sub-Committee, on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 of Part One of Schedule 12A of the said Act.

**The public withdrew and were re-admitted to the meeting following the Sub-Committee's deliberations.**

RESOLVED:- That the Sub-Committee grant the application for a Premises Licence at 36 Cavendish Street, Barrow-in-Furness subject to the following appropriate conditions (requested by the Police Authority) being included in the operating schedule of the premises licence:-

- The premises are to operate an effective and tamper proof CCTV system which will be maintained in good working order and used to record at all times the premises is open for business.
- CCTV must cover the external curtilage of the premises and all internal public areas.
- All external access doors to be covered by CCTV at recognition / identification standard as per Cumbria Constabulary's operational guide.
- Register CCTV system with Information Commissioners Office
- The system must have audio recording capability and be used when the premises is open to the public.
- Adequate external lighting of the premises will be maintained so as to be compatible with the requirements of the CCTV system in place.
- Clear signage stating the above is in operation
- The recording medium (e.g. discs / tapes / hard drive etc) and associated images will be retained and securely stored for a minimum period of 14 days and will be made available to the Police and Authorised Officers of the Licensing Authority upon request.
- At all times when the premises are open there shall be present in the premises a member of staff who is trained in the operation of CCTV installed at the premises and downloading of data images onto a recording format. Any

images required for police investigation will be supplied to police officers on demand or by close of business at the latest.

- No person in possession of an alcoholic drink in a sealed or unsealed container shall be allowed to enter the premises.

The Sub Committee added that the conditions, suggested by the Police Authority, relating to the use of SIA door staff in the premises could be applied at a future date if crime and disorder was linked to the premises.

The Sub-Committee arrived at this decision having considered personal statements and representations made by all parties and after being referred to the Council's Statement of Licensing Policy.

The meeting closed at 11.25 a.m.

## LICENSING SUB-COMMITTEE

Meeting: 4th December, 2012  
at 2.00 p.m.

PRESENT:- Councillors Callister (Chairman), Irwin and Pemberton.

### **13 – The Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985 and Access to Information (Variation) Order 2006**

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act, 1972 the public and press be excluded from the meeting for the following item of business on the grounds it involved the likely disclosure of exempt information as defined in Paragraph 7 (Minute No. 15) of Part One of Schedule 12A of the said Act.

### **14 – Minutes**

The Minutes of the meeting held on 8th November, 2012 were taken as read and confirmed.

### **15 – Application to Transfer Designated Premises Supervisor – Licensing Act 2003**

The Environmental Health Manager reported on an application made by Mr M. W. for a Transfer of Designated Premises Supervisor at the Bridge Inn, Dalton-in-Furness under the Licensing Act 2003.

The Environmental Health Manager reported to the Sub-Committee that relevant representations had been received from Cumbria Constabulary. A copy of the application together with a copy of the representations were appended to the report.

**The applicant attended the meeting to address the Sub-Committee and answer Members questions. It became apparent when Mr M. W. came to make his representations that he hadn't received a copy of the report. The Environmental Health Manager confirmed the report had been sent to Mr M.W. A copy of the report was provided to Mr M. W. and he was given an opportunity to read through the documentation. He stated that had he received this information earlier, he would have brought legal representation along to the meeting with him.**

RESOLVED:- That consideration of this application be adjourned and reconvened at a future date to enable Mr M. W. to bring legal representation along.

The meeting closed at 2.12 p.m.

## LICENSING SUB-COMMITTEE

Meeting: 10th December, 2012  
at 10.00 a.m.

PRESENT:- Councillors Irwin, Pemberton and Seward,

### **16 – Appointment of Chairman**

It was;

RESOLVED:- That Councillor Irwin be appointed as chair for this meeting only.

COUNCILLOR IRWIN IN THE CHAIR

### **17 – Declarations of Interest**

Councillor Irwin declared an other registrable interest in Agenda Item No. 7 – Application for Premises Licence – Tesco Stores, 37-39 Ocean Road, Barrow-in-Furness as she knew one of the objectors.

### **18 – Minutes**

The Minutes of the meeting held on 4th December, 2012 were taken as read and confirmed.

### **19 – Application for Premises Licence – Tesco Stores Limited, 37-39 Ocean Road, Barrow-in-Furness.**

The Environmental Health Manager submitted a report regarding an application which had been made by Tesco Stores Limited (Registered Office, Tesco House, Delamare Road, Cheshunt, Hertfordshire) for a Premises Licence for 37-39 Ocean Road, Barrow-in-Furness.

The application was to allow the supply of alcohol on the premises from 06.00 until 23.00, Monday to Sunday. A copy of the application was attached as an appendix to the Environmental Health Manager's report.

The application had been advertised as required by statute for 28 days and had also been copied to relevant responsible authorities.

The Environmental Health Manager reported that representations had been received from two schools in the vicinity of the premises. Copies of these representations were attached as an appendix to the report.

Also attached as an appendix was a map showing the location of the premises.

The Environmental Health Manager also attached paragraphs from the National Guidance (2012 Revision) and the Licensing Policy 2010 to assist Members in their decision making.

**A representative for the applicant, Mr Chris Rees-Gay (Solicitor) attended the meeting and addressed the Sub-Committee and answered questions by Members and the objectors. Also in attendance with Mr Rees-Gay were Mr John Hooper, Operations Manager and Mr John Fern, Store Manager.**

**Mrs N. McKinnell, Headteacher, South Walney Infants and Nursery School and Miss J. Dowker, Headteacher, South Walney Junior School also addressed the Sub-Committee and answered questions by Members and the applicants.**

Following the representations all parties gave closing statements.

RESOLVED:- That in accordance with Section 100A(4) of the Local Government Act 1972 and Access to Information (Variation) Order 2006 members of the public (including the press) be excluded from the meeting during the deliberations of the Sub-Committee, on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part One of Schedule 12A of the said Act.

**The public withdrew and were re-admitted to the meeting following the Sub-Committee's deliberations.**

RESOLVED:- The Sub-Committee considered the application from Tesco and the representations from the schools very carefully and its decision was as follows:-

That the application to allow Tesco to sell alcohol from 6am to 11pm on Monday to Sunday be granted. In coming to this decision the Sub-Committee took the following into account:-

1. The Police did not object to the application and there was no evidence of crime and disorder;
2. With regard to litter – the Sub-Committee took account of Tesco's promise to keep the local area clean and tidy;
3. The store previously occupying the site sold alcohol and there was no evidence of children being harmed or complaints of rowdy behaviour;
4. There have been no objections from local residents to the application; and
5. The store will be using CCTV both inside and outside the premises.

The Sub-Committee were mindful that if any problems occur which can't be resolved by Tesco Management they could be dealt with under powers contained in the Licensing Act 2003.

The Sub-Committee came to this decision having regard to national guidance, its own Licensing Policy and believe its decision is in line with the 4 Licensing Objectives.

The Chair of the Sub-Committee confirmed that the Licensing Authority would write to all parties confirming the decision within 5 working days. She added that if any party was aggrieved by the decision they have the right of appeal to the Magistrates Court within 21 days of the decision being made.

The meeting closed at 11.16 a.m.

<b>LICENSING COMMITTEE</b>	<b>(D) Agenda Item 7</b>
<b>Date of Meeting: 3rd January, 2013</b>	
<b>Reporting Officer: Environmental Health Manager</b>	
<b>Title: Taxi Licensing Working Party</b>	
<b>Summary and Conclusions:</b>	
This report seeks nominations for membership on a task and finish working party to consider a number of taxi issues.	
<b>Recommendation:</b>	
<ol style="list-style-type: none"><li>1. That nominations for a Taxi Licensing Working Party be sought on a proportionate basis, 3 from the Labour Group and 1 from the remaining members of Licensing Committee; and</li><li>2. That the Taxi Licensing Working Party establish a programme of work on a task and finish basis and report back to Licensing Committee in the first quarter of 2013.</li></ol>	

**Report**

Members will be aware that at the Licensing Committee meeting of the 11th October, 2012 it was resolved to retain the current limit on hackney vehicle numbers and to consider taking actions to retain a viable hackney carriage rank based trade, including improved differentiation of vehicles, improved standards and development of better ranking provision within licensing taxi vehicles through the establishment of a Working Party.

Advice was recently obtained from the Democratic Services Manager on the appropriate proportionality and make up of a Taxi Licensing Working Party and I understand that, based on the current principals established when nominations to Outside Bodies was considered at the beginning of the current Civic Year, that 3 nominations from the Labour Administration and 1 nomination from the remaining Members of the Licensing Committee would be appropriate.

In order to ensure that the Taxi Licensing Working Group is able to focus on agreed matters I would advise that a programme of work be established on a task and finish basis with the intention of reporting back to Licensing Committee in the first quarter of 2013.



Your nominations are requested for the Working Group.

Background Papers

Nil