

BOROUGH OF BARROW-IN-FURNESS

LICENSING COMMITTEE

Meeting, Thursday 18th May, 2017
On rising of the Licensing Regulatory
Committee (Drawing Room)

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 1st September, 2016 and to note the Minutes of the Licensing Sub-Committee held on 21st July, 2016 (copies attached).

FOR DECISION

- (D) 7. **Appointments on Outside Panels, Working Groups etc.**

Membership of Committee

Membership of the Committee to be appointed at the Annual Council meeting on 16th May, 2017.

For queries regarding this agenda, please contact:

Sharron Rushton
Democratic Services Officer
Tel: 01229 876321
Email: srushton@barrowbc.gov.uk

Published: 10th May, 2017

BOROUGH OF BARROW-IN-FURNESS**LICENSING COMMITTEE**

Meeting: Thursday 1st September, 2016
at 2.30 p.m. (Drawing Room)

PRESENT:- Councillors Callister (Chairman), Biggins, Derbyshire, Gill and W. McClure.

Officers Present:- Anne Chapman (Environmental Health Manager), Graham Barker (Principal Environmental Protection and Licensing Officer), Jennifer Curtis (Senior Licensing Officer), Jane Holden (Acting Principal Legal Officer) and Jon Huck (Democratic Services Manager).

Legal Representative:- Paul O'Donnell (Local Authority Retained Solicitor).

7 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence were received from Councillors Cassells and Maddox.

8 – Minutes

The Minutes of the meeting held 30th June, 2016 were taken as read and confirmed.

9 – Licensing Act 2003 & Gambling Act 2005 – Environmental Health Manager Delegations: Suspension & Revocation for Non Payment of Annual Fees

The Environmental Health Manager reported that the Council, as the Licensing Authority, had in place a detailed scheme of delegation in order to discharge its duties and powers under the Licensing Act 2003 and Gambling Act 2005 in an effective and professional manner.

Having carried out a review of the Environmental Health Manager's delegations, the report recommended additional powers be delegated from this Committee, in order to discharge administrative functions quickly and efficiently.

The table of delegations was attached as an appendix to the Officer's report and specific to the Licensing Act 2003 and Gambling Act 2005, mirrored the recommendations of the Statutory Guidance issued by the Department of Culture Media and Sport as well as the Council's Statements of Licensing Policy and Gambling Policy.

Section 10(1)(b) Licensing Act 2003 and Section 154 Gambling Act 2005 required Licensing Committees to determine their own scheme of delegations in the exercise of their functions under these Acts. This requirement by-passed Article 13.02 of the Council's Constitution which required these matters to firstly be considered by the Executive Committee prior to approval by Council.

This scheme of delegation was adopted by Members (Minute No. 5: Licensing Committee; 25th June, 2015), allowing the Environmental Health Manager to deal with any matter which was within the Scheme of Delegation as permitted by the Act and the Council's Constitution, Part 3(1) was amended accordingly.

The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to enable Licensing Authorities to suspend a Premises Licence under Section 55A and a Club Premises Certificate under Section 92A, for Non-payment of the Annual Fee.

Section 193 of the Gambling Act 2005 (2005 Act) provided that Licensing Authorities could revoke Gambling Premises Licences, for non-payment of the Annual Fee. A similar power was also available to suspend a Small Society Lottery registration, under Schedule 11, Section 54 of the 2005 Act, for non-payment of the Annual Fee.

Licensing Committee had all the necessary power to discharge the above administrative licensing functions under the scheme of delegation. Additionally, the Licensing Committee could delegate this function to the Environmental Health Manager.

RESOLVED:- That the Scheme of Delegation be amended for the purposes of the Licensing Act 2003 and Gambling Act 2005, allowing the Environmental Health Manager to deal with the following administrative functions:

1. Licensing Act 2003, Sections 55A & 92A - To suspend a Premises Licence or Club Premises Certificate, for Non-payment of the Annual Fee;
2. Gambling Act 2005, Section 193 - To revoke a Premises Licence, for Non-Payment of the Annual Fee; and
3. Gambling Act 2005, Schedule 11, Part 5, Section 54 - To cancel a Societies Registration under the Act.

The meeting closed at 2.37 p.m.

LICENSING SUB-COMMITTEE

Meeting: Thursday 21st July, 2016
at 11.00 a.m.

PRESENT:- Councillors Gill, Maddox and Seward.

Officers Present:- Jane Holden (Acting Principal Legal Officer), Graham Barker (Principal Environmental Protection and Licensing Officer), Jennifer Curtis (Senior Licensing Officer), Geoff Dowker (Senior Environmental Protection Officer), and Keely Fisher (Democratic Services Officer).

Others:- Paul O'Donnell (Local Authority Retained Solicitor from Brown Barron) and PC Caroline Kendall

6 – Appointment of Chairman for this meeting only

In the absence of the Chairman, nominations were requested for the appointment of Chairman for this meeting only.

Councillor Maddox moved that Councillor Seward be appointed as Chairman for this meeting only. It was duly seconded and it was

RESOLVED:- That Councillor Seward be appointed Chairman for this meeting only.

COUNCILLOR SEWARD IN THE CHAIR**7 – Minutes**

The Minutes of the Licensing Sub-Committee held on 16th May, 2016 were taken as read and confirmed.

8 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence were submitted from Councillors Callister and W. McClure.

Councillors Gill and Maddox had replaced Councillors W. McClure and Callister respectively for this meeting only.

9 – Application for a Premises Licence – Walney Central ARLFC

The Senior Licensing Officer's report set out details of an application for a premises licence from Walney Central ARLFC ("The Applicant"), Central Drive, Walney, LA14 3HY. Relevant objections had been received from residents living in close proximity of the premises, therefore required consideration and determination by the Sub-Committee in accordance with the scheme of delegation.

The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment were licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, was required in order to carry on any of these activities at premises within the borough.

The Act provided several forms of authorisation for different scenarios. Persons or organisations wishing to carry on activities at premises on a regular basis, or at larger one-off events, required a premises licence to authorise those activities. Members' clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate.

The Licensing Authority was contacted on 23rd May 2016 by the Applicant requesting information regarding an application for a premises licence for Walney Central ARLC, Central Drive, Walney. A meeting was arranged for 25th May 2016 between the Applicant, Senior Licensing Officer and Police Licensing Officer. The purpose of the meeting was to offer support and guidance in relation to the application for a premises licence and discuss the measures that would need to be implemented to meet the high standards expected from licensed premises in the Borough and satisfy the four licensing objectives:-

1. Prevention of crime and disorder;
2. Public safety;
3. Prevention of public nuisance; and
4. Protection of children from harm

On 26th May 2016 an application was made to the Licensing Authority by Walney Central ARLFC, Central Drive, Walney for a Premises Licence to include the provision of regulated entertainment and the sale of alcohol both indoors and outdoors at the above mentioned premises.

The Applicant had applied to provide regulated entertainment which included:

- Plays;
- Films;
- indoor sporting events;
- boxing or wrestling entertainments;
- live and recorded music;
- performances of dance;
- provision of facilities for making music;
- provision of facilities for dancing; and
- late night refreshment and the sale of alcohol both indoors and outdoors Monday to Sunday 10.00am - 1.00am.

Notice of application has been given by the Applicant through service of a copy of the application on specified 'responsible authorities. The Applicant was also required to give public notice of the application, by displaying a statutory notice on the premises for a 28 day period; the notice had also been published in the local newspaper.

A copy of the full application was attached as an appendix to the Officer's report for Members' information.

The Council had consulted with the following Responsible Authorities:-

- Licensing Authority;
- The Local Planning Authority;
- Environmental Protection Team;
- Chief Officer of Police;
- Health and Safety Officer;
- Divisional Officer, Cumbria Fire and Rescue;
- Trading Standards;
- Public Health; and
- Safeguarding and Review, Child Protection.

The Senior Environmental Protection Officer, on behalf of the Environmental Protection Team, liaised with the Applicant and agreed that the following conditions be added to the licence to satisfy their obligation to protect public nuisance:-

1. Regulated Entertainment #OUTDOORS# to be limited to 4 occasions per calendar year.
2. Noise from Regulated Entertainment #OUTDOORS# shall be inaudible at a noise sensitive location between 23:00hrs and 10:00hrs the following day.
3. The noise level LAeq, from Regulated Entertainment #OUTDOORS#, measured for any 10 minute period at 1m from the facade of a noise sensitive location, during the event, shall not exceed the background noise level (LA90) by more than 15dB(A). No noise sensitive premises shall be exposed to an LAeq 10 minute of more than 60dB(A).
4. Prior to any Regulated Entertainment #OUTDOORS# the background noise level LA90 shall be measured for any 10 minute period, when no event is going on, but under similar conditions that will prevail. (i.e. the same time and day of the week)

The Senior Environmental Health Officer attended the meeting to explain the conditions imposed by Environmental Protection.

At the time of writing the report, the Council had not received representations from any other Responsible Authorities. However, the Local Planning Authority submitted representations on 21st July, 2016 which included a copy of Planning Consent for the Club dated 16th December, 2016.

Relevant objections to the granting of the licence had been received from residents living in close proximity of the premises.

The objections received raised concerns over the Applicant's ability to promote the licensing objectives.

A resident of Central Drive was representing 4 other residents who had signed his letter of objection and attended the meeting and made representations.

A further resident of Central Drive had submitted a representation regarding the promotion of licensing objectives. She later withdrew her objections. The Licensing Authority had since received a further letter dated 19th July, 2016 which reinstated her initial objections. The Objector attended the meeting and addressed the Sub- Committee.

Copies of the letters and representations received from residents were attached as appendices to the Officer's report.

The Reporting Officer had acted as mediator between the Applicant and Objectors to try and agree on terms that would satisfy all parties concerned.

A letter sent to residents from The Applicant outlining their intentions for the use of the premises was attached as an appendix to the report.

Following the representations being received the Applicant had reviewed their application and reduced the hours of licensable activities from 01.00am to 11.00pm Monday – Sunday. However this amendment to the application had not resolved all residents' concerns.

An email exchange between the Reporting Officer and Applicant confirming the reduction in hours was attached as an appendix to the report.

The Senior Licensing Officer informed the Sub-Committee that they must ensure that all licensing decisions had a direct relationship to the promotion of one or more of the licensing objectives. Every application should be considered on its merits, and there must not be a 'blanket policy' to the extent that it was applied so rigidly that an exercise of discretion in each individual case was precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.

The Applicant had set out in the Operating Schedule of the application what measures would be put in place to promote each of the licensing objectives (Proposed Condition).

Where it was felt the measure proposed by the Applicant could be improved, the Reporting Officer had amended the condition accordingly, to ensure it could be managed by the Applicant, proportionate to the type of premises in promoting the licensing objectives and enforceable.

The proposed measures contained in the operating schedule along with the condition recommended by the Reporting Officer were set out in the report. The Senior Licensing Officer read out the list of amended proposed conditions.

The provisions of chapter 10 of the statutory guidance highlighted that only precise, appropriate and proportionate conditions, which promote one or more of the licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as were necessary to promote the licensing objectives arising out of the consideration of the representations received, and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions were not considered to be appropriate.

All parties with the exception of Councillors, Paul O'Donnell (Legal Representative), Jane Holden (Acting Principal Legal Officer) and Keely Fisher (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

RESOLVED:- That the Premises Licence for Walney Central ARLFC be granted subject to:-

- (i) Conditions which are consistent with the Operating schedule, modified to such an extent as the Licensing Authority considers necessary for the promotion of the licensing objectives, including the additional conditions approved between Environmental Protection and the Applicant.

The modified conditions in relation to each of the licensing objectives were as follows:-

Prevention of crime and disorder

1. No person in possession of an alcoholic drink in a sealed or unsealed container shall be allowed to enter the premises except for the purposes of delivery.
2. No drink shall be removed from the premises in an unsealed container.
3. The licence holder or designated premises supervisor will risk assess the need for Security Industry Authority (SIA) accredited door staff should a function necessitate their presence. i.e. 18th /21st Birthday parties. If such a decision is made then details of those individuals employed including Name, DOB, SIA number and hours of duty should be documented along with any incidents they deal with that shift.
4. A drugs policy will be developed in conjunction with the police licensing officer and enforced throughout the premises.

Public safety

1. Before admission of the public is permitted, a nominated person or DPS will conduct a safety check of the licensable area and report any issues to the premises licence holder.
2. An incident book will be maintained when a licensable activity is being conducted at the premises in which shall be recorded:

- All incidents of Crime and Disorder
- Any sale refusals to suspected underage drinkers/drunken individuals
- Any person refused admission or asked to leave the premises
- Any occasion where police are called to the premises
- Any incident involving the misuse or recovery of drugs

This book should be available for Police and the licensing authority to view to any time.

3. All outdoor/special event days will be planned in advance by the rugby club committee and the DPS.
4. An event plan will be submitted to the Licensing Authority at least 4 weeks before an event day which will outline further measures to be implemented during these events, including traffic management, admissions/capacity levels, stewarding requirements, a plan of set-up/lay out and include contingency measures.

Prevention of public nuisance

1. Bins will be provided in outdoor areas.
2. Notices will be displayed requesting the public to be respectful of local residents by keeping noise levels to a minimum when leaving the premises.
3. There shall be available on display telephone details of local taxi firms to allow quiet dispersal of guests leaving the premises.
4. Regular checks of noise pollution to be carried out by DPS or appointed person, these checks will be noted in the incident book.
5. Regulated Entertainment #OUTDOORS# to be limited to 4 occasions per calendar year.
6. Noise from Regulated Entertainment #OUTDOORS# shall be inaudible at a noise sensitive location between 23:00hrs and 10:00hrs the following day.
7. The noise level LAeq, from Regulated Entertainment #OUTDOORS#, measured for any 10 minute period at 1m from the facade of a noise sensitive location, during the event, shall not exceed the background noise level (LA90) by more than 15dB(A). No noise sensitive premises shall be exposed to an LAeq 10 minute of more than 60dB(A)
8. Prior to any Regulated Entertainment #OUTDOORS# the background noise level LA90 shall be measured for any 10 minute period, when no event is going on, but under similar conditions that will prevail. (i.e. the same time and day of the week.)

Protection of children from harm

1. Children under the age of 16 must be accompanied by a responsible adult when licensable activities are taking place on the premises.
2. Gaming machines on the premises will be sited in line with the gambling commissions' code of conduct, ensuring vulnerable persons and children do not gain access to such machines.
3. Appointed child welfare protection officers trained under the RFL appointed scheme advertised and available for assistance at all times.
4. All staff involved in the sale of alcohol should be trained in relation to the licensing objectives (this should include, service refusal skills, recognising drunkenness, dealing with incidents involving drugs) Training should be conducted at least every six months and records kept to provide an auditable trail. Such documents should be available for inspection to the Police and the Licensing Authority upon request.
 - (ii) Applicable mandatory conditions which are attached to all premises licensed for on and off sales of alcohol be attached to the licence; and
 - (iii) That the licensable operating hours will be 8:00am – 11:00pm daily (including Sundays and Public Holidays).

The meeting closed at 12.28 p.m.

LICENSING COMMITTEE		Part One (D) Agenda Item 7
Date of Meeting:	18th May, 2017	
Reporting Officer:	Executive Director	
<p>Title: Appointments on Outside Panels, Working Groups etc.</p> <p>Summary and Conclusions:</p> <p>The Council on 16th May, 2017 are recommended to give delegated authority to Committees to make appointments to Outside Bodies, Forums (excluding Housing Management Forum) Panels, Working Groups etc. in accordance with the number and allocation of seats to political groups agreed at the Meeting.</p> <p>In the case of the Licensing Committee this involved appointments to the Licensing Policy Consultation Working Group and Barrow Alcohol Inquiry Working Party.</p> <p>Recommendation:</p> <p>To nominate Members and agree the appointments to the Licensing Policy Consultation Working Group and Barrow Alcohol Inquiry Working Party.</p>		

Report

At the Annual Council meeting on 16th May, 2017 the allocation of seats in respect of Forums, Panels, Working Groups etc. will be agreed. Delegated authority is given to the appropriate Committees to make the necessary appointments.

In the case of the Licensing Committee this involves the appointment of Members to the Licensing Policy Consultation Working Group and Barrow Alcohol Inquiry Working Party.

In accordance with proportionality rules, the notional seat allocations for 2017/2018 are as follows:-

- Licensing Policy Consultation Working Group – Four Seats (3 Labour: 1 Conservative)
- Barrow Alcohol Inquiry Working Party Four Seats (3 Labour: 1 Conservative).

Background Papers

Nil