

# SOUTH LAKELAND DISTRICT COUNCIL

South Lakeland House, Kendal, Cumbria LA9 4UQ

[www.southlakeland.gov.uk](http://www.southlakeland.gov.uk)



**You are requested to attend a meeting of  
the Licensing Committee  
on Tuesday, 12 June 2018, at 10.00 a.m.  
in the District Council Chamber, South Lakeland House,  
Kendal**

*Please note that essential Licensing training for councillors will be held on the rising of the Licensing Regulatory Committee which follows this meeting.*

## Committee Membership

### Councillors

James Airey  
Rupert Audland  
Pat Bell  
Alvin Finch  
Gill Gardner (Vice-Chairman)  
Tom Harvey  
Hazel Hodgson  
John Holmes  
Kevin Holmes  
Helen Irving  
Dave Khan  
Helen Ladhams (Chairman)  
Jon Owen  
Doug Rathbone  
David Webster

**Note – Where relevant, agendas for Members are labelled “Private Document Pack” and contain exempt information within the papers. Any relevant pages are marked as restricted within Agendas labelled “Public Document Pack”.**

Friday, 1 June 2018

Debbie Storr, Director of Policy and Resources (Monitoring Officer)

**For all enquiries, please contact:-**

**Committee Administrator:** Committee Services

**Telephone:** 01539 733333

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## AGENDA

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### **PART I**

#### **1 APOLOGIES**

To receive apologies for absence, if any.

#### **2 MINUTES**

To authorise the Chairman to sign, as a correct record, the minutes of the meeting of the Committee held on 7 November 2017 (copy attached).

5 - 6

#### **3 MINUTES OF LICENSING SUB-COMMITTEE**

To receive the minutes of the meeting of the Licensing Sub-Committee held on 16 March 2018 (copy attached) and for the Chairman of the Sub-Committee to sign, as a correct record.

7 - 10

#### **4 DECLARATIONS OF INTEREST**

To receive declarations by Members 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.

*If a Member requires advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote, he/she is advised to contact the Monitoring Officer at least 24 hours in advance of the meeting.*

#### **5 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

To consider whether the items, if any, in Part II of the Agenda should be considered in the presence of the press and public.

#### **6 PUBLIC PARTICIPATION**

*Any member of the public who wishes to ask a question, make representations or present a deputation or petition at this meeting should apply to do so by no later than 0:01am (one minute past midnight) two working days before the meeting. Information on how to make the application can be obtained by viewing the Council's Website [www.southlakeland.gov.uk](http://www.southlakeland.gov.uk) or by contacting the Committee Services Team on 01539 733333.*

##### **(1) Questions and Representations**

To receive any questions or representations which have been received from members of the public.

##### **(2) Deputations and Petitions**

To receive any deputations or petitions which have been received from members of the public.

**7 TERMS OF REFERENCE**

**11 - 12**

To note the Terms of Reference for the Licensing Committee.

**PART II**

**Private Section (exempt reasons under Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, specified by way of paragraph number)**

There are no items in this part of the agenda.

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## LICENSING COMMITTEE

Minutes of the proceedings at a meeting of the Licensing Committee held in the District Council Chamber, South Lakeland House, Kendal, on Tuesday, 7 November 2017, at 2.00 p.m.

Present

Councillors

Sheila Eccles (Chairman)  
Gill Gardner (Vice-Chairman)

James Airey  
Rupert Audland  
John Clough

Philip Dixon  
Tom Harvey  
John Holmes

Mel Mackie

Apologies for absence were received from Councillors Nick Cotton, Alvin Finch, Helen Irving and Andrew Jarvis.

Officers

Hardeep Burnley  
Nicola Hartley  
Paul Rogers

Principal Food, Licensing and Safety Officer  
Senior Solicitor  
Assistant Committee Services Officer

### **L/12 MINUTES**

RESOLVED – That the Chairman be authorised to sign, as a correct record, the minutes of the meeting of the Committee held on 22 August 2017.

### **L/13 DECLARATIONS OF INTEREST**

RESOLVED – That it be noted that no declarations of interest were raised.

### **L/14 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

RESOLVED – That it be noted that there are no excluded items on the Agenda.

### **L/15 PUBLIC PARTICIPATION**

RESOLVED - That it be noted that no questions, representations, deputations or petitions had been received.

### **L/16 REVIEW OF LICENSING FEES AND CHARGES 2018/2019 AND DRAFT BUDGET**

The Principal Food, Licensing and Safety Officer presented details of the review of Licensing Fees and Charges for 2017/18 and the draft budget for the service area.

RESOLVED – That

(1) the fees and charges for the financial year 2018/19 as set out in Appendix 1 (Review of Licensing Fees and Charges 2018/2019 ) to the report be approved; and

(2) the following be noted:-

a) the nationally-set fees and charges as set out in Appendix 2 (Licensing Act 2003 and Gambling Act 2005); and

(b) the latest draft budget estimates including the fees and charges for 2018/19 as set out at Appendix 1 to the report, prior to their submission to Council for approval as part of the final budget report.

**L/17**

**PROTOCOL ON GOOD PRACTICE IN LICENSING FOR MEMBERS**

The Principal Food, Licensing and Safety Officer presented a report which requested Members to consider adopting a Protocol on Good Practice in Licensing which accorded with legislation and best practice. The Protocol would be subject to further review in the light of any update in legislation and best practice.

In response to Members' questions, the Principal Food, Licensing and Safety Officer informed the Committee that the proposed Protocol would be a guidance on best practice and the expected standard for Members when making decisions on Licensing matters. She emphasised that it would also serve to help reduce the risk of any successful legal challenge.

RESOLVED – That

(1) the contents of the report be noted; and

(2) full Council be recommended to approve the draft Protocol on Good Practice in Licensing as set out in Appendix 1 to the report.

The meeting ended at 2.23 p.m.

## LICENSING SUB-COMMITTEE

Minutes of the proceedings at a meeting of the Licensing Sub-Committee held in the District Council Chamber, South Lakeland House, Kendal, on Friday, 16 March 2018, at 10.00 a.m.

### Present

#### Councillors

Sheila Eccles

Alvin Finch

John Holmes

An apology for absence was received from Councillor Helen Irving.

### Officers

Patrick Cantley

Licensing Officer

Jason Habbershon

Committee Services/Scrutiny Officer

Nicola Hartley

Senior Solicitor

### **LS/7 ELECTION OF CHAIRMAN**

RESOLVED – That Councillor John Holmes be elected Chairman for the meeting.

### **LS/8 APOLOGIES AND RECONSTITUTION OF MEMBERSHIP**

Councillor Helen Irving having tendered an apology for absence, Councillor John Holmes, as substitute Member, took her place on the Sub-Committee.

### **LS/9 DECLARATIONS OF INTEREST**

RESOLVED – That it be noted that no declarations of interest were raised.

### **LS/10 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

RESOLVED – That, should discussion be necessary, the item in Part II of the Agenda be dealt with following the exclusion of the press and public.

### **LS/11 INTRODUCTIONS**

The Chairman made introductions and read out the procedure for the meeting.

### **LS/12 LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON**

The Licensing Officer presented a report which requested a review of Premises Licence PL(A)525 of Café Naz, otherwise known as NAAZ, 15-17 Queen Street, Ulverston. The application for the review had been received from Home Office Immigration Enforcement and related to the licensing objective of the prevention of crime and disorder. The Licensing Officer set out the options available to the Licensing Sub-Committee in relation to this licence review.

Paul Hannan, an Immigration Officer speaking as the applicant for the review of the premises licence, addressed the Sub-Committee. He explained the legislation behind Home Office Immigration Enforcement's powers and the impact that illegal working could have.

*Note – Further information relating to the application was detailed in Appendix C in Part II of the Agenda which was excluded from inspection by members of the public in accordance with Section 100 (B) of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, and, in all the circumstances of the case, it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing it. Copies of the document were excluded, as it contained information as described in Schedule 12A of the Act as follows:-*

- *Information relating to any individual. (Paragraph 1)*
- *Information which is likely to reveal the identity of an individual. (Paragraph 2)*
- *Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Paragraph 5)*

**Note – In light of the likely disclosure of exempt information necessary to the consideration of this item, the Licensing Sub-Committee voted to move into Part II and exclude the press and public.**

#### LS/13

#### PRESS AND PUBLIC

RESOLVED - That, under Section 100(A)(4) of the Local Government Act 1972, the press and public, with the exception of the applicant, the restaurant manager and director of the leaseholder of the property, as interested parties, and their representatives, be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraphs indicated.

#### LS/14

#### LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON

- *Paragraph 1 - Information relating to any individual.*
- *Paragraph 2 - Information which is likely to reveal the identity of an individual.*
- *Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

Following the exclusion of the press and public, Paul Hannan continued to present the case of Home Office Immigration Enforcement. He explained that the Immigration Act 2016 had amended the Licensing Act 2003 which had allowed Immigration Enforcement to put forward representations in relation to premises licences. He explained that an Illegal Working Compliance Order had been granted against Café Naz by Greater Manchester Magistrates' Court in July 2017. Mr Hannan circulated a copy of the Compliance Order.

**Note – The Sub-Committee voted to adjourn the meeting at 10.30 a.m. to allow time for all parties present to read the Compliance Order and reconvened at 10.50 a.m.**

Mr Hannan explained the previous incidences of illegal working which had occurred at the premises, and highlighted that other premises linked to Café Naz had also had civil penalties issued for the employment of illegal workers. The Sub-Committee noted that only evidence pertaining to Café Naz was relevant for the purposes of this review.

The Sub-Committee asked questions of clarification of Paul Hannan. He also explained that when the Compliance Order had been issued by Greater Manchester Magistrates' Court in July 2017 the Court should have notified South Lakeland District Council immediately. As this had not happened, Home Office Immigration Enforcement had instigated the review process.

Ms Tighe, a barrister acting on behalf of Café Naz's restaurant manager Mr Shajid Miah, an interested party, presented their case. She highlighted that a visit from Home Office Immigration Enforcement officers in February 2018, following the issuing of the Compliance Order, had found no illegal workers and submitted that, as the Order was being complied with by the licence holder, sufficient safeguards were present such that no further action should be required.

Ms Tighe provided additional clarification following queries from the Members of the Sub-Committee.

Shajid Miah provided additional information in response to a series of questions from the Licensing Officer.

Paul Hannan confirmed that he had no further comments to make.

***Note – The Sub-Committee voted to re-admit the press and public.***

**LS/15 RE-ADMISSION OF PRESS AND PUBLIC**

RESOLVED – That the press and public be re-admitted to the meeting.

**LS/16 LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON**

The Licensing Officer and the restaurant manager's representative, Ms Tighe, then each provided a closing statement.

*Note – The Sub-Committee passed a resolution to adjourn the meeting to exclude the press and public, in making its decision and retired in accordance with Resolution 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) in order to further consider the application.*

The Sub-Committee, supported by the Senior Solicitor, withdrew to consider the circumstances put forward, and then reconvened to deliver the decision.

RESOLVED – That Premises Licence PL(A)525 be revoked with immediate effect.

***Reasons for Decision***

The Sub-Committee was of the view that Home Office Immigration Enforcement had proved during their evidence given to the Licensing Sub-Committee that the licensing objective with respect to the prevention of crime and disorder would be undermined as a result of the previous serious offence identified and investigated by the Home Office Immigration Enforcement, in particular:-

*7th July 2017 when immigration officers encountered the person/s subject to UK immigration control who were working illegally.*

*One illegal worker was identified out of the 3 of workers present.*

*In addition on 08/10/2016 an enforcement visit was conducted to NAAZ RESTAURANT, 15 – 17 QUEEN STREET, ULVERSTON, LA12 7AF. Illegal workers were identified as working at the premises.*

In particular the Sub-Committee was of the view that the licensing objective of prevention of crime and disorder would be undermined if a licence remained in place.

The Sub-Committee also took into account the Council's Statement of Licensing Policy and in particular Paragraph 9.5 of the Revised Guidance issued under section 182 of the Licensing Act 2003 states:-

*"The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly".*

Paragraph 2.6 of the guidance clearly stipulates:

*"The prevention of crime includes the prevention of immigration crime including illegal working on licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises".*

*Para 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises.....*

- For employing a person who is disqualified from that work by reason of their immigration status in the UK;*

The Sub-Committee was not satisfied that the licensing objectives would not be undermined if the licence were to remain in place and were of the view that revocation of the licence was the only way to ensure that the licensing objective of the prevention of crime and disorder would not be undermined.

The Sub-Committee was concerned that neither the holder of the premises licence Anne Armer, nor the designated premises supervisor Rohim Ullah were in attendance.

Despite the existence of the Compliance Order and no further breach being reported by the Home Office in February 2018, the Sub-Committee was of the view that there was no evidence that the current licence holder would not undermine the licensing objective of the prevention of crime and disorder, given the concerns outlined by the Home Office.

The parties were informed of their right to appeal to the Magistrates' Court within 21 days of notification of this decision.

The meeting ended at 11.55 a.m.

# Item No.7

## SLDC CONSTITUTION (MAY 2018) EXCERPT – TERMS OF REFERENCE

### PART 3 – 2. Responsibility for Council Functions

Committee and Membership		Functions	Delegation of Functions
2 (2)	Licensing Committee	The functions allocated to a Licensing Committee under the Licensing Act 2003, including those listed below	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
	Same membership as the Licensing Regulatory Committee (Fifteen members of the Council)	Application for personal licence where an objection is made	“
		All applications for personal licences where there are unspent convictions	“
		Application for premises licence or club premises certificate where a representation is made	“
		Application for provisional statement where a representation is made	“
		Application to vary a designated premises licence or a club registration certificate where a representation is made	“
		Application to vary a designated premises supervisor where there is a police objection	“
		Application for transfer of a premises licence where there is police representation	“
		Application for an interim Authority where there is police representation	“
		All applications to review a premises licence or club premises certificate	“
		All determinations of a police or Environmental Health objection to a temporary event notice	“
		All other applications for a personal licence, premises licence or club premises certificate or variation or transfer of such a licence	Onward delegation to officers as detailed in Section 3 to this part of the Constitution
		All requests to be removed as a designated premises supervisor	“

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