

**South Lakeland District Council**  
**Licensing Sub-Committee**  
**Thursday, 4 November 2021**  
**Licensing Act 2003 – Application for the variation of a**  
**premises licence**

**Lakeland Farm Visitors Centre**

---

**Portfolio:** Economy, Culture and Leisure Portfolio Holder  
**Report from:** Director of Customer and Commercial Services  
**Report Author:** Patrick Cantley – Specialist, Licensing  
**Wards:** Kendal Rural;  
**Forward Plan:** Not Applicable

**Links to Council Plan Priorities:** Working together to make South Lakeland the best place to live, work and explore.

---

**1.0 Expected Outcome and Measures of Success**

1.1 The purpose of this report is to enable members to determine whether or not to grant the variation to a premises licence in respect of Lakeland Farm Visitors Centre, Ings, having taken in to account relevant representations submitted by interested parties.

**2.0 Recommendation**

**2.1 Members are requested to consider the representations that have been made, and determine whether or not to grant the variation to the premises licence, with or without conditions.**

2.2 Subsection 1.17 of guidance issued under section 182 of the Licensing Act 2003 states” *each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case*”.

**3.0 Background and Proposals**

3.1 On 2<sup>nd</sup> September 2021 Kerrie Benson submitted an application under the Licensing Act 2003 to vary the existing premises licence for Lakeland Farm Visitors Centre, Ings. The premises concerned is situated on the edge of the small village of Ings (a map overview of the premises is available at **Appendix C**). The application (**Appendix A**) seeks authorisation for the following – Supply of alcohol (on and off the

premises) Monday to Saturday from 10.00 hours to 23.00 hours and on Sunday from 10:00 hours to 22:00 hours. \*\*For awareness, Section E *Live Music* and Section F *Recorded Music* were also completed with the submission. However, timings sought are within deregulated hours so neither activity should be included within the decision making process today. Members may wish to consider the proposed variation against the existing premises licence. A copy of the licence is contained at Appendix D of this document.

#### 4.0 Appendices Attached to this Report

| Appendix No. | Name of Appendix                                 |
|--------------|--|
| A            | Completed Application                            |
| B            | Relevant representations from interested parties |
| C            | Map overview of premises location                |
| D            | Existing premises licence                        |

#### 5.0 Consultation

- 5.1 A copy of the application has been served on all responsible authorities. None of the responsible authorities have submitted a relevant representation.
- 5.2 The applicant advertised the application in a local newspaper within the first 10 working days of consultation as required by legislation. The applicants also displayed a 'blue notice' at the premises from the first day of the consultation period.
- 5.3 The representations to consider in respect of this application have been brought to the attention of the applicant. They concern the possible effect of granting the licence would undermine the licensing objectives of 'Prevention of crime and disorder' and 'Prevention of public nuisance'. Copies of the representations can be found at Appendix 'B' of this report.
- 5.4 Members may also wish to refer to the legal information within this report.

#### 6.0 Alternative Options

- 6.1 The Licensing Sub-Committee may
- Grant the application as requested
  - Modify the conditions of the licence;
  - Reject whole or part of the application.

#### 7.0 Implications

##### Financial, Resources and Procurement

7.1 N/A

##### Human Resources

7.2 N/A

##### Legal

7.3 Licensing Act 2003 section 35(3) states that where relevant representations are made, the Licensing Authority must—

*(a) Hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and*

*(b) Having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.*

The steps in subsection 4 are:

*(a) To modify the conditions of the licence;*

*(b) To reject the whole or part of the application;*

*and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.*

7.3.1 Members' attention is drawn to the following sections of the Section 182 Guidance to the Licensing Act 2003, which states:

*“2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).*

*2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*

*2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

*2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.*

*2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in*

*antisocial behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

**9.42** *Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.*

**9.43** *The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*

**10.8** *The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.*

**16.36** *Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:*

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;*
- if the music is amplified, it takes place before an audience of no more than 500 people; and*
- the music takes place between 08.00 and 23.00 on the same day.*

**16.37** *Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example "during performances of live music all doors and windows must remain closed". In other instances, it might not be so obvious: for example, a condition stating "during performances of regulated entertainment all doors and windows must remain closed" would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.*

**16.38** *More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.*

**16.39** *Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.*

**16.40** *These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.*

7.3.2 Members attention is also drawn to the following sections of the current Statement of licensing policy:

Section 5 deals with the factors that should be taken in to account when representations have been submitted in respect of applications to grant or vary a premises licence.

Sections 5.6 which deals with noise

### **Health and Sustainability Impact Assessment**

7.4 Have you completed a Health and Sustainability Impact Assessment?

7.5 If you have not completed an Impact Assessment, please explain your reasons:

No assessment has been completed as the hearing is in line with legislative guidance, the impact of which has deemed as having a neutral impact.

7.6 Summary of Health and Sustainability Impacts

|                                |   | <b>Positive</b> | <b>Neutral</b> | <b>Negative</b> | <b>Unknown</b> |
|--------------------------------|---|-----------------|----------------|-----------------|----------------|
| <b>Environment and Health</b>  | Greenhouse gases emissions  | -               | X              | -               | -              |
|                                | Air Quality   | -               | X              | -               | -              |
|                                | Biodiversity  | -               | X              | -               | -              |
|                                | Impacts of Climate Change   | -               | X              | -               | -              |
|                                | Reduced or zero requirement for energy, building space, materials or travel | -               | X              | -               | -              |
|                                | Active Travel   | -               | X              | -               | -              |
| <b>Economy and Culture</b>     | Inclusive and sustainable development                                       | -               | X              | -               | -              |
|                                | Jobs and levels of pay  | -               | X              | -               | -              |
|                                | Healthier high streets  | -               | X              | -               | -              |
|                                | Culture, creativity and heritage  | -               | X              | -               | -              |
| <b>Housing and Communities</b> | Standard of housing   | -               | X              | -               | -              |
|                                | Access to housing   | -               | X              | -               | -              |
|                                | Crime   | -               | X              | -               | -              |
|                                | Social connectedness  | -               | X              | -               | -              |

## Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

7.8 If you have not completed an Impact Analysis, please explain your reasons:

No assessment has been completed as the hearing is in line with legislative guidance, the impact of which has deemed as having a neutral impact.

7.9 Summary of Equality and Diversity impacts

| Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X" |   |  |   |   |   |
|--|---|--|---|---|---|
| Age  | P |  | 0 | X | N |
| Disability   | P |  | 0 | X | N |
| Gender reassignment (transgender)  | P |  | 0 | X | N |
| Marriage & civil partnership   | P |  | 0 | X | N |
| Pregnancy & maternity  | P |  | 0 | X | N |
| Race/ethnicity   | P |  | 0 | X | N |
| Religion or belief   | P |  | 0 | X | N |
| Sex/gender   | P |  | 0 | X | N |
| Sexual orientation   | P |  | 0 | X | N |
| Armed forces families  | P |  | 0 | X | N |
| Rurality   | P |  | 0 | X | N |
| Socio-economic disadvantage  | P |  | 0 | X | N |

| Risk Management   | Consequence   | Controls required  |
|---|---|--|
| Should members be minded not to grant this application, their decisions may be overturned on appeal to the Magistrates Court. | Costs may be awarded against the Council should the appeal be upheld. | Members to be made aware that the applicant has a right of appeal. |

## Contact Officers

Report Author – Patrick Cantley, Licensing Specialist, tel: 01539 793423, email: [p.cantley@southlakeland.gov.uk](mailto:p.cantley@southlakeland.gov.uk).

## Background Documents Available

| Name of Background document                                    | Where it is available   |
|--|---|
| Licensing Act 2003   | <a href="https://www.legislation.gov.uk/ukpga/2003/17/section/35">https://www.legislation.gov.uk/ukpga/2003/17/section/35</a>   |
| Revised Guidance issued under section 182 of the Licensing Act | <a href="https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-">https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-</a> |

| <b>Name of Background document</b> | <b>Where it is available</b>  |
|------------------------------------|---|
| 2003                               | <a href="#">182-of-licensing-act-2003</a>   |
| SLDC Statement of Licensing Policy | <a href="https://www.southlakeland.gov.uk/contentsearcher?q=licensing+poli">https://www.southlakeland.gov.uk/contentsearcher?q=licensing+poli</a> |

### Tracking Information

| <b>Signed off by</b> | <b>Date sent</b> | <b>Date Signed off</b> |
|----------------------|------------------|------------------------|
| Section 151 Officer  | 11/10/2021       | 21/10/2021             |
| Monitoring Officer   | 11/10/2021       | 27/10/2021             |
| CMT                  | 11/10/2021       | 21/10/2021             |

| <b>Circulated to</b>            | <b>Date sent</b> |
|---------------------------------|------------------|
| Lead Specialist                 | 11/10/2021       |
| Human Resources Lead Specialist | N/A              |
| Communications Team             | N/A              |
| Leader                          | N/A              |
| Committee Chairman              | N/A              |
| Portfolio Holder                | N/A              |
| Ward Councillor(s)              | N/A              |
| Committee                       | N/A              |
| Executive (Cabinet)             | N/A              |
| Council                         | N/A              |