Date: 21 September 2015

Eden
District Council
Town Hall, Penrith, Cumbria CA11 7QF
Tel: 01768 817817
Fax: 01768 890470
Email: cttee.admin@eden.gov.uk

Dear Sir/Madam

Special Licensing Committee Agenda - 29 September 2015

Notice is hereby given that a meeting of the Licensing Committee will be held at 9.30 am on Tuesday, 29 September 2015 at the Council Chamber, Town Hall, Penrith.

1 Apologies for Absence

2 Minutes

RECOMMENDATION that:

1. the public minutes Lic/1/5/15 to Lic5/5/15 and
2. the confidential minute Lic/6/5/15

of the meeting of the Licensing Committee held on 3 June 2015 be confirmed and approved by the Chairman as a correct record of those proceedings (copies previously circulated)

3 Declarations of Interest

To receive declarations of the existence and nature of any private interests, both disclosable pecuniary and any other registrable interests, in any matter to be considered or being considered..

4 Application for Premises Licence Lowther Barn Café, Beckside Farm, Sandwick, Martindale, Penrith, CA10 2NF *(Pages 3 - 32)*

To consider report number CLS72/15 of the Director of Corporate and Legal Services which is attached and which states that the Council as the Licensing Authority has received an application to licence premises under the provisions of the Licensing Act 2003 and the Committee is asked to consider the request in light of representations which have been received.

RECOMMENDATION:

It is recommended that the Committee determines the application in accordance with one of the options set out in paragraph 3.9 of the attached report.

5 Any Other Items which the Chairman decides are urgent

6 Date of Next Scheduled Meeting

No formal meeting of the Licensing Committee has been scheduled but, if necessary, a meeting will be held on the first Wednesday of the month.

Yours faithfully

P G Foote
Director of Corporate and Legal Services

Democratic Services Contact: *Lauren Rushen*

Please Note: Access to the internet in the Council Chamber and Committee room is available via the guest wi-fi – no password is required

Encs

For Attention
All members of the Licensing Committee i.e.

Chairman – Councillor M Temple (Conservative Group)

Vice Chairman – Councillor J Owen MBE (Conservative Group)
Councillors
Miss M Clark, Independent Group
R Howse, Liberal Democrat Group
Mrs E Martin, Conservative Group
Mrs A Meadowcroft, Conservative Group
Mrs J Raine, Conservative Group
R Sealby, Conservative Group
V Taylor, Liberal Democrat Group
M Tonkin, Independent Group

Standing Deputies
Miss P Breen, Conservative Group
A Connell, Liberal Democrat Group
M Eyles, Liberal Democrat Group
J C Lynch, Conservative Group
W Patterson, Independent Group
H Sawrey-Cookson, Independent Group

For Information - All remaining members of the Council

Agenda Item No
Report No: CLS72/15

Eden District Council

Licensing Committee
29 September 2015

Application for Premises Licence Lowther Barn Café, Beckside Farm, Sandwick, Martindale, Penrith, CA10 2NF

Reporting Officer: Director of Corporate and Legal Services

Responsible Portfolio: Services

1 Purpose of Report

1.1 The Council as the Licensing Authority has received an application to license premises under the provisions of the Licensing Act 2003 and the Committee is asked to consider the request in the light of representations which have been received.

2 Recommendation:

It is recommended that the Committee determines the application in accordance with one of the options set out in paragraph 3.9 below.

3 Report Details

3.1 An application for a premises licence has been received for Lowther Barn Café, Beckside Farm, Sandwick, Martindale, Penrith, CA10 2NF.

3.2 The application, which has been made by Mr A W Hewitt and Mrs M P Hewitt trading as Alston Old Hall Farm, requests a licence permitting the retail sale of alcohol for consumption on the premises between the hours of 10am and 4pm daily, extending to 9pm during the hours of British Summer Time. The premises are described as a small upper floor café, consisting of 6 tables inside and 6 tables outside, on a private farm providing refreshments to walkers on the Sandwick to Patterdale bridle path. A copy of the application is attached at Appendix A.

3.3 A plan of the premises, together with a site plan and copies of photographs showing the outside seating area, is attached at Appendix B.

3.4 The application has been advertised as required by statute for a 28 day period both in the local newspaper and on the premises.

3.5 The application has been copied to all relevant responsible authorities. These are the public bodies that are entitled to make representations in relation to the application for the grant of a premises licence. Each of the responsible authorities has had the opportunity to engage with the applicants to ensure the licensing objectives are promoted. These are:

- prevention of crime and disorder;
- public safety;
- prevention of public nuisance;
- protection of children from harm.

3.6 No representations have been made to the application by any of the responsible authorities.

3.7 The Lake District National Park, the relevant planning authority, has confirmed that the use of Lowther Barn is permitted by virtue of a planning permission which the Government has granted through the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015. It has confirmed that the planning permission granted does not impose conditions upon the use of the café (for example, hours of opening) and, as there is no conflict between the application for a premises licence and the planning permission, it has no objections to the application.

3.8 A total of 7 representations objecting to the application have been received during the consultation period and these are attached at Appendix C.

3.9 The following options are available to the Committee:

(a) to grant the application subject to the applicable mandatory conditions and such other conditions as are consistent with the application;

(b) to grant the application subject to such modified or other conditions as are considered necessary for promotion of the licensing objectives;

(c) to reject the application.

4 Policy Framework

4.1 The Council has four corporate priorities which are:

- Decent Homes for All
- Strong Economy, Rich Environment
- Thriving Communities
- Quality Council

4.2 The application to grant a premises licence will be determined in accordance with Eden District Council's Statement of Licensing Policy and Home Office Guidance issued under Section 182 of Licensing Act 2003.

4.3 The prime purpose of the Council's Statement of Licensing Policy is to promote the licensing objectives. It lists particular matters that the authority will take into account in considering whether a licensable activity is likely to cause an adverse impact and its aim is to achieve a balanced approach to these issues.

4.4 Paragraph 4.2.2 of the Statement of Licensing Policy states 'If representations are made, when considering an application for a licence the authority will take into account the following factors in assessing its likely impact on the licensing objectives in addition to any other relevant matters:

- the nature of the activities proposed;
- the number of customers likely to attend the premises and the type of customers expected;
- the location of the premises;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving at or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the physical and accessible nature of the premises;
- the level of likely car parking demand in relation to the use of the premises in comparison with the existing situation and the likely effect on the movement of priority traffic;
- the cumulative impact of licensed premises in an area;
- the scope for mitigating the impact;
- how often the activity is to occur.'

4.5 Guidance is offered to Licensing Authorities under Section 182 of the Act by the Home Office in relation to the discharge of their functions under the Act. Paragraph 9.4 of the guidance states: '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. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.'

4.6 Paragraph 9.36 of the guidance states: 'As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or any other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.'

4.7 Paragraph 9.37 of the guidance continues: ‘In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy’.

4.8 Paragraph 9.38 of the guidance includes the statement that: ‘After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety’. Paragraph 9.39 continues: ‘Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities’.

4.9 There is provision under the Act for any responsible authority or any other person who has concerns relating to the promotion of the licensing objectives following the grant of a licence to apply for a review of the licence. The guidance states at paragraph 11.1 that this represents: ‘a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence’. The guidance continues at paragraph 11.13 that: ‘licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion’.

5 Implications

5.1 Legal

5.1.1 The licensing authority must determine the application in accordance with Section 18 of the Act which outlines the circumstances whereby a hearing is required and the options available to the committee when determining the application.

5.1.2 Where there are no relevant representations, the licensing authority must grant the licence in accordance with the application and subject to conditions which are consistent with the operating schedule accompanying the application and other mandatory conditions.

5.1.3 If the application is refused, or conditions are imposed which he does not accept, the applicant has 21 days from the date of being notified to appeal to the Magistrates’ Court. Those who made representations will also have the right of appeal if aggrieved by grant of the licence or the conditions imposed.

5.2 Financial

5.2.1 Any decision to reduce or increase resources must be made within the context of the Council's stated priorities, as set out in its Council Plan 2015-19 as agreed at Council on 16 April 2015.

5.2.2 There are no proposals in this report that would reduce or increase resources.

5.2.3 There are no other financial implications for Eden District Council arising from this report.

5.3 Equality and Diversity

5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equality Act 2010 and related statutes.

5.4 Environmental

5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

5.5 Crime and Disorder

5.5.1 Under the Crime and Disorder Act 1998 the Council has to have regard to the need to reduce crime and disorder in exercising any of its functions.

5.5.2 By considering the application and any proposals put forward by Cumbria Police and partner agencies, the Council will have taken reasonable steps to help reduce crime and disorder within the district and therefore discharging its duty under Section 17 of the Crime and Disorder Act 1998.

5.6 Children

5.6.1 Under the Children Act 2004 the Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of any of its functions.

5.7 Risk Management

5.7.1 By determining the application in accordance with the relevant sections of the Licensing Act, the Statement of Licensing Policy and guidance offered by the Home Office, the licensing authority is ensuring that all of the licensing objectives are considered fully, therefore minimising risk to the Council and any other parties. The Council must be able to substantiate and justify any decision which it makes having regard to the licensing objectives and any relevant consideration. The Council must make its decision taking account of all the relevant considerations, ignoring any irrelevant considerations and making a judgement which is reasonable and appropriate.

6 Reasons for decision/recommendation

6.1 Application for a premises licence has been made under the Licensing Act 2003 to which objections have been received from members of the public. The licensing authority must determine the application in accordance with Section 18 of the Act.

P G Foote
Director of Corporate and Legal Services

Governance Checks:

Checked by or on behalf of the Chief Finance Officer	√
Checked by or on behalf of the Monitoring Officer	√

Background Papers:

Home Office Guidance issued under Section 182 of the Licensing Act 2003 (as revised March 2015)
Eden District Council's Statement of Licensing Policy

Contact Officer: Linda Watson
Telephone Number: 01768 212273

Eden District Council

Application to Licensing Section
Eden District Council, Town Hall, Penrith, CA11 7QF

App No 13174
Office use only

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We ALSTON OLD HALL FARM
(Insert name(s) of applicant)
apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
LOWTHER BARN CAFE BECKSIDE FARM SANDWICK MARNDALE			
Post town	PENRITH	Postcode	CA10 2NF

Telephone number at premises (if any)	OFFICE: 01768 486996
Non-domestic rateable value of premises	£

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

a) an individual or individuals * ☐ please complete section (A)

b) a person other than an individual *

i. as a limited company ☐ please complete section (B)

ii. as a partnership ☑ please complete section (B)

iii. as an unincorporated association or ☐ please complete section (B)

iv. other (for example a statutory corporation) ☐ please complete section (B)

c)	a recognised club	☐	please complete section (B)
d)	a charity	☐	please complete section (B)
e)	the proprietor of an educational establishment	☐	please complete section (B)
f)	a health service body	☐	please complete section (B)
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales	☐	please complete section (B)
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England	☐	please complete section (B)
h)	the chief officer of police of a police force in England and Wales	☐	please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☑

I am making the application pursuant to a

statutory function or ☐

a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname				**First names**	
I am 18 years old or over				☐ Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname			**First names**		
I am 18 years old or over				☐ Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	AW + MP HEWITT T/A ALSTON OLD HALL FARM
[redacted]	

Part 3 Operating Schedule

When do you want the premises licence to start? DD MM YYYY 01 07 2015

If you wish the licence to be valid only for a limited period, when do you want it to end? DD MM YYYY

Please give a general description of the premises (please read guidance note 1)

SMALL CAFE FACILITY, 6 TABLES INSIDE + 6 TABLES OUTSIDE, ON A PRIVATE FARM, PROVIDING REFRESHMENT TO WALKERS ON THE SANDWICH TO PATTERDALE BRIDLEPATH.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment	Please tick any that apply
a) plays (if ticking yes, fill in box A)	☐
b) films (if ticking yes, fill in box B)	☐
c) indoor sporting events (if ticking yes, fill in box C)	☐
d) boxing or wrestling entertainment (if ticking yes, fill in box D)	☐
e) live music (if ticking yes, fill in box E)	☐
f) recorded music (if ticking yes, fill in box F)	☐
g) performances of dance (if ticking yes, fill in box G)	☐
h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	☐
Provision of late night refreshment (if ticking yes, fill in box I)	☐
Supply of alcohol (if ticking yes, fill in box J)	☑

In all cases complete boxes K, L and M

J

Supply of alcohol Standard days and timings (please read guidance note 6)			**Will the supply of alcohol be for consumption – please tick** (please read guidance note 7)		
				On the premises	☑
				Off the premises	☐
Day	Start	Finish		Both	☐
Mon	10:00	16:00	**State any seasonal variations for the supply of alcohol** (please read guidance note 4) THE HOURS STATED ARE WINTER TIMES DURING BRITISH SUMMERTIME WE WISH TO EXTEND THE TERMINAL HOUR TO 21:00 EVERY DAY		
Tue	10:00	16:00			
Wed	10:00	16:00			
Thur	10:00	16:00	**Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list** (please read guidance note 5)		
Fri	10:00	16:00			
Sat	10:00	16:00			
Sun	10:00	16:00			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Name	HEATHER JAMES
Addr	[redacted]
Post	
Pers	
Issui	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

NONE

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)

Day	Start	Finish
Mon	09:00	17:00
Tue	09:00	17:00
Wed	09:00	17:00
Thur	09:00	17:00
Fri	09:00	17:00
Sat	09:00	17:00
Sun	09:00	17:00

State any seasonal variations (please read guidance note 4)

THE HOURS STATED ARE WINTER TIMES, DURING SUMMERTIME WE WISH TO EXTEND THE TERMINAL HOUR TO 21.30 EVERY DAY.

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

THERE ARE ONLY 3 STAFF AND ONE MANAGER WHO WORK AT THE CAFE
THEY WILL ALL COMPLETE A TRAINING MODULE "LICENSING + SOCIAL RESPONSIBILITY" WITH FLOW HOSPITALITY TRAINING.

b) The prevention of crime and disorder

THE VENUE IS A SMALL WALKERS CAFE WITH NO VEHICLE ACCESS THERE IS NO EXPECTATION FOR ANY DISORDER, AS THE CLIENTELE IS RAMBLERS + WALKERS.
THE BUILDING IS SECURE WITH SHUTTERS OVER ALL WINDOWS + DOORS WHEN CLOSED

c) Public safety

THERE ARE 6 INSIDE TABLES, ALL OF WHICH CAN BE SEEN FROM THE CAFE COUNTER.

d) The prevention of public nuisance

THERE ARE NO NEIGHBOURING PROPERTIES, THERE WILL BE NO LITTERING ISSUES AS THIS APPLICATION IS ~~FOR~~ FOR AN "ON" LICENSE ONLY.

e) The protection of children from harm

A CHALLENGE 25 APPROACH WILL BE ADOPTED.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. ☑
- I have enclosed the plan of the premises. ☑
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☑
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☑
- I understand that I must now advertise my application. ☑
- I understand that if I do not comply with the above requirements my application will be rejected. ☑

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 11). **If signing on behalf of the applicant, please state in what capacity.**

Signature	[illegible]
Date	3/8/15
Capacity	AGENT TO MR AW + MRS MP HOWITT.

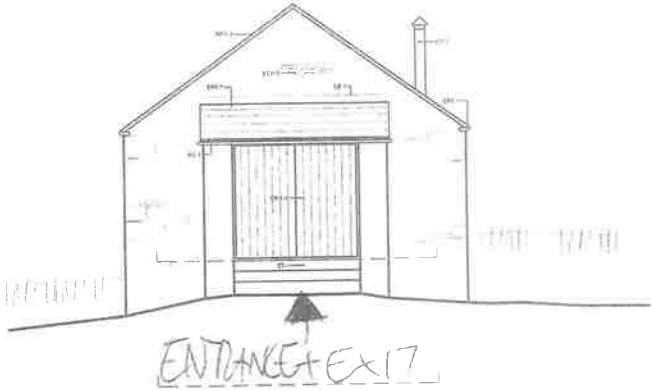
For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

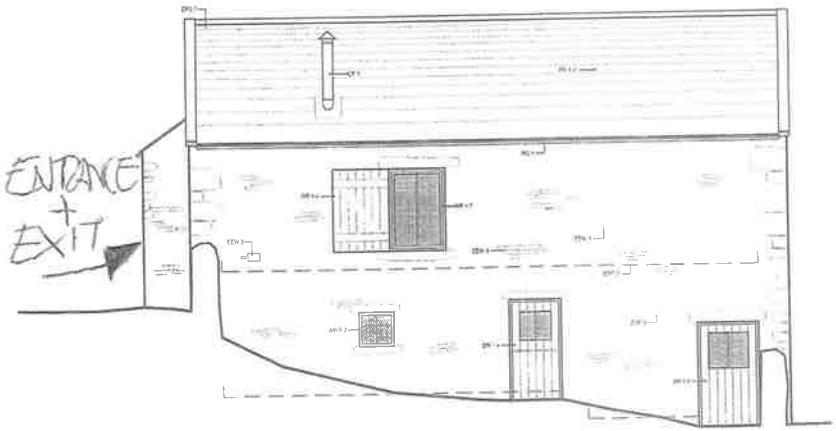
[redacted]

First Floor Plan 1:100

Ground Floor Plan 1:100



South East Elevation 1:100



North East Elevation 1:100

revisions

A	06-02-14	Furniture layout amended
B	08-04-14	Layout amended
C	20-05-14	Kitchen and bedroom layouts amended

DO NOT SCALE FROM THIS DRAWING
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Graham K Norman Architect
CHARTERED PRACTICE
UNIT 4 MERESIDE
GREENBANK ROAD
EDEN BUSINESS PARK
PENRITH, CUMBRIA CA11 9FB
01768 868274
mail@grahamknorman.co.uk
www.grahamknorman.co.uk

AS PROPOSED PLANS AND ELEVATIONS

PROPOSED BARN CONVERSION,
LOWTHER BARN, BECKSIDE FARM, SANDWICK

MR AND MRS HEWITT

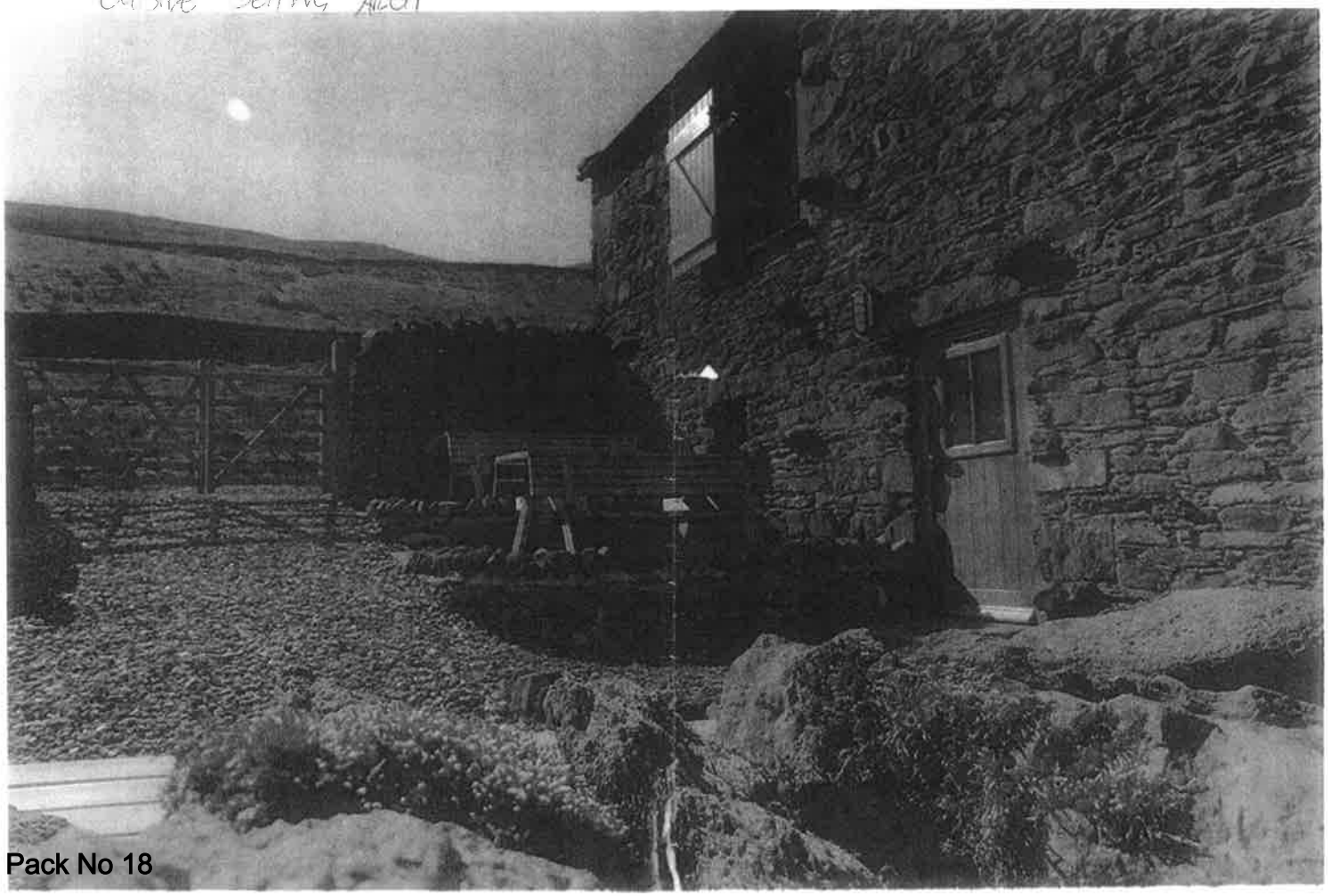
17-12-13 | WJC | 1-100@

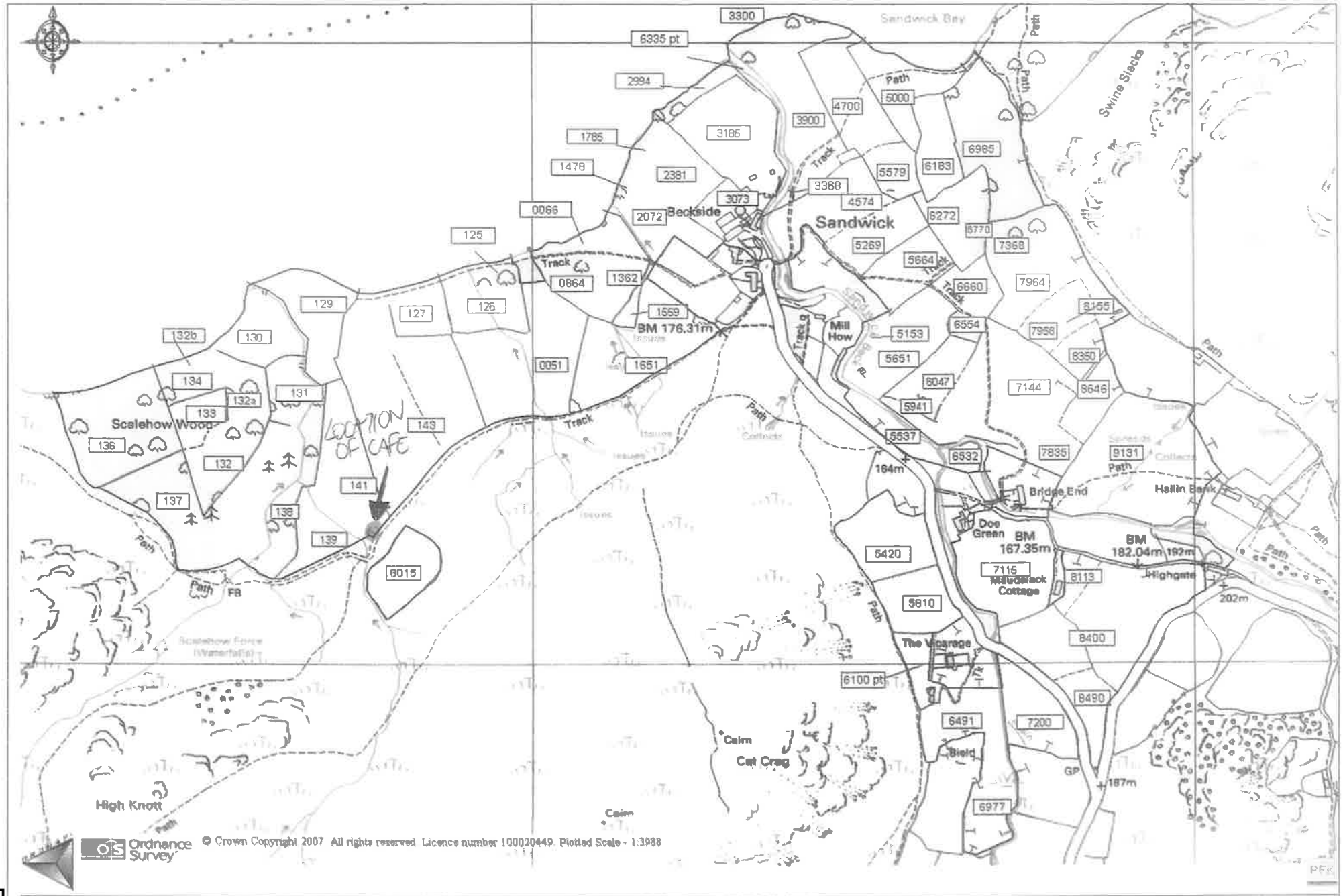
112-135B-03

Appendix B

SHOWING CAFE + OUTSIDE SEATING AREA

OUTSIDE SEATING AREA





Beckside Farm, Sandwick

HLS Agreement Reference AG00326770

N

Not to Scale

PFK

Reproduced from the Ordnance Survey Map with the sanction of the Controller of H.M. Stationery Office, Licence No. ES100004583

Date: **August 2007**

Penrith Farmers' & Kidd's plc
Tel. 01768 866611 Fax. 01768 895532

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1/7

re: Application for sale / provision of alcohol at Lowther Barn Cafe Backside Farm, Sandwick, Martindale ,Cumbria CA10 2NF on behalf of A M Hewitt & M P Hewitt of Alston Hall Lancashire & Parkwood Leisure Holdings.

Dear Linda Watson,

As a neighbour of Beckside Farm I would like to make the following representation in relation to licensing objectives,

2 Prevention of public nuisance.

4 Public safety.

The whole of Martindale has been designated as a "quieter area" in the Local Plan, this means that the parish should be as unspoilt as possible and remain one of the wilder areas of the National Park. Visitors walking the lakeshore path are in search of tranquility not commerce. Lowther Barn is a prominent feature in a landscape otherwise characterised by a sense of peace and remote beauty. It is situated just over 1/2 a mile from the public road on an unmade Bridleway. I do not feel that the documentation submitted makes the extreme remoteness clear and respectfully request that a site visit might be made .
Bridleway 344010 cannot be used legally except by pedestrians,horses and cyclists it is unlit as is the Hamlet of Sandwick much of the year,even in British Summertime it will be in complete darkness by 9.00 or 9.30pm (both times appear on the application form) and not safe or possible to walk at night without a good torch.
I am in complete agreement with Martindale Parish Council that there is no objection to the selling of alcohol during existing cafe hours but feel that the extension of hours would be intrusive to others on the fells or living at Sandwick who are not seeking a Pub atmosphere. In this particular case the extension of hours in this remote,isolated and essentially quite,dark landscape would be sufficient to constitute a public nuisance and a risk to public safety.
This application is in conflict with both the Local Plan and the LDNPA Core Strategy in terms of developing sustainable tourism. It also undermines the Ullswater World Heritage Site bid.
Perhaps the applicants might be persuaded to compromise and restrict the application to cover only cafe opening hours as a gesture of goodwill or at least consider a condition requiring the large barn doors to be kept closed after 5:00 pm to minimise the impact on local wildlife and the enjoyment of others .

Yours sincerely,

Kate Robinson

[redacted]

Re Lowther Barn Cafe , Beckside Farm ,Sandwick, Martindale , Penrith . CA10 2NF
Application for a Premises Licence

2/7

I was unable to attend the recent Martindale parish meeting when the proposed Licence for The Lowther Cafe was discussed . I am therefore writing to you with my representation on the effect of granting this application

My concerns are with the public nuisance and crime and disorder and safety aspect of granting the application .

1. As secretary of the St Peter's and St Martin's PCC in Martindale for the past 8 years , I am only too well aware of the increase in the public nuisance and criminal damage caused by groups of young people who drive out to Martindale to speed up and down the hairpin bends of the Hause particularly in the early evening in the summer months .The church of St Peter at the top of the Hause has been the scene of increasing vandalism and damage . The Penrith Police can confirm this, as it has been reported to them . The sale of alcohol until 9:00pm on a summer evening,in an area beyond easy police surveillance, will be a further attraction and temptation to these people and difficult to control . Only two weeks ago entries in the church visitor book, among other obscenities, boasted of being 'high' on substances .

2. The popular path between Sandwick and Patterdale is uneven and steep in places , walkers and cyclists who have been tempted to consume alcohol rather than the present non alcoholic beveridges will be a public nuisance and safety hazard to themselves and others.

3. The Lowther cafe is approx 15 to 20 min walk along a walking track from the Sandwick road . It's front door and access opens straight onto the open fellside . Anyone intoxicated could not be collected from the cafe by taxi . Similarly ambulance or fire access would be problematic .

4. Lowther Barn is not a 'typical cafe ' such as might normally apply for a Licence. It opened as a Cafe this year under an obscure process of 'permitted development' for change of use for agricultural barns . It has therefore possibly not been been subject to the usual scrutiny, safety checks and safeguards of a regular planning application for a cafe, or as now requested, a cafe selling alcohol .

Jane MacAuliffe, [redacted]

Tuesday 1st September

3/7

re: Application for sale / provision of alcohol at Lowther Barn Cafe Backside Farm, Sandwick, Martindale ,Cumbria CA10 2NF on behalf of A M Hewitt & M P Hewitt of Alston Hall Lancashire & Parkwood Leisure Holdings.

Dear Linda Watson,

I am writing to object strongly to the granting of a alcohol license for Lowther Barn.

I am doing so principally on the grounds of it creating a public nuisance.

The granting of a license, especially after the hours of 5pm in the evening, can only attract a higher level of traffic on small road unsuitable for traffic associated with functions and alcohol related activity.

By the same token there is nowhere for this increased road traffic to park legally. It is quite common for a few cars to park on the fell-side at Sandwick, next to the road, but this is not a designated parking area, it is grassy and not large – a maximum of five or six cars can park there. The café is used by walkers, mainly those walking between the Steamer pick up and drop off points. This passing pedestrian trade will have ceased by 5pm. Therefore the only users after this time will be from those travelling by vehicle on the road.

The concomitant music and noise that will be granted with an alcohol license will also produce a public nuisance in what is a completely peaceful and remote area. Noise travels very far across water and the resultant noise will be heard from across the lake and be a noticeable and severe public nuisance as a result.

Likewise the light pollution exuding from the café operating as a licensed premises in the evening will be a nuisance and attract unwanted attention from craft using the lake in the evening. I would be worried that people might think it a good idea to go by boat to the nearby lakeshore, walk up by foot to Lowther Barn, drink, and then return to Pooley Bridge, Glenridding or Howtown by boat. This brings into question the matter of public safety. There is no effective policing of the lake by boat users. I suspect a drink related accident quite likely.

In summary the later opening times associated with this license are the primary drivers for my concerns. I would suggest that conditioning the license only to operate within 10.00 and 16.00 during the daytime would address these concerns. If any evening licensing is approved, then conditioning use to be only inside the Café, and not spilling out onto the fields, track and seating area outside, and requiring the large barn doors to be shut during this evening use, would at least mitigate the negative impact somewhat.

Yours sincerely,

William Lockett

admin.licensing@eden.gov.uk

4/7

Licensing Act 2003

Eden District Council Application Number 013174: Premises Licence for Lowther Barn Cafe, Beckside Farm, Sandwick, Martindale, Penrith, CA10 2NF

Representations by Martindale Parish Meeting

A public notice in the Cumberland and Westmoreland Herald for 15th August 2015 said that "Alston Old Hall Farm have applied to Eden District Council for a Premises License/Club Premises Certificate in respect of Lowther Barn Cafe, Beckside Farm, Sandwick, Martindale, Penrith, CA10 2NF". It continued "To allow the sale/supply of alcohol between 10.00 and 16.00 as standard times with a terminal hour of 21.00 during British summer time. Opening hours of the premises are between 09.00 to 17.00 as standard times with a terminal time of 21.30 during British summer time". As a result of that notice, a number in the parish expressed their concern and requested that there should be a special Martindale Parish Meeting. This was held on the evening of 28 August.

The Meeting had the benefit of an email of 26 August provided by Linda Watson, Licensing Officer in response to a letter of objection that she had received that morning. This enabled the Meeting to understand that, contrary to the public notice, there was no intention for a farm in Alston near Preston to seek a Club Premises Certificate nor to seek a licence to sell alcohol for consumption off the premises. The Meeting was able to concentrate discussion on the effect of grant of licence on the four objectives set out in the Licensing Act 2003. The statement of licensing policy issued by Eden District Council Licensing Authority in 2011 is therefore relevant, as is the consultative document "Review of Statement of Licensing Policy for the period 7 January 2016 – 6 January 2021" issued earlier this year. In preparing this letter in the light of the comments and concerns raised at the Meeting, we have also taken account of the Revised Guidance issued under section 182 of the Licensing Act 2003 by the Home Office in March 2015.

The Home Office Guidance makes clear that whilst the promotion of the four objectives is a paramount consideration at all times, "the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include .....[inter alia]

- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area;
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them" (paragraph 1.5)"

Nobody at the Meeting thought that a license to sell alcohol at Lowther Barn was needed, nor that it would bring any advantage to the local community.

The parish of Martindale is situated on the south eastern shores of Ullswater, accessible by a narrow road from Pooley Bridge to Howtown, and thereafter by a road with passing places. The seven mile

walk from Howtown to Patterdale is regarded by many commentators as the best lake-side walk in Britain because of the spectacular views, tranquillity and sense of remoteness. Lowther Barn is situated to all intents and purposes in the open countryside, a twenty minute walk along a bridleway from the hamlet of Sandwick. The bridleway continues in one direction for a further three miles to Patterdale. A footpath in the other direction for one and a miles arrives at Howtown. Many making the walk or mountain bike ride arrive by the "steamers" that sail on Ullswater from Glenridding/Patterdale and Pooley Bridge to Howtown. It needs to be stressed that the footpaths and bridleways involve serious walking with often treacherous conditions. Despite warnings about the need to be properly equipped, too many people disregard the possibility of changes in the weather and do not have the proper footwear for to traverse safely the wet and slippery rocks that can be encountered even during periods of dry weather. Many mountain bike riders find they are obliged to walk rather than pedal

There are already licensed premises in Patterdale, Howtown and Pooley Bridge – the usual start and finish points for walkers. Public safety will not be improved by increasing the opportunity to purchase and consume alcohol mid-way through a walk or cycle ride. The serious risk is an increase in accidents and injuries.

The position of the premises means that there is no easy access for ambulances and fire-engines. Even summoning them is a problem because mobile telephone networks usually do not work. There is no way for the licence holder to ensure the safe departure of those leaving the premises. (Home Office guidance paragraph 2.7). There is no means to summon taxi-cabs, which must come some thirteen miles from either Penrith or Glenridding,

The proposed hours of opening also give rise to concern. There are walkers and bike riders on the path only during the hours of daylight, but because of the timing of the running of the "steamers", in practice there are very few after 5.00 p.m.. (The latest steamer in the peak summer months departs Howtown at 5.30 p.m.) The application seeks to serve alcohol until 9 p.m. during the months of British summer time. The only way for customers to arrive would be by car. This would cause considerable nuisance to those with houses in Sandwick because of the problems of parking. The consequent traffic noise would affect most people in Martindale, including the visitors who choose to stay in local accommodation because they can, at present, be guaranteed peace and quiet.

There have already been intermittent crime and disorder problems in Martindale because of some young people seeking to demonstrate their driving skills over the twisty and narrow roads, and looking for opportunities to cause damage. Although it would be an offence to drive over the bridleway from the road to Lowther Barn, this is not thought likely to be a deterrent were the premises to be open in the evening.

Finally, Eden District Council policy statements and Home Office guidance (in paragraph 1.19) draw attention to other legislation which may be relevant. Because the site is in a remote location and is situated within the Lake District National Park which has been afforded the highest state of protection in relation to landscape and natural beauty, we would draw your attention to section 61 and 62 of the Environment Act 1995. These are attached as an Annex.

Mrs Gay Parkin
Chair of Martindale Parish Meeting

Mr Martin Brimmer
Acting Clerk to Martindale Parish Meeting

Environment Act 1995 Section 62 – Purposes of National Parks

62

Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated.

(1)

After section 11 of the National Parks and Access to the **M1**Countryside Act 1949 (general powers of local planning authorities in relation to National Parks) there shall be inserted—

"**11A**

Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated.

(1)

A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.

(2)

In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

(3)

For the purposes of this section "relevant authority" means—

(a)

any Minister of the Crown,

(b)

any public body,

(c)

any statutory undertaker, or

(d)

any person holding public office.

(4)

In subsection (3) of this section—

"public body" includes— □(a)□any local authority, joint board or joint committee; □□(b)□any National Park authority; □□□

"public office" means— □(a)□an office under Her Majesty; □□(b)□an office created or continued in existence by a public general Act of Parliament; or □□(c)□an office the remuneration in respect of which is paid out of money provided by Parliament. □□□

(5)

In subsection (4) of this section, "joint board" and "joint committee" mean—

(a)

a joint or special planning board for a National Park reconstituted by order under paragraph 1 or 3 of Schedule 17 to the **M2**Local Government Act 1972, or a joint planning

board within the Emeaning of section 2 of the **M3**Town and Country Planning Act 1990;

(b)

a joint committee appointed under section 102(1)(b) of the **M4**Local Government Act 1972.

(6)

In this section, "local authority"—

(a)

in relation to England, means a county council, district council or parish council;

(b)

in relation to Wales, means a county council, county borough council, district council or community council."

(2)

The duty imposed by subsection (1) of the section 11A inserted by subsection (1) above shall take effect, in the case of any particular National Park, as from the time when a National Park authority becomes the local planning authority for that Park.

Environment Act 1995

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Environment Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations.

61
Purposes of National Parks.
(1) In section 5 of the National Parks and Access to the **M1**Countryside Act 1949 (National Parks) for subsection (1) (which provides that Part II of that Act has effect for the purpose of preserving and enhancing the natural beauty of the areas specified in subsection (2) of that section and for the purpose of promoting their enjoyment by the public) there shall be substituted—

"(1)The provisions of this Part of this Act shall have effect for the purpose—

(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and
(b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public."

(2)The amendment made by subsection (1) above is without prejudice to the continuing validity of any designation of an area as a National Park under subsection (3) of that section.
(3)The following enactments (which refer to the purposes specified in section 5(1) of the National Parks and Access to the **M2**Countryside Act 1949), that is to say—

(a)sections 6(3) and (4)(g), 11 and 101(3) of that Act, and
(b)sections 2(5)(b) and 13(4) of the **M3**Countryside Act 1968,

shall have effect in accordance with subsection (4) below.
(4)In the application of any provision specified in subsection (3) above, any reference to the purposes specified in subsection (1) of section 5 of the National Parks and Access to the **M4**Countryside Act 1949—
(a) in relation to any particular National Park, shall be construed as a reference to the substituted purposes as from the time when a National Park authority becomes the local planning authority for that Park; and
(b)in relation to National Parks generally, shall be construed as a reference—

(I) to the original purposes, so far as relating to National Parks in the case of which the National Park authority has not become the local planning authority since the coming into force of this section, and
(ii to the substituted purposes, so far as relating to National Parks in the case of which the National Park authority has become the local planning authority since the coming into force of this section.

(5) In subsection (4) above—
"original purposes" means the purposes specified in subsection (1) of section 5 of that Act, as originally enacted;

"substituted purposes" means the purposes specified in that subsection as substituted by subsection (1) above.

Annotations:
Marginal Citations
M1
1949 c. 97.
M2
1949 c. 97.
M3
1968 c. 41.
M4
1949 c. 97.

Previous: Provision Next: Provision
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To: Licensing Team, Eden District Council, Town Hall, Penrith, CA11 7QF

Lowther Barn Café, Beckside Farm, Sandwick, Martindale, Penrith
Sale of alcohol daily 10 am to 4pm extended to 9pm during British summer time.

N.B. It is not clear from the advertised application list whether or not "New Year's Eve to 1.a.m." is attached to this application. If so, this would be particularly intrusive and inappropriate in this remote, natural location within the National Park and is clearly unrelated to a facility made for Walkers.

I would submit that an alcohol licence should not be extended from 4pm to 9 pm during Summer time as requested and refer particularly to the Licensing Act. 2003, General Policy 4.2.2:

Location of premises
Physical and accessible nature of premises
Level of likely car parking demand
The scope for mitigating the impact

The Café is set on the Bridle Way leading to Patterdale/Glenridding and is designed to service walkers using that route from Howtown. It opens out onto Sleet Fell. It is 500 metres from the end of the public highway and only properly accessible on foot. At this point there is a common/green/fell side which is already overrun with parked cars, a nuisance which will be extended long into the evening by this application.

Any extension of existing licenses, particularly into the evening, will increase the intrusion of electric light into this remote and protected landscape and delay its return to a natural state. The Café is serviced and provisioned by staff using vehicles and there is existing pressure on the bridle path. Closing down the facility after hours will extend further the disruption to the peace of immediate location.

Licensed premises are not required by walkers or the 3 houses set at the access point from the highway and such is appropriate for more accessible and larger settlements where there is provision for car parking which does not damage the landscape.

The provision of Café services with alcohol into the evening is clearly aimed at a different clientele attracted only and specifically to this remote spot, a character that is underlined in the National Park's Character Assessments. All its evening clientele will arrive by car to get as near as possible to the advertised facility.

I am a member of the family owning Townhead Farmhouse set at the access point from the highway and bridle way leading to Lowther Barn Café.

Richard Lockett, [redacted]

Linda Watson 617

From: Juliet Wright [redacted]
Sent: 02 September 2015 17:00
To: Admin Licensing
Subject: fao linda watson alcohol licence for lowther barn cafe,sandwick

dear ms watson,

thanks for your help with understanding this proposal and the procedures for assessing it.

i understand the change of use from bank barn may not at this point have the benefit of planning consent, but will try to limit my comments here to the issues raised by introducing alcohol sales to this sensitive site.

essentially i see the footpaths which run along the shore of this end of ullswater as really special gems of the national park, giving access to and views of the lakeside in quiet, 'unspoilt' countryside with a remote feel yet not demanding great levels of fitness....especially with the option of taking the steamer to or from howtown. this makes the walk attractive to the elderly/less fit and to families who might not be able safely to access remote spots at higher levels, and provides safer country walking when weather limits safe fell climbs.

i therefore think the council, in looking at the introduction of alcohol sales, should consider the interests of these walkers and whether in fact the amenity they have come to enjoy would be compromised by the change, resulting in additional noise (customers and music/tv), visual clutter (bins,lamps.....), incompatible uses, light and air pollution (heaters, smoking), motor traffic on the footpath etc. to me any of these factors could be an annoyance at such a location, and regarded therefore as a nuisance.

i am also concerned about the safety/security aspects of the intermingling of a licenced cafe with overnight tourist accommodation. it seems inadvisable, to say the least, to have an alcohol sales area within the so named hotel when it is unlikely to be staffed overnight. i assume the licence is now proposed for both floors of the building?

if a licence is to be granted, i would like to see the hours limited at least to daylight only, to limit the nuisances of danger on the footpath and of light pollution; but i would favour your committee members if possible gaining a bit more information about this location before consenting to any such licence, so that they can appreciate that the location has more in common with a fell top than with a village site where this type of outlet would be less out of place .

thankyou for considering these points, set out in haste.

juliet wright

Scanned by MessageLabs for EdenDC

[redacted]

7/7

The Manager, Licensing Section,
Eden District Council,
Town Hall,
Penrith, CA11 7QF

Dear Sir /Madam,

Ref: Application for sale/provision of alcohol at "Lowther Barn". Beckside Farm, Sandwick, Martindale, Cumbria. CA10 2NF. On behalf of A.M. & M.P. Hewitt.

As a near neighbour of Beckside Farm I wish to strongly object to the above proposal for alcohol to become freely available at the "Lowther Barn" café.

This idyllic area in which the "Lowther Barn" has sat serenely for 100s of years, bounded by deep, silent valleys and the lapping waters of the Lake and which I and my family have known for over 80 years, is affectionately described by Alfred Wainwright as being "*quiet, enchanting, exquisitely beautiful---*" and the walk from Howtown to Patterdale passing the frontage of the barn itself as it meanders toward and along the lakeside track, as being *"---my favourite"*.

The potential for that unique idyll to be forever lost by the availability and injudicious consumption of alcohol, is appalling and one can visualise the peace and tranquillity being shattered by alcohol-fuelled revelry, with loud music and bright light intruding into the gathering dusk of summer evenings, by which time one would expect most casual walkers and hikers to have returned home to relax with their own glass of beer or wine. Perhaps, with the addition of the odd marquee or two, it could easily become a popular venue for wedding receptions, corporate conventions and "bonding" exercises and the like, the food and drink sourced from outside caterers, using their own staff but creating the inevitable traffic and parking chaos and the resultant cacophony, possibly enhance by firework displays, continuing well into the night --- and, of course, the inevitable post-event litter, although so far that has not been a problem. Alfred Wainwright would be horrified!
I am well aware this is not the stated intention of the current owners and applicants but times change and others may have different ideas for the future.

In any case, as this Application includes the supply of alcohol to persons living or staying in the accommodation on the lower floor, even if running the café, they surely will be "self-catering" and can provide their own booze along with all the other necessities they require, thus perhaps giving welcome custom to local traders in Pooley Bridge or even the Howtown Hotel which has successfully catered for thirsty walkers for generations, both of which have to be passed en route for this destination.

Yours faithfully,

D.G. Robinson.

Dr. D.G. Robinson

RECEIVED
26 AUG 2015
EDEN DISTRICT COUNCIL

Any correspondence please to:
[redacted].