

# CARLISLE CITY COUNCIL

Report to:- **The Chairman and Members of the Licensing and Regulatory Panel**

Date of Meeting:- 2<sup>nd</sup> April 2003

Agenda Item No:-

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Public

Operational

Delegated Yes

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## Accompanying Comments and Statements

Required

Included

Cumbria Fire Service

Yes

No

Cumbria Constabulary

Yes

Yes

Environmental Services

Yes

No

Planning Services

Yes

Yes

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Title:-

**APPLICATION FOR VARIATION TO THE PROVISIONAL PUBLIC ENTERTAINMENT LICENCE – ROBERTSON'S, 47 LOWTHER STREET, CARLISLE**

Report of:-

**ENVIRONMENTAL PROTECTION SERVICES**

Report reference:-

**EP. 25/03**

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## Summary:-

The premises currently occupied by Robertson's Bakers are situated at 47 – 49 Lowther Street, Carlisle. The owner is carrying out refurbishment and changing the use of the premises to a café bar operation. A provisional Justices Licence has been granted and this Panel granted a provisional Public Entertainment Licence on 10<sup>th</sup> September 2001.

## Recommendation:-

Members to reach a decision from the options outlined after hearing the submissions.

J M Egan

City Solicitor and Secretary

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:- The Application, written comments from: Cumbria Constabulary and Planning Services, copies of which are attached to this report.

**To the Chairman and Members of the Licensing & Regulatory Panel on 2<sup>nd</sup> April 2003**

- 1) The premises currently used by Robertson's Bakers is situated at 47-49 Lowther Street, Carlisle. This is in the centre of the city and is primarily business, but also part residential area. The owner has previously been granted a Justices on licence and a Public Entertainment Licence and intends to change the use to a café bar operation. The joint applicants now make application for a variation to the Public Entertainment Licence hours in respect of the premises (Appendix A).

Richard Arnott of Dickinson Lees Law Firm, Newcastle upon Tyne, represents the applicant.

- 2) Applicants:
  1. Stephen Milligan, Milligan's Bakery Ltd, Newburn Industrial Estate, Newburn, Newcastle upon Tyne.
  2. Paul Reynolds, 2 Thornton Road, Stanwix, Carlisle
- 3) On 10<sup>th</sup> September 2001, this Panel granted a Public Entertainment Licence for the following hours:
  - Monday to Saturday (inclusive) 11am until 12.30am the following day
- 4) The variation to the hours of operation requested are:
  - Monday to Saturday (inclusive) 11am until 1am the following day
  - Sundays 12 noon until 12.30am the following day and 1am on a Sunday that immediately precedes a Bank Holiday (except Easter Sunday)
- 5) Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 is the legislation for the licensing of public entertainment. Section 16 of the Schedule reads as follows:
  - (1) The holder of an entertainment licence may at any time apply to the appropriate authority for such variations of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
  - (2) An authority to whom an application under sub-paragraph (1) above is made may:
    - (a) Make the variations specified in the application.
    - (b) Make such variations as they think fit including the imposition of terms, conditions or restrictions other than those so specified ; or
    - (c) Refuse the application.
- 6) Planning Services have replied that the Sunday hours applied for are at variance with condition 3 of their planning permission 01/0928 (Appendix B).
- 7) Cumbria Fire Service has to carry out a final inspection of the premises, before they are satisfied that adequate fire precautions have been taken.

8) Environmental Services have been consulted and a report is awaited.

9) Cumbria Constabulary have no objections (Appendix C)

10) This application has been advertised in the local paper and at this date no objections have been received. The closing date for objections is 4<sup>th</sup> April 2003.

## **OPTIONS**

1. To refuse the application

2. To grant a variation to the provisional Public Entertainment Licence subject to:

- a) the Council's Licensing Officer being satisfied that the requirements of Cumbria Fire Service, Environmental Services and Planning Services are fully met and inspected and confirmed to that effect
- b) there being no objections lodged by the closing date of 4thj April 2003

Prepared by J A Messenger  
Licensing Manager

CITY OF CARLISLE  
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Notice and application for a licence to use premises for Public Entertainment

I hereby make application for a ~~NEW/RENEWAL OF / TRANSFER OF / VARIATION TO / OCCASIONAL~~ Licence to use premises described below for Public Entertainment as defined in the Local Government (Miscellaneous Provisions) Act 1982

1. Full Name, Address, Postcode and Telephone Number of Applicants	STEPHEN MILLIGAN CURRENT LICENSEE	PAUL REYNOLDS 2 THORNTON RD. STANNIX CARLISLE 07810854568
2. Date and Place of Birth	(1)	(2) UK 2.8.74
3. Full Name, Address, Postcode and Telephone Number of Premises	Robertsons 47-49 Lowther Street Carlisle	
4. Proposed Hours of Operation	11am to 1am Mon - Saturday noon to 12.30am Sunday (or on a Sunday that immediately precedes a bank holiday)	
5. Date if Occasional		
6. Rooms or Areas to be Licensed		
7. Nature of Entertainment	MUSIC, SINGING AND DANCING	
8. If this is an initial application for a new Public Entertainment Licence, a simple A4 size plan of the premises should accompany it with the areas intended to be used for Public Entertainment clearly marked.		

Please note the information supplied on this form may be divulged to the Police and other agencies involved in the prevention of fraud.

Dated 13.3.3 Dated \_\_\_\_\_  
(1) (2)  
Signed Richard Arnot Solicitor Signed \_\_\_\_\_

This form should be returned to:

The Licensing Manager  
Environmental Protection Services  
Carlisle City Council  
Civic Centre  
Carlisle CA3 8QG

Together with the appropriate fee of £54.00 <sup>75704</sup> Should the application be subsequently withdrawn or refused, the fee will be retained by the Council to cover administration costs. Cheques should be made payable to Carlisle City Council.

Pol ✓  
ES  
Plan ✓

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**Carlisle City Council**  
Planning Services**INTERNAL MEMORANDUM**

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<b>From:</b> Head of Planning Services	<b>Please ask for:</b>	Martin Tickner
<b>To:</b> Licensing Manager	<b>Extension:</b>	7175
<b>FAO:</b> Jim Messenger	<b>E-mail:</b>	Martin Tickner
	<b>Your ref:</b>	Licensing/JAM
	<b>Our ref:</b>	MT/CN/DC
		21 March 2003

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**RE – PEL – VARIATION ROBERTSONS, LOWTHER STREET, CARLISLE**

I refer to your memo of 19<sup>th</sup> March concerning a variation to a Public Entertainment Licence at Robertson's, Lowther Street, Carlisle.

I enclose a copy of planning permission 01/0928 approved on 19<sup>th</sup> November 2001 and in particular condition 3 attached to that consent which is clearly at variance with the variation on to the Public Entertainment Licence in respect of Sundays.

*M Tickner*

**M Tickner**  
Enforcement Officer

## CARLISLE CITY COUNCIL

Department of Environment & Development  
Planning Services Division  
Civic Centre Carlisle CA3 8QG

Telephone 01228 817000

Fax 01228 817413

## APPLICATION FOR PLANNING PERMISSION NOTICE OF APPROVAL

Town and Country Planning Act 1990  
Town and Country Planning (General  
Development Procedure) Order 1995

Applicant:  
Milligans Bakery Ltd  
Newburn Industrial Estate  
Newburn  
Newcastle upon Tyne  
NE15 9RT

Agent (if any):  
Dickinson Dees  
St Anns Wharf  
112 Quayside  
Newcastle upon Tyne  
NE99 1SB

### Part I - Particulars of Application

Date of Application: 11/10/2001      Application Number: 01/0928

#### Particulars and Location of Proposal:

**Proposal:**

Change of use from cafe/bakery (A1/A3) to mixed use cafe/bar (A3/D2)

**Location:**

47-49 Lowther Street, Carlisle  
Cumbria

### Part II - Particulars of Decision

In pursuance of the powers under the above Act and Order the Carlisle City Council hereby gives notice that **PLANNING PERMISSION HAS BEEN GRANTED** for the carrying out of the development referred to in Part 1 hereof and as described and shown on the application and plan(s) submitted, subject to due compliance with the following condition(s):

1. The development shall be begun not later than the expiration of 5 years beginning with the date of the grant of this permission.

REASON: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. This permission shall be in respect of the use of the premises as a cafe/bar with a dance floor on the first floor and for no other purpose including any other purpose within use classes A3 and D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1997, or any provision equivalent to those classes in any other Statutory Instrument revoking and re-enacting that Order. The layout of the premises shall be in accordance with drawing no.MC/02/01.

REASON: To preclude the possibility of the use of the premises for

'B2'

purposes inappropriate in the locality.

- 3. The premises hereby permitted shall not commence trading before 1100 hours or remain open for business after 0130 hours Monday- Saturday; or before 12 noon and remain open for business after 2300 hours on Sundays

REASON: To prevent disturbance: nearby occupants

Date: 19 November 2001

Signed:

A C Eales  
Head of Planning Services

**Important Note**

This notice neither conveys nor implies any other approvals, entitlements or statutory rights which may require to be obtained from any other public or private utility or agency prior to work being carried out. In particular, if the proposal involves building work you should ensure that you obtain any approval which may be necessary under the Building Regulations before commencement of development.

**Advisory Notes**

- i) Any approval by the local planning authority of further details required by conditions specified in this notice must be obtained in writing and such notice of approval should thereafter be appended to this notification of decision.
- ii) It is recommended that this notice (and any subsequent written approval of details required to satisfy conditions) be annexed to the property deeds to which the application relates.

**Notice to Applicant of Rights of Appeal**

. Where an application for planning permission has been refused, or has been granted subject to a condition or conditions with which you are dissatisfied, you are entitled to appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.



- . Appeals must, however be made within six months of the date of this notice. Forms for submitting an appeal can only be obtained by written request from:

The Planning Inspectorate  
 Department of the Environment  
 Tollgate House  
 Houlton Street  
 Bristol  
 BS2 9DJ

- . The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- . The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- . In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

**Purchase Notices**

- . If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- . In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

**Compensation**

- . In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- . These circumstances are set out in sections 114 and related provisions of the Town and Country Planning Act 1990.