



**AGENDA ITEM: 8**

**LICENSING SUB-COMMITTEE**

**Thursday 25 April 2013**

---

**Report of: Assistant Director Community Services**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Mrs S Jordan (Extn 5315)**

**(E-mail: [samantha.jordan@westlancs.gov.uk](mailto:samantha.jordan@westlancs.gov.uk))**

---

**SUBJECT: APPLICATION FOR A PREMISES LICENCE IN RESPECT OF WETHERSPOONS, (FORMER BEST FOR DIY), 4 WHEATSHEAF WALK, ORMSKIRK L39 2XA**

---

Borough wide interest

**1.0 PURPOSE OF REPORT**

1.1 To consider an application under the Licensing Act 2003 (the Act) for a Premises Licence in respect of Wetherspoons, 4 Wheatsheaf Walk, Ormskirk L39 2XA.

**2.0 RECOMMENDATIONS**

2.1 The Sub-Committee's instructions are requested.

---

**3.0 PREMISES INFORMATION**

3.1 Address of Premises: Wetherspoons  
4 Wheatsheaf Walk  
Ormskirk  
L39 2XA

3.2 Premises Licence Holder: JD Wetherspoon plc  
Wetherspoon House  
Central Park  
Reeds Crescent  
Watford  
WD24 4QL

3.3 Designated Premises Supervisor: Deborah Hay  
6 Roehampton Court  
Queens Ride  
Barnes  
SW13 0HU

#### **4.0 THE APPLICATION**

- 4.1 On 7<sup>th</sup> March 2013 an application for the grant of a Premises Licence was received, a copy of which is attached as Appendix 1 to this report. The application was accompanied by J D Wetherspoon's Code of Conduct of Responsible Retailing which is attached as Appendix 2 to this report.
- 4.2 A location plan of the premises and the surrounding area is attached as Appendix 3 to this report.
- 4.3 A representation against the grant of the Licence has been received from Lancashire Constabulary, which includes a number of recommended conditions. This is attached as Appendix 4 to this report. A representation against the grant of the Licence has also been received from a member of the public, which is attached as Appendix 5 to this report.

#### **5.0 RELEVANT REPRESENTATIONS – RESPONSIBLE AUTHORITIES**

- 5.1 Appendix 4 details the representation and recommended conditions along with the "Secured by Design" principles submitted by Lancashire Constabulary. The representation is made under the 'prevention of crime and disorder' and 'public safety' Licensing Objectives. Lancashire Constabulary has stated that should these conditions be agreed by the applicant, then Lancashire Constabulary would withdraw the representation. At the time of writing this report, no conditions have been agreed by the applicant and therefore Lancashire Constabulary have not withdrawn their representation.
- 5.2 A copy of the above conditions have been sent to the member of public to ascertain whether they would wish to withdraw their representation if the conditions are agreed with Lancashire Constabulary. At time of writing this report ,the member of the public has not responded and therefore the representation remains.

#### **6.0 RELEVANT REPRESENTATIONS – MEMBER OF THE PUBLIC**

- 6.1 Appendix 5 details the representation received from a member of the public. The representation raises concerns of public order problems. The representation is made under the 'prevention of crime and disorder', 'protection of children from harm' and 'public nuisance' Licensing Objectives.

## 7.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

7.1 Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under Section 182 of the Act.

7.2 The Council's Statement of Licensing Policy (the Policy) provides that licence holders should be given sufficient warning of any concerns regarding problems, which have been identified at the premises, and the need to make improvements. Licensees are expected to respond to such warnings and implement the necessary remedial action. The message is clear that any failure to respond to such warnings would more than likely lead to a request for a review of the licence.

7.3 As Members will be aware, the four licensing objectives are as follows:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm

7.4 The Act provides that before determining the application, the Licensing Authority must hold a hearing to consider it and relevant representations.

7.5 The Licensing Authority in determining the application, having had regard to the application and any representations, may take the following steps if it considers it necessary for the promotion of the Licensing Objectives:

- (i) Modify or add conditions to the licence
- (ii) Exclude a licensable activity from the scope of the licence
- (iii) Remove the designated premises supervisor.

7.6 In deciding which of the powers to use it is expected that the Licensing Authority should, as far as possible, seek to establish the causes of the concerns that the representations identify. Any action the Committee may wish to take should generally be directed at these causes and should always be no more than a necessary and proportionate response in the cause of promoting the licensing objectives.

7.7 In particular, Members' attention is drawn to the following sections of the Policy, which must be read in conjunction with this report:

|            |                                      |             |
|------------|--------------------------------------|-------------|
| Section 14 | The Prevention of Crime & Disorder   | pages 22-23 |
| Section 15 | Public Safety                        | pages 34-35 |
| Section 16 | Prevention of Public Nuisance        | pages 26-28 |
| Section 17 | The Protection of Children from harm | pages 39-41 |
| Section 19 | Licensed Operating Hours             | page 34     |

## **8.0 HUMAN RIGHTS ACT IMPLICATIONS**

- 8.1 The Human Rights Act 1988 makes it unlawful for a Local Authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention rights;

### **Article 6**

that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;

### **Article 8**

that everyone has the right to respect for his home and family life;

### **Article 1 of the First Protocol**

that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

## **9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 9.1 The recommendations contained in this report have limited sustainability and/or community strategy implications. However, the Council's Licensing Policy (required under the Licensing Act 2003), which underpins the Committee's decision, impacts upon many areas within the Community. The Licensing Objectives contained in the Policy fit closely with many aspects of the Community Strategy and has the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D); Health and Social Care (issue A).

## **10.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 10.1 No additional financial or other resources are required.

## **11.0 RISK ASSESSMENT**

- 11.1 The Council has a legal duty to administer the Licensing Act 2003 and is under a legal duty to determine the matter contained in this report. A failure to determine this matter would result in potential legal challenge.

---

---

### **Background Documents**

There are no background documents (as defined in Section 100 D (5) of the Local Government Act 1972) have been relied on to a material extent in the preparation of this report.

## **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

## **Appendices**

|  |              |
|--|--------------|
| Premises Licence Application Form                          | (Appendix 1) |
| J D Wetherspoon's Code of Conduct of Responsible Retailing | (Appendix 2) |
| Location Plan  | (Appendix 3) |
| Representation/Conditions: Lancashire Constabulary         | (Appendix 4) |
| Representations: Member of the Public                      | (Appendix 5) |