



**AGENDA ITEM:**

**LICENSING SUB-COMMITTEE**

**Date: 6 September 2018**

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**Report of: Director Of Leisure And Environment**

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**SUBJECT: APPLICATION FOR PREMISES IN RESPECT OF THE TIMBER YARD,  
MOORGATE, ORMSKIRK L39 4RX**

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Borough wide interest

**1.0 PURPOSE OF REPORT**

1.1 To consider an application under the Licensing Act 2003 (the Act) for a Premise Licence in respect of The Timber Yard, Moorgate, Ormskirk L39 4RX

**2.0 RECOMMENDATIONS**

2.1 The Sub-Committee's instructions are requested.

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**3.0 PREMISES INFORMATION**

3.1 Address of Premises: The Timber Yard  
Moorgate  
Ormskirk L39 4RX

3.2 Premises Licence Holder: Mr Sean Physick

3.3 Designated Premise Supervisor: Mr Sean Physick

**4.0 THE APPLICATION**

4.1 On 27 June 2018 an application for Premise Licence was received, a copy of which is attached as Appendix 1 to this report.

4.2 A location plan is attached at Appendix 2 to this report.

4.3 On 12 July 2018 the applicant requested a modification to the application, a copy of which is attached as Appendix 3 to this report.

4.4 Relevant representations have been received against the application from Lancashire Constabulary, Environmental Protection, Planning and members of the public. Copies are attached as Appendices 4, 5, 6 and 7 to this report.

## **5.0 RELEVANT REPRESENTATIONS**

5.1 The representation from Lancashire Constabulary (Appendix 4) raises concerns regarding the premises being in a residential area and the potential for crime and disorder in the immediate residential vicinity. The representation is made under the Prevention of Crime and Disorder Licensing Objective.

5.2 The representation from the Environmental Protection and Community Safety Manager (Appendix 5) raises concerns regarding noise from patrons arriving and leaving the premises and noise from music as the building is poorly sound insulated which could result in nuisance to nearby properties. The representation is made under the Prevention of Public Nuisance Licensing Objective.

5.3 The representation from the Principal Planning Officer (Appendix 6) raises concerns regarding the unauthorised use of the site, as appropriate planning permission is not currently in place for the sale and consumption of alcohol. The representation also highlights significant potential for public safety and nuisance given the proposed opening hours and proximity of residential properties. The representation is made under the Prevention of Public Nuisance Licensing Objective.

5.4 There have been 28 representations from members of the public (Appendix 7), which raise concerns regarding noise disturbance and the potential for public disorder when patrons leaving the premises. The representations are made under the Prevention of Public Nuisance and Crime and Disorder Licensing Objectives.

## **6.0 LICENSING POLICY AND LEGAL CONSIDERATIONS**

6.1 The Local Authority must have regard to the provisions of the Licensing Act 2003. In addition 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.

6.2 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

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

- 6.4 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 objective:
- (i) Add conditions in respect of the new application
  - (ii) Refuse a licensable activity from the new application
- 6.5 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 an appropriate response in the cause of promoting the licensing objectives.
- 6.6 In particular, Members' attention is drawn to the following sections of the Policy, which must be read in conjunction with this report:

Section 4	The Prevention of Crime & Disorder	pages 10-12
Section 4	Prevention of Public Nuisance	pages 14-17
Section 8	Consideration of Premises Licences & Club Premises Certificates	pages 28-32

## 7.0 HUMAN RIGHTS ACT IMPLICATIONS

- 7.1 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.

## 8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 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).

## **9.0 FINANCIAL AND RESOURCE IMPLICATIONS**

9.1 No additional financial or other resources are required.

## **10.0 RISK ASSESSMENT**

10.1 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.

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### **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	(Appendix 1)
Location plan	(Appendix 2)
Modification to application	(Appendix 3)
Lancashire Constabulary Representation	(Appendix 4)
Environmental Protection Representation	(Appendix 5)
Principal Planning Officer Representation	(Appendix 6)
Members of Public Representations	(Appendix 7)