



AGENDA ITEM:

LICENSING SUB-COMMITTEE:

19 July 2016

Report of: Director of Leisure & Wellbeing

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**SUBJECT: APPLICATION FOR A PREMISES LICENCE IN RESPECT OF
WARBRECK GARDEN CENTRE, LYELAKE LANE, LATHOM, ORMSKIRK, L40 6JW**

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 Warbreck Garden Centre, Lyelake Lane, Lathom, Ormskirk, L40 6JW.

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

3.1 Address of Premises: Warbreck Garden Centre
Lyelake Lane
Lathom
Ormskirk
L40 6JW

3.2 Premises Licence Holder Richard Allison
The Cottage
Moss Side
Formby
L37 0AF

4.0 THE APPLICATION

- 4.1 On 5 May 2016 an application for a Premises Licence was received. However the premises notice was incorrect as the deadline date was not 28 days from the date the application was accepted. Therefore the application was only accepted from 24 May 2016. A copy of the application is attached as Appendix 1 to this report.
- 4.2 A location plan is also attached as Appendix 2 to this report.

5.0 RESPONSIBLE AUTHORITIES-ENVIRONMENTAL PROTECTION

- 5.1 A Senior Environmental Health Officer met with the applicant and discussed their intentions with regard to the types of events and activities that they plan to run under the premises licence. A site visit was also carried out.
- 5.2 The applicant agreed to reduce the operating times on the premises licence to 2300 hours Sunday to Wednesday and 0000 hours Thursday, Fridays and Saturdays.
- 5.3 The applicant also agreed to accept further conditions put forward by the Senior Environmental Health Officer these are attached as appendix 3.

6.0 RELEVANT REPRESENTATIONS - MEMBERS OF THE PUBLIC

- 6.1 Nine relevant representations have been received from members of the public along with two representations from Lathom South Parish Council and Paul Cotterill, Councillor for Bickerstaffe Ward on behalf of some of the neighbours who live in the locality of the premises and do not support the application. These representations are attached as Appendix 4 to this report.
- 6.2 A petition against the grant of the application has also been received, which includes 33 names of members of the public. However, 5 of these names are included in the nine representations detailed above. The petition is attached as Appendix 5.
- 6.3 The representations detailed above raise concerns regarding potential disturbance from noise and disorderly behaviour. The representations are made under the 'prevention of public nuisance' Licensing Objective.
- 6.4 All members of the public who have made a representation have been advised of the new timings and conditions agreed between the applicant and Environmental Protection.

7.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

- 7.1 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.

7.2 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

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

7.4 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) Modify or add conditions in respect of the variation application
- (ii) Refuse a licensable activity from the variation

7.5 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.

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

Section 4	Prevention of Crime & Disorder	pages 10-12
Section 4	Prevention of Public Nuisance	pages 14-16
Section 8	Consideration of Premises Licences & Club Premises Certificates	pages 28-32

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	(Appendix 1)
Location plan	(Appendix 2)
Environmental Protection conditions	(Appendix 3)
Members of the public, Lathom South Parish Council representation & Councillor for Bickerstaffe Ward.	(Appendix 4)
Petition	(Appendix 5)