



LICENSING SUB-COMMITTEE

NO HEARING IS SOUGHT

Report of: Director Leisure and Environment

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SUBJECT: LICENSING ACT 2003 – ENDORSEMENT OF AN AMENDED PREMISES LICENCE APPLICATION IN RESPECT OF 188 MOSS LANE, BURSCOUGH L40 4AY

Borough wide interest


1.0 PURPOSE OF REPORT

1.1 To request that Members endorse an amended application for an application for a new Premises Licence under the Licensing Act 2003 (the Act) in respect 188 Moss Lane, Burscough L40 4AY following an agreement between the applicant and objectors.

2.0 RECOMMENDATIONS

2.1 That the Sub-Committee endorse the amended application as detailed in this report and grant the Premises Licence on those terms.

3.0 PREMISES INFORMATION

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|-----|---------------------------------|--|
| 3.1 | Address of Premises | 188 Moss Lane
Burscough
Lancashire
L40 4AY |
| 3.2 | Premises Licence Holders: | Ormskirk Pubco Limited
105 Garstang Road
Preston
PR1 1LD |
| 3.3 | Designated Premises Supervisor: | Scott Reilly
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4.0 THE APPLICATION

- 4.1 An application for the grant of a Premises Licence in respect of 188 Moss Lane, Burscough L40 4AY was received on 13 July 2018. A copy of the application is attached as Appendix 1 to this report.

5.0 RESPONSIBLE AUTHORITY REPRESENTATIONS

- 5.1 Lancashire Constabulary put forward conditions on 2 August 2018, a copy of which is attached as Appendix 2 to this report.
- 5.2 The Council's Environmental Protection Service put forward conditions on 10 August 2018 as it was felt that some of the risks to the prevention of the public nuisance licensing objective were not fully covered. A copy is attached as Appendix 3 to this report.

6.0 AGREEMENT BETWEEN APPLICANT AND OBJECTORS

- 6.1 Following mediation, an agreement has been reached between the applicant and both Responsible Authorities. The applicant's agreement is attached as Appendices 4 & 5 to this report.
- 6.2 All parties have confirmed their acceptance of the amended application and agree that a hearing to determine the representations is unnecessary.

7.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

- 7.1 Whilst all parties have agreed that a hearing is unnecessary, the Act makes no provision for an application to be amended once it has been issued. Therefore the endorsement of the Sub-Committee is required to ensure the application is determined and the licence granted in accordance with the Act.
- 7.2 Accordingly, the Sub-Committee can only decide whether to endorse the amended application so that the licence can be granted on those terms or not. Members cannot amend the application. If Members are not willing to endorse the application then the matter has to be adjourned to be determined at a full hearing in order that all parties can make representations.

As none of the parties will be in attendance members only have the option to either:

1. Grant the licence in accordance with the agreed amendments
2. Adjourn the hearing to the next available date

If members want to take action for example add or amend conditions a full hearing will be required to allow the application and any party who has made a representation to state their case. Legally this is required in the interests of natural justice and in accordance with European Law and a person's right to a fair trial.

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 Act and therefore is required to endorse the matter contained in this report. A failure to endorse this matter by refusal or inaction 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
Lancashire Constabulary conditions	Appendix 2
Environmental Protection conditions	Appendix 3
Agreed Lancashire Constabulary conditions	Appendix 4
Agreed Environmental Protection conditions	Appendix 5