



## LICENSING SUB-COMMITTEE

Date: 4 November 2021

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Report of: Corporate Director Of Place and Community

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**SUBJECT: APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR IN RESPECT OF JYNX, WITHAM ROAD, SKELMERSDALE, WN8 8HP**

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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) to vary a premises licence to specify an individual as designated premises supervisor in respect of Jynx, Witham Road, Skelmersdale, WN8 8HP.

### 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:	Jynx Witham Road Skelmersdale WN8 8HP
3.2	Premises Licence Holder:	Mr Michael Parker West Lancs Diner Witham Road Skelmersdale WN8 8HP
3.3	Proposed Designated Premises Supervisor:	Mr Michael Parker

## **4.0 BACKGROUND INFORMATION**

4.1 The Premises Licence for Jynx, Witham Road, Skelmersdale was transferred to Michael Parker on 6 July 2021. A copy of the premises licence is attached as Appendix 1 to this report.

## **5.0 THE APPLICATION**

5.1 On 28 September 2021, an application to vary the premises licence to specify an individual as designated premises supervisor was received. A copy is attached as Appendix 2 to this report.

## **6.0 RELEVANT REPRESENTATION-LANCASHIRE CONSTABULARY**

6.1 In response, an objection notice against the application was received from Lancashire Constabulary on 8 October 2021, a copy of which is attached as Appendix 3 to this report.

6.2 Lancashire Constabulary have stated the following in the objection notice:

" Following a recent visit and subsequent telephone conversation, Police do not believe that this male will have day to day control of the licensed premise and due to his inexperience and poor attitude, the applicant will not actively promote the Crime and Disorder licensing objectives.

The premise suffers from a high volume of anti-social related incidents and it is believed that the applicant needs to address issues at this premise, make a variation application and work with responsible authorities before they would be willing to consider this application."

## **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 where an Objection Notice from the Police is given (and not withdrawn,) the Licensing Authority must:

- (i) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and

- (ii) having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.

7.4 Therefore if Members refuse the application, this can only be done to promote the prevention of the Crime and Disorder Licensing Objective. 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 and Disorder pages 22 – 23

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.

## **8.0 RIGHTS OF APPEAL**

8.1 In respect of the Premises Licence Holders right of appeal, Schedule 5 Part 1 section 2 (2)(b) of the Licensing Act 2003 states that:

“the holder of the licence may appeal against any decision to refuse to specify the person as premises supervisor”

8.2 In respect of the Police, Section 2 (3)(a) of the Licensing Act 2003 states that where a person who made relevant representation in relation to the application desires to contend:

“that the licence ought not to have been granted”

he may appeal against the decision.

## **9.0 HUMAN RIGHTS ACT IMPLICATIONS**

9.1 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.

### **10.0 SUSTAINABILITY IMPLICATIONS**

10.1 The Sub-Committee decision has the potential to impact upon the local community affected by the operation of the business. 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.

### **11.0 FINANCIAL AND RESOURCE IMPLICATIONS**

11.1 No additional financial or other resources are required.

### **12.0 RISK ASSESSMENT**

12.1 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.

### **13.0 HEALTH AND WELLBEING IMPLICATIONS**

13.1 There are no health and wellbeing implications arising from this report.

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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	(appendix 1)
Application Form	(appendix 2)
Representation from Lancashire Constabulary	(appendix 3)
Sergeant Horton Witness Statement	(appendix 4)