



AGENDA ITEM:

LICENSING SUB-COMMITTEE

Report of: Corporate Director Of Place and Community

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SUBJECT: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF ORMSKIRK SUPERSTORE, 16 AUGHTON STREET, ORMSKIRK

Borough wide interest

1.0 PURPOSE OF REPORT

1.1 To consider an application under the Licensing Act 2003 (the Act) for the Review of a Premises Licence in respect of Ormskirk Superstore, 16 Aughton Street, Ormskirk L39 3BW

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

3.1 Address of Premises: Ormskirk Superstore
16 Aughton Street
Ormskirk
L39 3BW

3.2 Premises Licence Holder: Mr Farhad Salehi
8 Zetland Street
Southport
PR9 OSB

3.3 Designated Premises Supervisor: Mr Farhad Salehi
8 Zetland Street
Southport
PR9 OSB

4.0 BACKGROUND INFORMATION

- 4.1 The Premises Licence held in respect of Ormskirk Superstore, 16 Aughton Street, Ormskirk is attached as Appendix 1 to this report.
- 4.2 A location plan of the premises and the surrounding area is attached as Appendix 2 to this report.
- 4.3 Members will recall that on 5 January 2022 Lancashire County Council Trading Standards Service submitted an application for the Review of the Premises Licence in respect of Ormskirk Superstore, 16 Aughton Street, Ormskirk, L39 3BW. A Review Hearing was held on the 28 February 2022 and the decision is attached as Appendix 3 to this report.

5.0 THE APPLICATION FOR REVIEW

- 5.1 In accordance with the Act, on 8 November 2022 Lancashire Constabulary submitted an application for the Review of the Premises Licence in respect of Ormskirk Superstore, 16 Aughton Street, Ormskirk. The grounds for the Review as stated in the application are:

"This application for review is submitted by Lancashire Constabulary, since August 2022 Lancashire Constabulary have visited the premises several times with West Lancashire Borough Council Licensing and Lancashire Trading Standards. The findings on the visits have been multiple non-compliance of the premises licence conditions, instances of illicit tobacco being seized, a large metal "kebab skewer" being recovered from behind the till area, alcohol sales being made outside authorised hours and CCTV showed staff splitting a packet of cigarettes before putting a cigarette in the mouth of 3 persons who appear under the age of 18 and lighting one of them.

The licensing objectives of The Prevention of Crime & Disorder and Protection of Children From Harm are being undermined at the premises. "

- 5.2 A copy of the full application for review is attached as Appendix 4 to this report.
- 5.3 On 17 November 2022 Lancashire Constabulary submitted a 38-page report detailing their representation. This is attached as Appendix 5 to this report.
- 5.4 On 30 November 2022 following an unannounced inspection to Ormskirk Superstore on 26 November Lancashire Constabulary submitted further information in respect of the representation, this is attached as Appendix 6 to the report. Along with this information Lancashire Constabulary also submitted body cam footage and stills taken from the body cam footage from the 26 November 2022 unannounced inspection. The stills are attached as Appendix 7a, 7b and 7c to this report. The body cam footage will be shown at the hearing.
- 5.3 In accordance with Section 51(3) of the Act, the relevant Notices detailing the aforementioned grounds for Review were displayed on the premises thereof giving interested parties and responsible authorities, the right to make

representations regarding the application for Review. The notice was also published on the Council's website. The Premises Licence Holder and Designated Premises Supervisor have been forwarded copies of the application for Review.

6.0 RELEVANT REPRESENTATIONS

- 6.1 A representation has been received from Lancashire County Council Trading Standards Service. The representation has been made under the crime and disorder and protection of children from harm objectives. A copy of this representation is attached as Appendix 8 to this report. Further information was received from Lancashire County Council Trading Standards Service relating to a visit to the premises on 16 December 2022, this is attached as Appendix 9 to this report.
- 6.2 A representation has been received from a Ward Councillor on behalf of members of the public. The representation has been made under the crime and disorder and protection of children from harm objectives. A copy of this representation is attached as Appendix 10 to this report.

7.0 ADDITIONAL INFORMATION

- 7.1 A Senior Licensing Officer visited the premises on 7 September 2022, at the time of inspection there were a number of licence conditions that were not being implemented. The details are attached to this report as Appendix 11.
- 7.2 The premises licence holder has submitted numerous emails, images and video footage to Officers that he may choose to present at the hearing. The licence holder has been contacted via email and telephone to ascertain which evidence he intends to refer to at the hearing however at the time of writing this report this clarification has not been received. This evidence has been compiled in the event the premises licence holder wishes to refer to it at the time of the hearing. The evidence consists of a series of emails, including photographs and 17 videos, between the premises licence holder and Officers between 13th December 2022 and 22th December 2022. This email communication has been attached as Appendix 12 and the individual emails, photographs and videos will be made available at the time of the hearing. For full details of this evidence, please contact the premises licence holder directly.
- 7.3 This hearing was deferred from the original date of 4th January 2023 as the premises licence holder requested a Kurdish Sorani translator to be present at the hearing. This has now been arranged by the Licensing Service.

8.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

- 8.1 The Licensing Authority must have regard to the provisions of the Act. In addition, Section 4 of the Act 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.

8.2 The Council's Licensing 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 warning 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 review of the licence.

8.3 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

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

8.5 The Licensing Authority in determining a review 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 the conditions of the licence
- (ii) Exclude a licensable activity from the scope of the licence
- (iii) Remove the Designates Premises Supervisor
- (iv) Suspend the licence for a period not exceeding three months
- (v) Revoke the licence

8.6 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 an appropriate response in the cause of promoting the licensing objectives.

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

Section 4.0	Prevention of Crime & Disorder	pages 10/12
Section 12.0	Reviews and suspension	pages 37/39
Section 13.0	Appeals	pages 40

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 Council’s Licensing Policy (required under the Act), which underpins the Committee’s decision, impacts upon many areas within the Community. The Committee must balance the Licensing Objectives contained in the Policy to ensure these impacts are suitably controlled.

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 Act 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.

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)
Location Plan	(Appendix 2)
Decision of Review hearing 28 February 2022	(Appendix 3)
Application for Review	(Appendix 4)
Lancashire Constabulary 38-page report	(Appendix 5)
Lancashire Constabulary Information following unannounced visit	(Appendix 6)

Still images taken from body cam (Appendix 7a 7b 7c)
Lancashire County Council Trading Standards Representation (Appendix 8)
Lancashire County Council Trading Standards-Further information (Appendix 9)
Ward Councillor Representation (Appendix 10)
Licensing Service Visit information (Appendix 11)
Emails and photographs shared by the premises licence holder between 13/12/2022
and 22/12/2022

(Appendix

12)