



**AGENDA ITEM:**

**LICENSING SUB-COMMITTEE**

**Date: 16 February 2023**

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**Report of: Corporate Director Of Place and Community**

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**SUBJECT: APPLICATION FOR THE NEW PREMISES LICENCE IN RESPECT OF  
KAIZAN SUSHI & EATERY, UNIT 14 BURSCOUGH WHARF, LIVERPOOL ROAD  
NORTH, BURSCOUGH L40 5RZ**

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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 new premise licence application in respect of Kaizan Sushi & Eatery, Unit 14 Burscough Wharf, Liverpool Road North, Burscough L40 5RZ.

**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:	Kaizan Sushi & Eatery Unit 14 Burscough Wharf Liverpool Road North Burscough L40 5RZ
3.2	Premises Licence Holder:	Mr James William Prescott 67 Orrell Lane Burscough L40 OSG

**4.0 THE APPLICATION**

4.1 On 4 January 2023 an application for a new premises licence was received, a copy of which is attached as Appendix 1 to this report.

## **5.0 PREVIOUS HISTORY**

- 5.1 This premise was issued with a Premises Licence in 2010 and has operated under that Licence until recently, a copy of that Premise Licence is attached as Appendix 2 to this report.
- 5.2 There has been one noise complaint in relation to Unit 14, Burscough Wharf since the premises was issued the 2010 Premises Licence. The Council has no record of licensing complaints or concerns during the operation of the previous licence.

## **6.0 RESPONSIBLE AUTHORITY REPRESENTATION**

### **Lancashire Constabulary**

A representation was received by Lancashire Constabulary who advised that if specific conditions were accepted the representation would be withdrawn. The applicant has accepted the conditions. A copy of these conditions is attached as Appendix 3 to this report. Further information was also received by the Police providing additional information regarding their decision when considering the application this is also attached as Appendix 4 to this report.

### **Environmental Protection**

A representation was received by the Principal Environmental Protection Officer who advised if specific conditions were accepted the representation would be withdrawn. To date these conditions have not been accepted. A copy of these conditions is attached as Appendix 5 to this report.

## **7.0 PUBLIC REPRESENTATION**

- 7.1 Representations were received by 5 members of the public against this application and are attached as Appendix 6 to this report. The representations raise concerns regarding noise and public order issues. The representations are made under the Prevention of Public Nuisance and Crime & Disorder objectives.
- 7.2 Representations were received by 2 members of the public in favour of this application and are attached as Appendix 7 to this report.

## **8.0 LICENSING POLICY AND LEGAL CONSIDERATIONS**

- 8.1 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.
- 8.2 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

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

8.4 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/Add conditions in respect of the Variation Application.
- (ii) Refuse a licensable activity from the Variation Application.

8.5 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.

8.6 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	Public Safety	pages 12-14
Section 4	Prevention of Public Nuisance	pages 14-17
Section 4	The Protection of Children from harm	pages 17-19
Section 8	Consideration of Premises Licences & Club Premises Certificates	pages 28-32

## 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 application	(Appendix 1)
Previous Licence at the premise	(Appendix 2)
Police Agreed Conditions	(Appendix 3)
Additional Police information	(Appendix 4)
Environmental Health Representation	(Appendix 5)
Public Representations – against the application	(Appendix 6)
Public Representations – in favour of the application	(Appendix 7)