



LICENSING SUB-COMMITTEE

Date: 17 April 2023

Report of: Corporate Director Of Place and Community

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SUBJECT: VARIATION APPLICATION FOR THE NEW PREMISES LICENCE IN RESPECT OF CACTUS RAYS, BURSCOUGH WHARF, LIVERPOOL ROAD NORTH, BURSCOUGH L40 5RZ

Borough wide interest

1.0 PURPOSE OF REPORT

1.1 To consider a Variation application under the Licensing Act 2003 (the Act) for a variation premise licence application in respect of Cactus Rays, Unit 7 Burscough Wharf, Liverpool Road North, Burscough L40 5RZ.

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

3.1 Address of Premises: Cactus Rays
Unit 7 Burscough Wharf
Liverpool Road North
Burscough
L40 5RZ

3.2 Premises Licence Holder: Mr Gary Fletcher

4.0 THE APPLICATION

4.1 On 12 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 CURRENT LICENCE

- 5.1 The initial licence for this premise was granted on 21 July 2020 and a copy of the licence is attached as Appendix 2 to this report.

6.0 RESPONSIBLE AUTHORITY REPRESENTATION

Environmental Protection

A representation was received by the Principal Environmental Protection Officer who advised if specific conditions were accepted the representation would be withdrawn. The applicant has not accepted the conditions. A copy of the conditions are attached as Appendix 3 to this report. The representation is made under the Public Nuisance objective.

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received by Lancashire Constabulary who advised that if specific conditions were accepted the representation would be withdrawn.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 not accepted the conditions. A copy of the conditions is attached as Appendix 4 & 5 to this report. The representation is made under the Crime and Disorder objective.

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.

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.

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)
Current Premise Licence	(Appendix 2)
Environmental Health Representation	(Appendix 3)
Police Representation	(Appendix 4)
Additional Police information	(Appendix 5)
Public Representations – against the application	(Appendix 6 to 10)