



**AGENDA ITEM:**

**LICENSING SUB-COMMITTEE:**

**Tuesday 20 December 2016**

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**Report of: Director of Leisure & Wellbeing**

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**SUBJECT: APPLICATION FOR A PREMISES LICENCE HOLDER TRANSFER IN RESPECT OF EUREKA PUBLIC HOUSE, 78 HALSALL LANE, ORMSKIRK L39 3AX**

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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 Premises Licence Holder Transfer in respect of Eureka Public House, 78 Halsall Lane, Ormskirk L39 3AX.

**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: Eureka Public House  
78 Halsall Lane  
Ormskirk  
L39 3AX

3.2 Current Premises Licence Holder Singleton Estates Ltd  
The Manor, Singleton Hall  
Lodge Lane  
Poulton-le-Fylde  
FY 6 8LT

#### **4.0 THE APPLICATION**

- 4.1 On 15 November 2016 an application for a Premises Licence Holder Transfer was received from:

Miss Lisa Marie Mackay  
The Eureka Public House  
78 Halsall Lane  
Ormskirk  
L39 3AX

- 4.2 The existing Premises Licence holder has completed the relevant form giving full consent for the transfer of the premise licence. A copy of the application and relevant consent is attached as Appendix 1 to this report.

#### **5.0 BACKGROUND**

- 5.1 For Members' information, the applicant has also submitted an application to vary a Premises Licence to specify an individual as a Designated Premises Supervisor (DPS) in respect of a Mr Ian Roche. This application is also contested by Lancashire Constabulary and is the subject of a separate report which will be presented to Sub-Committee.
- 5.2 The application for a Premises Licence Holder transfer contained in this report must be determined before the application to vary a Premises Licence to specify an individual as a DPS. Only if Members grant the transfer application should they then consider the DPS variation application. If Members refuse the transfer application, the DPS variation application should be similarly refused because Miss Mackay will not be the Premises Licence holder.

#### **6.0 NOTICE OF OBJECTION**

- 6.1 In response to the application, a Notice of Objection was received from Lancashire Constabulary on the 29 November 2016 (a copy of which is attached as Appendix 2 to this report). This Notice is given when the Police are satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.
- 6.2 In summary the Notice is set out below

##### **Lancashire Constabulary**

The applicant is the subject of a missing persons report and is wanted in relation to an alleged theft of money from the Eureka premises, the complainant and aggrieved in this case being the proposed DPS. There are currently extensive Police enquiries being made to find the applicant and as such the applicant is clearly unable to carry out the position of Premises Licence Holder

- 6.3 Accordingly, a letter and email has been sent out to the applicant advising her of the Police Notice and enquiring whether or not she wished to withdraw her application at the present time. No response has been received.
- 6.4 On 12 December 2016 the applicant and Lancashire Constabulary were invited to attend the Licensing Sub-Committee hearing on 20 September 2016.

## **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 Section 44 of the Act provides that where a Notice from the Police is received the Licensing Authority must:

- a) Hold a hearing to consider it unless that parties agree that a hearing is unnecessary
- b) having regard to the Notice:

Reject the application if it considers it necessary for the promotion of crime prevention objective to do so.

7.4 Members' attention is drawn to paragraphs 8.92 and 8.95 of the guidance issued by the Secretary of State under Section 182 of the Act. These paragraphs state that when considering this matter, Members must confine their consideration to the issue of crime and disorder. When making their decision, Members should give comprehensive reasons for that decision.

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

Section 11 - Hearings

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## **8.0 RIGHTS OF APPEAL**

8.1 The applicant is entitled to appeal the decision to the Magistrates Court should the Sub-Committee decide to reject the application.

8.2 If the Sub-Committee decides to grant the application, Lancashire Constabulary also has the right to appeal the decision to the Magistrates Court.

## **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/COMMUNITY STRATEGY**

10.1 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).

## **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.

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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**

Application and Consent Form  
Objection Notice

(Appendix 1)  
(Appendix 2)