



**AGENDA ITEM: 7**

**LICENSING SUB-COMMITTEE**

**Date: Friday 27 January 2017**

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**Report of: Director Of Leisure And Wellbeing**

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**SUBJECT: APPLICATION FOR NEW PREMISES LICENCE IN RESPECT OF 26 BURSCOUGH STREET, ORMSKIRK**

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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 Premises Licence in respect of 26 Burscough Street, Ormskirk.

**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: 26 Burscough Street  
Ormskirk  
L39 2ES

3.2 Premises Licence Holder: Estates and Regeneration Section  
West Lancashire Borough Council  
52 Derby Street  
Ormskirk  
L39 2DF

3.3 Designated Premise Supervisor: Myles McDonald Greenwell  
132 Mercury Way  
Holland Park  
Skelmersdale  
WN8 6BF

## **4.0 THE APPLICATION**

- 4.1 On 1 December 2016 an application for New Premises Licence was received, a copy of which is attached as Appendix 1 to this report.
- 4.2 A location plan is attached at Appendix 2 to this report.
- 4.3 There have been two relevant representations received against the application that have been received from Environmental Protection (attached as Appendix 3) and a Member of the Public (attached as Appendix 4)

## **5.0 BACKGROUND**

- 5.1 For Members' information this premises had previously had a Premises Licence, from 2 October 2014 to 14 July 2016 when the licence was surrendered. The new applicant has applied for the same hours of operation as was previously granted.

## **6.0 RESPONSIBLE AUTHORITIES- ENVIRONMENTAL PROTECTION**

- 6.1 The representation from the Environmental Protection Officer (Appendix 3) raises concerns that the applicant has not proposed any steps to take to promote the Prevention of Nuisance Objective. As a result of these concerns they consider that the operation of these premises as applied for presents a risk to the prevention of the Public Nuisance Objective.
- 6.2 Details of the Environmental Protection representation has been forwarded to the applicant. If the specified conditions referred to in the representation are accepted by the applicant the representation will be withdrawn.
- 6.3 On Thursday 12 January 2017 the conditions were accepted by the applicant and the representation has been withdrawn.

## **7.0 RELEVANT REPRESENTATIONS – MEMBER OF THE PUBLIC**

- 7.1 The representation from a Member of the Public (Appendix 5) raises concerns and states that the quality of life during trading hours will be seriously diminished especially with regard to increased noise levels. The representation is made under the Public Nuisance Licensing Objective.

## **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 or add conditions in respect of the variation application
  - (ii) Refuse a licensable activity from the variation
- 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

Public Safety

pages 12-14

## **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**

Premises licence application	(Appendix 1)
Location plan	(Appendix 2)
Representation Environmental Protection	(Appendix 3)
Representation Member of the Public	(Appendix 4)