



**AGENDA ITEM:**

**LICENSING SUB-COMMITTEE**

**Date: Wednesday 24 May 2017**

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

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**SUBJECT: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF JUNK, 12 CHURCH STREET, ORMSKIRK L39 3AN**

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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 the Review of a Premises Licence in respect of Junk, 12 Church Street, Ormskirk L39 3AN.

**2.0 RECOMMENDATIONS**

2.1 The Sub-Committee's instructions are requested.

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**3.0 PREMISES INFORMATION**

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| 3.1 | Address of Premises:            | Junk<br>12 Church Street<br>Ormskirk<br>L39 3AN   |
| 3.2 | Premises Licence Holder:        | Burroughs & Boschetto Ltd<br>27 Granby Close<br>Southport<br>PR9 9QG                    |
| 3.3 | Designated Premises Supervisor: | Mr Stephen Warbrick<br>Jessop House Hotel<br>65 Church Street<br>Tewkesbury<br>GL50 5RZ |

## **4.0 BACKGROUND INFORMATION**

- 4.1 A Premises Licence was originally granted for the premises on 1 May 2014. An application was received on 8 July 2016 to transfer the Premises Licence to the current Premise Licence Holder, Burroughs & Boschetto Ltd.
- 4.2 On 25 November 2016, a variation application was received from Burroughs & Boschetto Ltd requesting an extension to the operating hours. Lancashire Constabulary submitted a representation against the grant of the application at that time, and the matter was referred to the Licensing Sub Committee on 6 April 2017. The Committee decision is attached as Appendix 1 to this report.
- 4.3 A location plan of the premises and the surrounding area is attached as Appendix 2 to this report.

## **5.0 THE APPLICATION FOR REVIEW**

- 5.1 In accordance with the Act, on the on the 6 April 2017 Lancashire Constabulary submitted an application for the review of the Premises Licence in respect of Junk, 12 Church Street, Ormskirk. The grounds for the Review as stated in the application are:

*In January 2017 these premises were granted extended hours in addition to further conditions being imposed to assist the premises in promoting the licensing objectives.*

*The operators since this time have consistently failed to comply with the conditions attached to the licence and have therefore been committing criminal offences with regards the provision of licensable activity.*

*The failure of the operators to promote the licensing objectives have lead to incidents occurring at the premises which have required third party assistance to resolve as the operators do not appear to be able to manage the premises in accordance with the Licensing Act 2003 and are undermining the Crime and Disorder licensing objective.*

- 5.2 A copy of the full application for review is attached as Appendix 3 to this report.
- 5.3 Lancashire Constabulary have provided a recommendation report regarding the review which is attached as Appendix 4 to this report.
- 5.4 In accordance with Section 51(3) of the Act, the relevant Notices detailing the aforementioned grounds for Review were displayed on the premises and in the immediate vicinity 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.

5.5 For Members' information, the aforementioned Notices displayed on the premises were removed on two occasions during the period in which additional representations could be received. Licensing Officers reaffixed the Notices on both occasions.

## **6.0 RELEVANT REPRESENTATIONS**

6.1 No representations have been received from members of the public or responsible authorities.

## **7.0 LICENSING POLICY AND LEGAL CONSIDERATIONS**

7.1 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.

7.2 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.

7.3 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

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

7.5 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

7.6 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.

7.7 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

## **8.0 HUMAN RIGHTS ACT IMPLICATIONS**

8.1 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.

## **9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

9.1 The recommendations contained in this report have limited sustainability and/or community strategy implications. However, the Council's Licensing Policy (required under the Act), 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).

## **10.0 FINANCIAL AND RESOURCE IMPLICATIONS**

10.1 No additional financial or other resources are required.

## **11.0 RISK ASSESSMENT**

11.1 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.

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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**

Sub Committee Decision	(Appendix 1)
Location Plan	(Appendix 2)
Review Application	(Appendix 3)
Lancashire Constabulary Recommendation Report	(Appendix 4)