

Report of	Meeting	Date
Director of Customer and Digital	Licensing Act Sub Committee	8 th October 2018

Confidential report	Yes	No
----------------------------	-----	----

APPLICANT DETAILS

Applicant Name:	Mr Darren Tickle	Premises Name:	Pride of Aggi
Address:	10 Babylon Lane, Adlington, PR6 9NN		
Application:	Application for a premises licence to be granted under the Licensing Act 2003		

REASON FOR REFERRAL

- To advise members of an application for a premises licence to be granted under Section 17 of the Licensing Act 2003, to which relevant representations have been received
- To request that members determine the application in accordance with the provisions of the Licensing Act 2003.

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy homes and communities	X	An ambitious council that does more to meet the needs of residents and the local area	

LICENSING OBJECTIVES

- Members are reminded of the Licensing Objectives, as follows:
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm
- Members are reminded that the duty of the licensing authority is to take steps necessary to promote the licensing objectives in the interests of the wider community and not those of the individual licence holder.

APPEALS

- An appeal against the decision of the Council may be made to the Magistrates' Court within 21 days of receipt of the determination notice which will be delivered to all relevant parties.

LEGAL CONSIDERATIONS

- Members must have regard to the following:
 - The Guidance issued under Section 182 of the Licensing Act 2003. In particular, Section 9.31 to 9.44 may guide members.
 - The Council's Statement of Licensing Policy effective from 2016.
 - The Licensing Act 2003.

THE APPLICATION

8. On 14th August 2018, an application for a premises licence to be granted was received. This application, which is appended at Appendix 1, sought to authorise the following licensable activities:

Licensable Activity	Proposed Hours
Provision of Live Music (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:00hrs
Provision of Recorded Music (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:30hrs
Provision of Performances of Dance (Indoors)	Monday- Thursday: 12:00- 23:30hrs Friday- Sunday: 12:00- 00:30hrs
Provision of Any Similar Entertainment (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:30hrs
Sale of Alcohol (On and Off Sales)	Sunday- Thursday: 12:00- 23:30hrs Friday- Saturday: 12:00- 00:30hrs

9. The application sought to authorise licensable activities for the following non-standard timings:

*The day proceeding all bank holidays to be as per Friday and Saturday operating hours.
All licensable activities (excluding Provision of Live Music) shall be permitted from the terminal hour on New Year's Eve until 12:00hrs on New Year's Day.
The terminal hour for Provision of Live Music on New Year's Eve shall be 01:00hrs on New Year's Day.*

10. Following consultation with Lancashire Constabulary, the applicant agreed to amend the non-standard timings, in relation to New Year's Eve and all activities to 01:30hrs on New Year's Day.
11. Members will note at Section 18 of Appendix 1, the applicant has provided a comprehensive operating schedule of the measure intended to promote the licensing objectives.
12. Following consultation with Lancashire Constabulary, the applicant agreed to include the following in the operating schedule:

The premises shall operate and maintain a CCTV system which shall be in use during all times licensable activities are taking place at the premises and comply as follows:

- a) The system shall cover all entrances and exits of the premises, in addition to covering all internal and external areas of the premises used to supply or consume licensed products*
- b) The focus of the camera(s) shall be so as to enable clear identification of persons on the premises*
- c) The system will be capable of time and date stamping recordings and retaining said recordings for at least 28 days*
- d) The Data Controller shall make footage available to a Police Officer or authorised officer where such a request is made in accordance with the principles of the Data Protection Act or any subsequent or alternative legislation*
- e) Signage advising that CCTV is in operation will be displayed*

13. Members may wish to consider whether it is appropriate to impose both measures mentioned at 5.3 and 5.5 when determining the application.

REPRESENTATIONS

14. On 21st August 2018, a representation was received from a resident of Babylon Lane. The representation, which is appended at Appendix 2, concerns the likely effect of the grant of the licence on the Prevention of Public Nuisance objective. It shall be for members to determine how much weight should be placed on it.
15. In accordance with Regulation 7(d) of the Licensing Act 2003 (Hearings) Regulations 2005, the Authority has requested the resident provides clarification on the following point:
 - How noise associated with the premises might cause an impact on you and, by extension, public nuisance.

IMPLICATIONS OF REPORT

16. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

17. No comments

COMMENTS OF THE MONITORING OFFICER

18. For the purpose of the Licensing Act 2003 Public Nuisance retains a broad common law meaning and may include in appropriate circumstances low-level nuisance affecting a few people living locally in addition to a major disturbance affecting the whole community.

The Human Rights Act 1998 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.

Conditions which are proportionate may be imposed on the grant of a licence which promote one or more of the four licensing objectives referred to in paragraph 4 of the report.

The applicant may appeal the refusal of the grant of a licence or appeal against the imposition of a condition on a licence which they consider to be unreasonable. Any person who has made a representation may also appeal against the grant of a licence or argue that different or additional conditions should have been imposed. Such appeals must be made to the local magistrates' court within 21 days of notification of the decision.

The requirement for the licensing authority to consider the s.182 guidance and its own policy are addressed within the body of the report.

CONCLUSIONS

19. The decision should be based on the individual merits of the application and the representation. In accordance with Regulation 26(2) of the Licensing Act 2003 (Hearings) Regulations 2005, a decision must be made within the period of 5 working days beginning with the day or the last day on which the hearing was held.

20. In accordance with Section 18, the Authority must, having regard to the representation made, take such steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:

- to grant the licence subject to:
 - the conditions offered in the operating schedule, modified in any way as the authority considers appropriate for the promotion of the licensing objectives, and
 - the mandatory licensing conditions;
- to exclude any licensable activities from the licence;
- to refuse to specify a person in the licence as the premises supervisor;
- to reject the application.

Asim Khan
DIRECTOR OF CUSTOMER AND DIGITAL

APPENDICES

Appendix	Description
Appendix 1	Application for the grant of Premises Licence
Appendix 2	Valid Representation

BACKGROUND PAPERS

Document	Date	Place of Inspection
The Council's Statement of Licensing Policy	2016 - 2021	The Council's Statement of Licensing Policy
Secretary of State Section 182 Guidance	April 2018	Secretary of State Section 182 Guidance

Report Author	Ext	Date
Nathan Howson	5665	17 th September 2018