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| **REPORT TO** | **ON** |
| **Licensing Panel** | **23 January 2019** |
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| **TITLE** | **REPORT OF** |
| **Determination of New Premises Licence Application - Indigo, 1a Fleetwood Street, Leyland** | Legal Services Manager (Interim Monitoring Officer) |

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| Is this report confidential? | **No** |

1. **PURPOSE OF THE REPORT**

To provide an overview of the application and inform Members of the relevant parts of statute and guidance relating to this application.

**2 CORPORATE PRIORITIES**

The report relates to the following corporate priorities:

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| Excellence and Financial Sustainability |  |
| Health and Wellbeing | x |
| Place | x |

Projects relating to People in the Corporate Plan:

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| People  |  |

1. **RECOMMENDATIONS**

Members are requested to:

3.1 note the content of the report; and

3.2 determine whether to grant or reject the application. If members grant the application, they are asked to consider whether any additional conditions or restrictions should apply (taking into account any representations that have been made).

**4. BACKGROUND TO THE REPORT**

4.1 An application was submitted on 31st October 2018 by Daniel Hindle for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for a first floor premises, formally the Knights of St Columbus, 1a Fleetwood Street, PR253NL.

4.2 The Applicant seeks permission to sell alcohol by retail between the hours of 11.00hrs till 00.00hrs Sun- Thurs and 11.00hrs -02.00hrs on Fridays and Saturdays.

4.3 In addition, the applicant seeks permission:

To offer recorded music between the hours of 19.00hrs and 00.15 Sun- Thurs and 19.00hrs – 02.15 on Fridays and Saturdays.

The proposed opening hours of the premises are 11.00hrs till 00.30hrs Sun-Thurs and 11.00hrs -02.30hrs on Fridays and Saturdays.

4.4 The premises is currently licensed for the supply of alcohol, the supply is subject to terms of the Club Premises Certificate. Bona fide clubs should be run for the benefit of the members and the only additional customers permitted in a club are guests of the members. The current hours of the CPC are 11.00hrs midnight through the week and 11.00hrs 01.00hrs at the weekend.

**E+W**

1. **REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

5.1 There have been three representations received by responsible authorities in respect of the application. The representations have been received from the Council’s Environmental Health Section, the Licensing Authority and the Police, the representations are attached as Appendices A, B and C respectively.

5.2 The representation relate to concerns over noise nusiance and crime and disorder which fall under the licensing objectives

**6. REPRESENTATIONS FROM OTHER INTERESTED PARTIES**

6.1 There have been 12 representations received from other parties. They have raised issues in respect of licensing objectives relating to the Prevention of Harm to Children, the Prevention of Public Nuisance, the Prevention of Crime and Disorder, and Public Safety. Please see attached representations (Appendices D-O).

**7. DECISION TO BE MADE BY THE LICENSING ACT PANEL**

 **Determination of application under section 18 of the Licensing Act 2003**

7.1 Section 18 of the Licensing Act 2003 sets out the steps that can be taken, which are;

To grant the licence subject to any conditions the Licensing Authority considers appropriate for the promotion of the Licensing Objectives.

To exclude from the scope of the licence any licensable activities to which the application relates

To refuse to specify a person in the licence the premises supervisor; or

To reject the application

A licensing authority must carry out its functions under the Act (licensing functions) with a view to promoting the licensing objectives.

In carrying out its functions, a licensing authority must have also have regard to-

1. Its own statement policy published under section 5, and
2. Any guidance issued by the Secretary of State under section 182.

Relevant paragraphs of the Section 182 guidance are found below;

*“9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.*

*9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives…..There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.*

*9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.*

*9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.”*

*7.2* Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority’s interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

7.3 Panel members are requested to consider the evidence and to determine whether or not the application should be granted with or without modifications or rejected.

7.4 The panel must have regard to:

1. Its own policy; and
2. Secretary of State Guidance (section 182 of the Licensing Act 2003).

**8. CURRENT POSITION.**

A hearing was arranged for the 19th December 2018 but due to the changes to application submitted by the Applicant –( please see appendix U for the full details) in response to the representations it was deemed in the public interest to defer the matter to understand the impact of the proposed changes. The Applicant continued to trade over the festive period by utilising his entitlement of Temporary Event Notices utilising hours which replicated his revised application i.e.;

Sun- Thus 16.00hrs - 23.00hrs

Fri & Sat- 14.00hrs - 00.00hrs

The premises was open using TEN’s on the following dates;

14th -18th December 2019

20th-24th December 2019

26thDec-1st January 2019 (New Year’s Eve the terminal hour was 01.00hrs)

3rd January-8th January 2019

10th January-16thJanuary 2019

The structure above represents approximately 210 trading hours of what can be considered one of the busiest periods of the year for Licensed Premises.

The premises was visited by Licensing Officers on the evening of the 29th December 2018 at 21.50hrs, the observations were that the premises were well managed with no concerns noted.

As of the 11th January 2019 no adverse complaints have been received by the Local Authority other than an e mailed photograph sent in on the 17th December of vomit on the pavement but the complainant was unclear where the location was and it cannot be shown in any way that this can be linked to the premises.

**9. Financial implications**

9.1 There are no direct financial implications arising from this report.

**10. LEGAL IMPLICATIONS**

10.1The Licensing Authority are under a statutory duty to facilitate the hearing. When determining this hearing the Council must comply with the rules of natural justice.

Any party at the hearing has a right to appeal the decision to the Magistrates Court.

**11. COMMENTS OF THE STATUTORY FINANCE OFFICER**

11.1 There are financial implications arising from the recommendations in this report.

**12. COMMENTS OF THE MONITORING OFFICER**

Please refer to the comments at 10.1.

**13. OTHER IMPLICATIONS:**

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| * **HR & Organisational Development**
* **ICT / Technology**
* **Property & Asset Management**
* **Risk**
* **Equality & Diversity**
 | NoneNoneNonePlease refer to the legal risks identified above.None |

**14. APPENDICES**

Appendix 1 Application and Plan- Marked as Application

Appendix A - C. Representations from Responsible Authorities

Appendix D - O .Representations from interested parties

Appendix P - T Photos of the premises

Appendix U Response to objections from the applicant

Appendix V- CCTV plan for the premises

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| Report Author: | Telephone: | Date: |
| Chris Ward – Licensing Officer | 01772 625401 | 11 January 2019 |