

REPORT TO	DATE OF MEETING
LICENSING PANEL	9 November 2010

Report template revised February 2007



SUBJECT	PORTFOLIO	AUTHOR	ITEM
APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003 IN RELATION TO 117 LIVERPOOL ROAD LONGTON PR4 5AA	REGENERATION, LEISURE AND HEALTHY COMMUNITIES	Kay Lovelady	4

SUMMARY AND LINK TO CORPORATE PRIORITIES

An application has been made by Anita Carlton for a premises licence under Section 17 of the Licensing Act 2003 in respect of 117 Liverpool Road Longton Preston Lancashire PR4 5AA

The application could have an impact on several of the Council's Corporate Priorities. It should be borne in mind however, that the application must be determined in accordance with the Licensing Act 2003, Council's Licensing Policy Statement and the statutory guidance issued under Section 182 of the Licensing Act 2003.

RECOMMENDATIONS

The panel conduct the hearing in accordance with the hearing procedure and decide accordingly.

DETAILS AND REASONING

Anita Carlton. has submitted an application for the grant of a Premises Licence under Section 17 of the Licensing Act 2003 in relation to premises at 117 Liverpool Road, Preston Lancashire PR4 5AA.

At the time the application was submitted the premises had planning permission for retail units with living accommodation above. It was agreed by the applicant to postpone the hearing of this application until after the planning permission for a change of use had been granted. Planning Permission has been granted on the 29th September 2010 and a copy of the planning conditions are attached to this report.

It is intended that the premises will be converted into one unit over two floors. The applicant states that they will fit out the unit and operate as a Restaurant and Bar. The premises is situated in the middle of Longton and near a residential estate.

Details of the application are set out on the summary sheet attached.

Representations from Responsible Authorities

There have been representations against this application from Responsible Authorities as follows:

Environmental Health

Correspondence between Environmental Health and the Applicant's Solicitors is attached to this report. They have raised issues with the opening hours and times regulated entertainment is to take place given the potential for noise nuisance to nearby residents. They have requested that the terminal hour for regulated entertainment be modified to 23.00.

They also object to the additional hours for British Summertime commencing as the application does not seek the provision of regulated entertainment after 02.00. They agree to an extra hour i.e 12.00 midnight on specific dates as outlined in the representation or until 01.00 for regulated entertainment on New Year's Eve.

Environmental Health also suggested some conditions which are outlined in the attached representation and application summary some of which have been agreed with the applicant.

The Police:

The Police requested the following condition:

The premises will not become a music led establishment and will remain food led until a variation is applied for

The applicant confirmed that they agreed to this condition being placed on the licence and the Police subsequently withdrew their representation.

The Fire Authority

The Fire Authority have stated that there are issues regarding compliance with Building Regulations and that these will have to be resolved before any decision is made about whether the premises is suitable for licensing.

Representations from Interested parties

Representations have been received from local residents against the application copies of which are attached to this report.

Representations have been made in respect of the potential for problems with increased public nuisance, issues of crime and disorder and public safety following from the sale of alcohol and the impact on the above from the potential for increased business in the area. In particular mention has been made about the problem with youths congregating and drinking on the streets and the problems that arise from this particularly on residents and families living in the area.

The Committee will note that issues have been raised in respect of planning, effect on other food businesses i.e competition, parking and highways issues. These are not relevant considerations under the Licensing Act 2003

The relevant issue from a licensing perspective is how the application impacts on the four licensing objectives and whether the granting of the application would be proportionate to those objectives. The Committee is obviously aware that they have the power to refuse the application or impose conditions to ensure proportionality.

Licensing Act 2003

The Council must carry out its licensing functions with the intention of promoting the licensing objectives.

The licensing objectives are:-

- a) the prevention of crime and disorder;

- b) public safety;
- c) the prevention of public nuisance; and
- d) the protection of children from harm.

The Council must also have regard to:

- 1. Its own Policy Statement;
- 2. Secretary of State guidance (Section 182 of the Licensing Act 2003).

Licensing Statement

The attention of Licensing Sub-Committee is drawn to the Council's 'Statement of Licensing Policy.' In particular:

- 1. Section 9 Prevention of Crime and Disorder
- 2. Section 11 is of particular relevance. This section deals with the 'Prevention of Public Nuisance'.
- 3. Section 12 - this section looks at 'Mechanisms for dealing with Public Nuisance'.
- 4. Section 13 – Protection of Children from Harm
- 5. Section - 16 Cumulative Impact

Secretary of State Guidance

Members' attention is drawn to the statutory guidance issued under Section 182 of the Licensing Act 2003 which is of relevance to such hearings.

Members should make themselves aware of all relevant parts of the statutory guidance prior to determining this application.

Paragraph 2.1 of this guidance states;

"The steps any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities may be carried on. Licensing authorities should therefore look to the police as the main source of advice on these matters...."

Paragraph 2.34 of this guidance states:

"Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time in the evening to more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any condition necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the premises. Licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

Paragraph 2.36 further states:

"Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise in the immediate vicinity of the premises may also prove necessary to address and disturbance anticipated as customers enter and leave."

Members should consider the contents of 'Annex D – Pool of Conditions' of the Guidance issued under Section 182 of the Licensing Act 2003. In particular 'Part 4. Conditions relating to the Prevention of Public Nuisance' may be of relevance

Paragraph 2.41 states:

“The protection of children from harm includes the protection of children from moral, psychological and physical harm ... However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family friendly environments should not be frustrated by overly restrictive conditions in relation to children.

In respect of Cumulative Impact see Sections 13.24 – 13.39 although it is unlikely that this will apply given the fact the Police and other Responsible Authorities have no issue with the grant of this licence.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

FINANCIAL	There are no financial implications for the authority.
LEGAL	When determining this hearing the Council must comply with the rules of natural justice. Any party at the hearing has the right of appeal to the Magistrates Court.
RISK	Please see above.
OTHER (see below)	There are no other risks associated with this proposal.

<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Efficiency Savings</i>	<i>Equality, Diversity and Community Cohesion</i>
<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>
<i>Respect Agenda</i>	<i>Staffing</i>	<i>Sustainability</i>	<i>Training and Development</i>

BACKGROUND DOCUMENTS

- The hearing procedure
- Application Summary Sheet
- Site Plan of the Premises and neighbouring properties.
- Application form
- Representations from Responsible Authorities
- Representations from Interested Parties