

REPORT TO	DATE OF MEETING
LICENSING PANEL	17 th August 2011

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 THE ORCHID COFFEE BAR 139 LIVERPOOL ROAD LONGTON PR4 5AB	REGENERATION, LEISURE AND HEALTHY COMMUNITIES	Kay Lovelady	4

SUMMARY AND LINK TO CORPORATE PRIORITIES

An application has been made by Linda Cartwright for a premises licence under Section 17 of the Licensing Act 2003 in respect of 139 Liverpool Road Longton Preston Lancashire PR4 5AB

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

Linda Cartwright has submitted an application for the grant of a Premises Licence under Section 17 of the Licensing Act 2003 in relation to premises at 139 Liverpool Road, Preston Lancashire PR4 5AB.

The premises currently operate as a Coffee Bar in Longton with approximately 30 seats serving light lunches etc. The applicant wishes to extend the business to offer a tapas style menu serving wine/cocktails from 6.30p.m until 23.30 Monday – Sunday with alcohol sales and provision for recorded music finishing at 23.00.

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

Representations from Responsible Authorities

On receiving the application both the Police and Environmental Health entered into discussions with the applicant regarding their concerns and a set of conditions as outlined below were agreed and as such representations were withdrawn: There conditions were as follows:

1. Within 14 days of the licence being granted a tamper proof, digital CCTV system will be installed in liaison with and to the satisfaction of Lancashire Constabulary. The system shall cover all of the public areas within the premises
2. The system shall record at all times the premises are open to the public and every recording shall display the correct date and time.

3. There will be, at all times the premises is open, someone at the premises who can operate and download images from the system and provide a copy of these images to any responsible authority at the time of request.
4. The premises will operate a challenge 21 policy as a minimum and signs promoting the policy will be prominently displayed at the public entrance and all alcohol sales areas.
5. The Designated Premises Supervisor will ensure the premises will maintain an incident/refusals book and will retain a record of all incidents relating to the premises, its staff and customers, including time, date, nature of incident and outcome to the satisfaction of Lancashire Constabulary and the Local Authority. This record will be available on request to any responsible authority.
6. Notices shall be prominently displayed at the exits advising customers to leave quietly and with consideration for residents.
7. The premises licence holder shall take all reasonable steps to ensure that all customers leaving the premises, do so quietly and do not cause a nuisance to local residents.
8. The DPS shall ensure that the area around all entrances/exits or where customers congregate to smoke will be kept clean, tidy and free from litter, including smoking related litter.
9. All doors shall have self-closing devices fitted that are maintained in working order at all times
10. All doors and windows must remain closed whenever regulated entertainment is being provided except to allow access to and egress from the premises.

Representations from Interested parties

One representation has been received against the application from the person who lives above the premises. A copy of the letter is attached to this report.

The representation raises the issue of noise nuisance and asks for soundproofing. In addition the panel will note that issues have been raised in respect of planning, for example, parking and the hours the premises are allowed to trade i.e increasing from allegedly 50hrs to 70hrs to the proposed 108 hours. These are not relevant considerations under the Licensing Act 2003 although the times with which the licensable activities take place are for consideration.

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 panel 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 the panel is drawn to the Council's 'Statement of Licensing Policy.' In particular:

1. Section 11 is of particular relevance. This section deals with the 'Prevention of Public Nuisance'.
2. Section 12 - this section looks at 'Mechanisms for dealing with Public Nuisance'.

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 2.34 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

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.
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LEGAL	<p>When determining this hearing the Council must comply with the rules of natural justice.</p> <p>Any party at the hearing has the right of appeal to the Magistrates Court.</p>
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