

REPORT TO	ON
Licensing Panel	3 December 2019



TITLE	REPORT OF
Fat Sam's Bar & Grill Ltd	Interim Monitoring Officer

Is this report confidential?	No
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### PURPOSE OF THE REPORT

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

### RECOMMENDATIONS

2. Members are requested to:
3. Note the content of the report; and
4. 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).
5. Conduct the hearing in accordance with the hearing procedure.

### CORPORATE OUTCOMES

6. The report relates to the following corporate priorities:

Excellence, Investment and Financial Sustainability	
Health, Wellbeing and Safety	x
Place, Homes and Environment	x

Projects relating to People in the Corporate Plan:

Our People and Communities	
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## **BACKGROUND TO THE REPORT**

7. An application was submitted on the 15th October 2019 by Sam Howarth for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for an eating establishment with late night refreshments and supply of alcohol at 165 Towngate, Leyland, PR25 2TE  
The applicant seeks permission to;

Offer late night refreshments between the hours of 23:00am – 00:00am on Fridays Saturdays.

Supply alcohol between the hours of;  
11:00am – 22:45pm on Mondays – Thursdays  
11:00am – 23:45pm on Fridays & Saturdays  
11:00am – 21:45pm on Sundays

With proposed opening hours of;  
11:00am – 23:00pm Mondays – Thursdays  
11:00am – 00:00am on Fridays & Saturdays  
11:00am – 22:00pm on Sundays and;

To play recorded music between the hours of;  
11:00am – 23:00pm Mondays – Thursdays  
11:00am – 00:00am on Fridays & Saturdays  
11:00am – 22:00pm on Sundays

It should be noted that the applicant has restricted his application to the inside of the Premises. There is no mention of an outdoor seating area or proposed smoking shelter. The application is for internal use only.

Attached as Appendix 3 is a map of what businesses already exist within the locality of 165 Towngate, Leyland. Members are asked to note two businesses in particular;

ASDA Supermarket which operates Monday – Sunday until Midnight.

The Gables Public House which operates 09:00am – 02:00am Fridays & Saturdays and 09:00am – 01:00am Sunday – Thursday.

## **REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

5. As with all new applications the relevant Responsible Authorities were consulted. These authorities are deemed to be experts in relation to Licensing Objectives which include Public Nuisance, Prevention of Crime & Disorder, Protection of Children from harm and Public Safety.

No representations have been made by any Responsible Authority.

## **REPRESENTATIONS FROM OTHER INTERESTED PARTIES**

6. There has been two representations received by members of the public. They have raised issues in respect of Licensing Objectives relating to the Prevention of Public Nuisance and the Prevention of Crime and Disorder (See Appendix 1 & 2).

The representations relate to concerns over noise nuisance and potential anti-social behaviour that may lead to crime & disorder issues.

## PROPOSALS

7. The decision to be made by the Licensing Panel is to determine the application under section 18 of the Licensing Act 2003.

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

To grant the Premises 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;

- a) Its own statement policy published under section 5, and
- b) Any guidance issued by the Secretary of State under section 182.

Some relevant policy considerations are as follows;

*12.4 In considering all licence applications, the Licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and disorder having regard to all of the circumstances of the application, and in particular consider the following:-*

- a. the type of activity, the number and type of customers likely to attend;*

- b. the levels of noise likely to be generated from the premises;*

- c. particular consideration to be given to the effect of the implementation of the smoking legislation on the four licensing objectives*

- d. the proposed hours of operation - there is no presumption that the local authority will allow external areas to be used by customers for the consumption of food or drink after 23.00 unless otherwise stated in the particular premises licensing conditions;*

- e. the levels of public transport accessibility for customers and the likely means of public or private transport that will be used;*

- f. means of access to the premises for customers;*

- g. whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents;*

- h. the cumulative impact of licensed premises;*

- i. frequency of the activity;*

*j. the steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises;*

*k. the steps the applicant has taken or proposes to prevent queuing, or if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise manage the queue to prevent disturbance or obstruction;*

*l. the arrangements the applicant has made or proposes to make for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents;*

*m. whether routes to and from the premises pass residential premises;*

*n. whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises.*

*19.2 The policy will not set fixed trading hours within any designated area as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise. The licensing authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However the policy recognises that stricter conditions with regard to noise control will be necessary in more densely populated residential areas – where any application will be judged on its merits.*

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 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 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.”

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.

#### **AIR QUALITY IMPLICATIONS**

8. There are no Air Quality implications.

#### **COMMENTS OF THE STATUTORY FINANCE OFFICER**

9. There are no financial implications.

#### **COMMENTS OF THE MONITORING OFFICER**

10. The 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.

#### **OTHER IMPLICATIONS:**

<b>► Risk</b>	<i>Relevant comment to added here</i>
<b>► Equality &amp; Diversity</b>	<i>Relevant comment to added here</i>

#### **APPENDICES**

Appendix 1 - Representation made by 186 Towngate

Appendix 2 - Representation made by 194 Towngate

Appendix 3 - Map of Towngate, Leyland

Appendix 4 – Application Form

LT Member's Name

Job Title

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