



HYNDBURN

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TITLE : LICENSING ACT 2003 DETERMINATION HEARING

TO: LICENSING SUB-COMMITTEE

DATE: WEDNESDAY 4TH SEPTEMBER

TIME: 2PM

QER room, Scaitcliffe House, ACCRINGTON

BY : Wendy Redfern, Licensing Manager

STATUS : PUBLIC

1. PURPOSE OF THE REPORT

- 1.1 To advise elected members of the details of an application to transfer a premise licence submitted under section 42 of the Licensing Act 2003.

2. RECOMMENDATIONS

- 2.1 That the Sub-Committee make a determination under section 44 of the Licensing Act 2003 at the end of the hearing or within 5 working days of the last day of this hearing as required by Regulation 26(2) Licensing Act 2003 (Hearings) Regulations 2005

3. REPORT OF THE LICENSING MANAGER

THE APPLICATION

- 3.1 On the 29th July 2024, Food Plus Accy Limited submitted an application to transfer a premises licence under section 42 of the Licensing Act 2003 for the ACC Food Plus, 38 Whalley Road, Accrington. The current licence is held by Food Plus Accrington Limited, and they have submitted a consent to transfer the licence.
- 3.2 The application was submitted to have immediate effect under section 43 of the Licensing Act 2003. Section 43 prescribes that:

- (1) Where-
- (a) An application made in accordance with section 42 includes a request that the transfer have immediate effect, and
 - (b) The requirements of this section are met,
- Then by virtue of this section, the premises licence has effect during the application period as if the applicant were the holder of the licence.
- (2) For this purpose ‘the application period’ means the period which –
- (a) begins when the application is received by the relevant licensing authority, and
 - (b) ends-
 - (i) When the licence is transferred following the grant of the application, or
 - (ii) If the application is rejected, when the applicant is notified of the rejection, or
 - (iii) When the application is withdrawn

3.3 The permitted activities and times at the premises are set out below. There has been no application to vary any of the times or activities. The application, and therefore the determination hearing, solely relates to the transfer of the licence.

| Activity | Day | Hours applied for |
|---|------------------|--------------------------|
| Sale or supply of alcohol for consumption off of the premises | Monday to Sunday | 06:00 – 23:00 |

The full licence is attached at **Appendix A** to this report.

The application to transfer the licence is attached at **Appendix B** to this report.

4. THE REPRESENTATIONS

4.1 It has been determined that this is a valid application for the transfer of a premises licence submitted under the Licensing Act 2003 (the Act). Under section 42(5) (a) of the Act the holder of the premise licence must give notice of the application to the chief officer of police for the police area in which the premise are situated. Section 42(6) of the Act prescribes that where a chief officer of police notified under subsection (5) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reason why he is so satisfied. Sub section (7) of the Act prescribes that such notification must be given within 14 days of when he received the application. A representation was received from the chief officer of police on the 07th August 2024 within the statutory period.

4.2 The issue raised by the representations relates to the following licensing objective –

- The prevention of crime and disorder

The representation is attached at **Appendix C**

THE LICENSING ACT 2003

5.1 The Licensing Act 2003 requires you to:

Have regard to the notice and reject the application if you consider it necessary for the promotion of the prevention of crime objective to do so.

5.3 Members are advised that you should take account of the Statutory Guidance to the Act.

5.4 Members are also referred to Hyndburn Licensing Authority's Statement of Licensing Policy

6. LEGAL IMPLICATIONS

6.1 Members are reminded that they should:

- follow the rules of natural justice and the code of conduct for elected members in licensing applications.
- have read or should hear all the facts prior to making a determination.
- Give consideration to the Human Rights Act 1998, in particular:
 - the right to peaceful enjoyment of possessions;
 - the right to a fair and public hearing within a reasonable time;
 - respect for private and family life; and
 - the right to freedom of expression.

6.2

Appendix A Copy of current licence

Appendix B Application to transfer the premises licence

Appendix C Notice received on behalf of the chief officer of police.

Appendix D [Home Office Guidance issued under S182 of the Act](#)

Appendix E [Hyndburn Borough Council Licensing Act Policy](#)

Appendix F Licensing Authorities Conduct of Hearing Procedures

