



Report of:	Meeting	Date
Mark Billington, Corporate Director Environment	Licensing Sub Committee	13 October 2020

Application to vary a Premises Licence – The Cube, 2 Breck Road, Poulton-le-Fylde, FY6 7AA

1. Purpose of report

- 1.1 To assist Members to determine an application submitted under section 34 of the Licensing Act 2003 by Cube Bar Limited, to vary a condition on premises licence PL(A)0342.

2. Outcomes

- 2.1 That the application to vary the premises licence be determined.

3. Recommendation

- 3.1 That Members consider the application and determine whether the granting of this application would adversely impact on the licensing objectives.

4. Background

- 4.1 On Monday 17 August 2020 an application was received from Cube Bar Limited, to vary a condition of premises licence ref: PL(A)0342, in respect of The Cube, 2 Breck Road, Poulton-le Fylde, FY6 7AA (**Appendix 1**).
- 4.2 The applicant wishes to amend the following Annex 3 condition, "The outside area shall not be used after 21:00 and the Premises Licence Holder or their representative shall ensure that access to this area by anyone is prevented from 21:00", by substituting 22:00hrs in place of 21:00hrs.
- 4.3 The condition was added to the licence by the Licensing Committee at a hearing on 31 August 2017, (minute LIC.18 refers) in response to resident concerns raised during the hearing about the potential for noise nuisance, as the use of the beer garden was not restricted under the terms of the Premises licence at that time. Mr Mellor, through his legal

representative indicated to the Committee that it was the pubs policy to close the beer garden to patrons at 21:00hrs.

- 4.4 A copy of the current Premises Licence is attached at **Appendix 2**.
- 4.5 The application was advertised in accordance with Regulations and at the end of the consultation period on 15 September 2020, there were eight objections to the application and forty one representations supporting it. (**Appendix 3**).
- 4.6 Three further representations in support of the application were received after the consultation period ended. The individuals who submitted these have been informed that they will not be able to address the hearing, as the right of audience is reserved for persons who submit a valid representation within the statutory consultation period.
- 4.7 Section 18(3) of the Licensing Act 2003, as amended, requires the Licensing Authority to hold a hearing to consider an application and any relevant representations, within twenty working days following the end of the statutory twenty-eight day consultation period.

5. Key issues and proposals

- 5.1 The applicant has refurbished the beer garden to provide socially distanced seating for customers (**Appendix 4**) and a retrospective planning application in respect of this work is due to be considered by the Planning Authority later this month.
- 5.2 Member are reminded that the licensing committee is not bound by decisions made by the planning authority and vice versa. The two regulatory regimes consider different (albeit related) matters, but the only relevant considerations for the licensing authority when determining applications are the licensing objectives.
- 5.3 All of the representations against the application relate to the impact of noise nuisance on nearby residents, from patrons seated outside in the beer garden.
- 5.4 Most of the representations supporting the applicant, make reference to the way that the premises is operating under the current Covid restrictions and the safety features that have been introduced to facilitate social distancing, including the availability of the refurbished beer garden for patrons.
- 5.5 Environmental Heath have no objections to the granting of this application subject to a number of conditions which have been agreed with the applicant during the consultation period (**Appendix 5**).
- 5.6 The Police have confirmed that they have no objections to the granting of this application. (**Appendix 6**).

5.7 When considering the application Members should take into account the Council’s own Statement of Licensing Policy. The following paragraphs are particularly relevant to this application.

- 10.3 Conditions etc.
- 14.3 Prevention of public nuisance

5.8 Members are also directed to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and in particular the following sections: 9.1, 9.3, 9.4, 9.37-9.40, 9.42-9.45 and 10.8-10.10 which are reproduced at **Appendix 7**.

5.9 After having regard to all the representations, the council’s Statement of Policy and the Statutory Guidance, the Sub-Committee must consider whether it is satisfied that granting the application in the terms applied for, would undermine any of the licensing objectives.

5.10 If it is satisfied that the licensing objectives would not be undermined, it must grant the licence in the terms applied for.

5.11 If it is however satisfied that granting the application would be likely to undermine one or more of the licensing objectives, it must then consider what, if any, steps would be appropriate to secure the promotion of the licensing objectives.

It may take any of the following steps:

- Grant the application subject to such conditions that the authority considers appropriate for the promotion of the licensing objectives.
- Reject the whole or part of the application.

5.12 The applicant and objectors have all been invited to attend this remote hearing and have been provided with a copy of this report and notice of the hearing procedure.

Financial and legal implications	
Finance	<i>There are no financial implications directly associated with this application.</i>
Legal	<i>Any party to the hearing has the right of appeal to the Magistrates Court within 21 days if they are aggrieved by the decision. The hearing should be conducted following the principles of natural justice and in accordance with the Council’s own hearing procedure.</i>

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

risks/implications	✓ / x
community safety	✓
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
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List of background papers:		
name of document	date	where available for inspection

List of appendices

- Appendix 1 – Copy of application
- Appendix 2 – Copy of current licence
- Appendix 3 – Representations
- Appendix 4 – Photos of the beer garden
- Appendix 5 – Environmental Health's response
- Appendix 6 – Police response
- Appendix 7 – Extract from Statutory Guidance