



Report of:	Meeting	Date
Mark Billington, Director of Environment	Licensing Committee	1 August 2024

<b>Application for a new Premises Licence – Topsy Frog Ltd, 1 Meadow Avenue Fleetwood, FY7 7PL</b>
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## 1. Purpose of report

- 1.1 To assist Members to determine an application submitted under section 17 of the Licensing Act 2003 by Topsy Frog Ltd, for a new premises licence.

## 2. Council priorities

- 2.1 The statutory function of determining licence applications supports the Council's priority of ensuring that residents live happier, healthier and safer lives.

## 3. Recommendation/s

- 3.1 Members consider the application and representations before determining whether granting a licence, with or without modification, would adversely impact on one or more of the Licensing Objectives.
- 3.2 Members should note subsection 1.17 of guidance issued under section 182 of the Licensing Act 2003 which states *"each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case"*.

## 4. Background

- 4.1** On 13 June 2024, an application was received from Topsy Frog Ltd for a new premises licence in respect of 1 Meadow Avenue Fleetwood FY7 7PL. A copy of the application is attached at **Appendix 1**. The premises is located in the Broadwater area of Fleetwood, the area is largely residential with some small retail premises in the vicinity. Members can view the premises location via aerial layer and street image at **Appendix 2**.
- 4.2** The applicant wishes to be authorised to provide the following licensable activities during the days and times listed below:
- Sale of alcohol for consumption on and off the premises, and the provision of recorded music to be played inside the premises
- Sunday to Thursday 12.00 to 23.00 hours  
Friday and Saturday 12.00 – midnight  
with an additional non-standard timing sought for from the terminal hour on New Years Eve to the opening hour of New Years Day
- 4.3** However, legislation automatically permits the activities Live and Recorded music to take place on alcohol licensed premises between 08:00 hours and 23:00 hours on any day as long as the audience is below 500.
- 4.4** A copy of the application was served on all responsible authorities. Members should note the information at **Appendix 3** which contains written measures agreed between Lancashire Constabulary and the applicant. Members should also note that the agreed measures would become conditions of the premises licence if the application is granted.
- 4.5** The application was advertised in accordance with The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 and at the end of the consultation period there were 4 outstanding representations against it. These representations were from Wyre Council Environmental Health and 3 local residents.
- 4.6** 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, which ended on 11<sup>th</sup> July 2024.

## **5. Key issues and proposals**

- 5.1** The intended premises is a former grocery retail unit situated at 1 Meadow Avenue Fleetwood. At the time of drafting this report, colleagues in planning have confirmed that there no valid planning application for a change of use has been received. A planning application received 21 May 2024 was incomplete. The issue of how planning and licensing matters should be considered is detailed in the Councils Licensing policy at section 7.1 this has been replicated within **Appendix 6** referred to in para 5.4 below
- 5.2** Four representations have been received against this application and copies of these have been provided to the applicant. In general terms all the representations are concerned that the possible effect of granting the licence would undermine the licensing objective 'Prevention of public nuisance'. A copy of the representations are contained at **Appendix 4(i) to 4 (iv)** of this report. Members will note that the representation at Appendix 4(iii) predates receipt of this application. The representation was originally received in respect of a previous licensing application that was subsequently withdrawn but that the local resident confirmed in email on 25 June 2024 that she wished her original representation to be resubmitted in respect of the current application. The representation from Environmental Health is contained at Appendix 4(i) some parts of the representation replicate the same concerns as those detailed in the agreement between the police and the applicant. Where identical or more stringent conditions regarding the same issues have already been agreed between the police and the applicant these have been marked in yellow highlight on the Environmental Health representation
- 5.3** To assist members, officers have taken some photos of the location. These are provided at **Appendix 5**.
- 5.4** When considering the application Members should take into account the Council's own Statement of Licensing Policy, particularly the following sections:-
- 7.1 Planning
  - 9.3 Conditions imposed at a hearing
  - 13.1 Prevention of crime and disorder
  - 13.3 Prevention of public nuisance
  - 17 Need for licensed premises
- For ease of reference these have been replicated at **Appendix 6**.
- 5.5** Members are also directed to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the following sections: 1.16, 9.3, 9.4, 9.26-9.30, 9.37-9.40, 9.42-9.44 and 10.8-10.10, which are reproduced at **Appendix 7**.
- 5.6** After having regard to all the representations, the council's Statement of Policy and the Statutory Guidance, the Committee must consider whether granting the application in the terms applied for, would undermine any of the licensing objectives.

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

- 5.7** If, however it is concerned that granting the application would have the potential 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 a licence subject to such conditions that the authority considers appropriate for the promotion of the licensing objectives.
- Exclude from the scope of the licence, any of the licensable activities to which the application relates (this can include revising the permitted hours for licensable activities).
- Reject the whole or part of the application.

- 5.8** All parties to the application have been invited to attend the hearing and have been sent a copy the hearing procedure. Copies of this report will be made available to all in advance of the hearing.

**6. Alternative options considered and rejected.**

- 6.1** None

<b>Financial, Legal/MO, and Climate Change implications</b>	
Finance	There are no financial implications arising directly from this report.
Legal/MO	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.
Climate Change	There will be a slight negative impact on climate change from granting the licence. However there is potential to mitigate some of the potential impacts through use of locally sourced, low carbon, low/no packaging products and good recycling practices.

**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 a x.

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

risks/implications	✓ / x
asset management	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.

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List of background papers:		
name of document	date	where available for inspection
Licensing Act 2003	Published July 2003 ( subsequent updates)	<a href="https://www.legislation.gov.uk">Licensing Act 2003 (legislation.gov.uk)</a>
Revised guidance issued under section 182 of the Licensing Act 2003	December 2023	<a href="https://www.publishing.service.gov.uk">Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</a>
Wyre Council – Statement of licensing policy 2021 - 2026		<a href="https://www.wyre.gov.uk/downloads/file/1020/licensing-act-policy-2021-2026">https://www.wyre.gov.uk/downloads/file/1020/licensing-act-policy-2021-2026</a>

### List of appendices

- Appendix 1 Application form
- Appendix 2 Aerial layer and street image

**Appendix 3 measures agreed between the applicant and the police**

**Appendix 4(i) to 4(iv) representations received**

**Appendix 5 Photographs of the location**

**Appendix 6 Extracts from the Councils Licensing policy**

**Appendix 7 Extracts from the Licensing Act s182 guidance**