

Report of:	Meeting	Date
Mark Broadhurst, Service Director Health and Wellbeing	Licensing Sub-Committee	6 August 2019

**Application for a new Premises Licence – 25 Breck Road, Poulton le Fylde,  
FY6 7AA**

**1. Purpose of report**

- 1.1 To assist Members to determine an application submitted under section 17 of the Licensing Act 2003 by Mr R and Mrs L Biviano, for a new premises licence.

**2. Outcomes**

- 2.1 That the application for a new premises licence be determined.

**3. Recommendation**

- 3.1 That Members consider the application submitted, along with the representation and determine the application.

**4. Background**

- 4.1 On 10 June 2019, the Licensing Team received an application from Mr and Mrs Biviano, for a new premises licence in respect of the ground floor of 25 Breck Road, Poulton le Fylde (**Appendix 1**).

- 4.2 The applicant wishes to provide the following licensable activities:

Activity	Mon - Sun
Sale of alcohol (on and off)	12:00 – 23:00
Open to the Public	10:00 – 23:30

- 4.3 The premises does not currently have the requisite planning consent for use as a licensed restaurant although the applicants have submitted an application to the planning authority for a change of use which is under consideration.

## 5. Key issues and proposals

- 5.1** Section 18 (3) of the Licensing Act 2003, as amended, requires the Licensing Authority to hold a hearing to consider the application and any relevant representations, within twenty working days following the end of the statutory twenty-eight day consultation period, which ended on 9 July 2019.
- 5.2** The application has been advertised in accordance with Regulations and at the end of the consultation period there was one outstanding representation from a neighbouring resident who was concerned about the impact that noise generated at the venue would have, should the application be granted (**Appendix 2**).
- 5.3** The objector also made reference to parking concerns which are not a matter for this Committee, but for the planning service to address when the planning application is determined.
- 5.4** During the consultation period the Police and Environmental Health in their capacity as Responsible Authorities agreed with the applicant on a number of additional conditions to be included on the operating schedule, if a licence is granted.
- 5.5** The Planning Authority confirmed that there is a pending application for a change of use.
- 5.6** There have been no other responses from Responsible Authorities.
- 5.7** To assist all parties to the hearing, **Appendix 3** is a comprehensive list of the conditions that the applicant has offered or agreed to, during the consultation period, and which would form Annex 2 to the licence, if the application is granted.
- 5.8** A location plan is provided at **Appendix 4**.
- 5.9** 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.
- 6.1 - Planning
  - 10.3 – Conditions etc.
  - 14.3 – Prevention of public nuisance
  - 14.3.1 – Disturbance by patrons leaving the premises
  - 14.3.3 – Noise nuisance
- 5.10** 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, 9.37-9.40, 9.42-9.44, 10.8-10.10 and 10.13-10.14 which are reproduced at **Appendix 5**.

- 5.11** After having regard to all the representations, the council's Statement of Policy and the Statutory Guidance, the Committee must determine whether or not it is satisfied, that granting the application in the terms applied for, would undermine any of the licensing objectives.
- 5.12** If it is satisfied that granting the application has the potential to undermine one or more of the licensing objectives, it must consider what, if any, steps would be appropriate to secure the promotion of the licensing objectives.
- 5.13** 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.

<b>Financial and legal implications</b>	
Finance	There are no financial implications directly associated with this application.
Legal	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.

### **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.

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

<b>risks/implications</b>	<b>✓ / x</b>
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 3<sup>rd</sup> 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
Niky Barrett	887236	Nicola.Barrett@wyre.gov.uk	10 July 2019

<b>List of background papers:</b>		
name of document	date	where available for inspection
Wyre Council Statement of Licensing Policy	2016 - 2021	Licensing section

**List of appendices**

- Appendix 1 - Application
- Appendix 2 - Representation
- Appendix 3 - Draft Annex 2
- Appendix 4 - Location Plan
- Appendix 5 - Excerpt from the Statutory S182 Guidance