

Report of:	Meeting	Date
Mark Billington, Corporate Director Environment	Licensing Sub-Committee	16 December 2019

Application for a new Premises Licence – 9 Crescent East, Thornton Cleveleys, FY5 3LJ
--

1. Purpose of report

- 1.1 To assist Members to determine an application submitted under section 17 of the Licensing Act 2003 by Mr Nzar Sultan Naaman, 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 and representations and determine the application.

4. Background

- 4.1 On Monday 14 October 2019, the licensing team received a telephone complaint from a resident about noise disturbance arising from the activities at Italian Pizza Hot after 11pm.
- 4.2 A written warning was emailed to Mr Naaman (**Appendix 1**) as there was no licence in place authorising the provision of hot food or drink after 11pm, which is an offence under section 136 of the Licensing Act 2003. Mr Naaman attended the Civic Centre later that day and was given the relevant forms and guidance documents to apply for a licence.
- 4.3 A second complainant contacted the licensing team on Tuesday 22 October to say that noise disturbance was continuing to arise from the premises which were still trading after 11pm.
- 4.4 A final written warning was issued and hand delivered to the premises that afternoon (**Appendix 2**).

- 4.5** The investigation into potential offences committed by the business proprietor by trading after 11pm without a licence is ongoing. This matter could lead to prosecution in the Magistrates Court, particularly if there is compelling evidence that he has continued to trade unlawfully, after being issued with formal warnings.
- 4.6** On Monday 28 October 2019 an application was received from Mr Nzar Sultan Naaman for a new premises licence in respect of 9 Crescent East, Thornton Cleveleys (**Appendix 3**).
- 4.7** The applicant wishes to be open to the public and provide late night refreshment until midnight Sunday to Thursday and until 1 am on Friday and Saturday nights.

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 an application and any relevant representations, within twenty working days following the end of the statutory twenty-eight day consultation period, which ended on 25 November 2019.
- 5.2** The application was advertised in accordance with Regulations and at the end of the consultation period there were two outstanding representations. One from a local resident and one from Environmental Health. Both raised concerns about the potential for public nuisance should the application be granted in the terms applied for (**Appendix 4**).
- 5.3** The local resident does not want the premises to be open to the public after 11pm due to the noise disturbance that they say has been caused late at night from both customers visiting the premises and the staff.
- 5.4** The Environmental Health Officer does not object to the premises being able to trade until midnight on any day of the week, subject to a number of conditions being added to the licence to mitigate the potential for public nuisance, but will not support the premises being able to trade until 1 am.
- 5.5** During the consultation period, the Police in their capacity as Responsible Authority, agreed with the applicant on a number of additional conditions to be included on the operating schedule, if a licence is granted (**Appendix 5**).
- 5.6** The Planning Authority have confirmed that the premises has the correct consent for use as a hot food takeaway and there are no current planning restrictions on the hours of operation.
- 5.7** There have been no other responses from Responsible Authorities.
- 5.8** A location plan is provided at **Appendix 6**.

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.

- 10.3 – Conditions etc.
- 14.3 – Prevention of public nuisance
- 14.3.1 – Disturbance by patrons leaving the premises
- 14.3.2 – Takeaways
- 14.3.3 – Noise nuisance
- 14.3.5 – Litter

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 7**.

5.11 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.

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.

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.

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
Niky Barrett	01253 887236	Niky.barrett@wyre.gov.uk	3 Dec 19

List of background papers:		
name of document	date	where available for inspection

List of appendices

- Appendix 1 – Email warning dated 14 October 2019
- Appendix 2 – Final written warning dated 22 October 2019
- Appendix 3 – Application form
- Appendix 4 – Representations
- Appendix 5 – Conditions agreed with Lancashire Constabulary
- Appendix 6 – Location map and shop frontage
- Appendix 7 – Extract from S.182 Guidance