

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	LICENSING COMMITTEE	24 MAY 2016	3
APPLICATION FOR GRANT OF A PREMISES LICENCE: WISHKY LTD, STANLEY BANK FARM, WEETON			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Licensing Authority has received an application for the grant of a premises licence at Wishky Ltd, Stanley Bank Farm, Weeton. There have been representations from the Police, a Responsible Authority as defined by the Act. As such a hearing must be held to determine the application.

RECOMMENDATION

1. That the Panel considers the application and determines to either:
 - (a) grant the application subject to the conditions specified in the operating schedule modified to such extent as the panel considers appropriate for the promotion of the licensing objectives, and any mandatory condition,
 - (b) modify the conditions of the licence,
 - (c) refuse to specify a person in the licence as premises supervisor
 - (d) reject the application

SUMMARY OF PREVIOUS DECISIONS

There are no previous decision relating to this matter.

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

Report

Application

1. The application is for the grant of a premises licence to Wishky Ltd, for a subscription/internet based service for the sale of whisky.
2. The matter has been referred to the panel because relevant representations have been received from a responsible authority.

Papers

3. The following papers are relevant and have been made available to panel members:
 - The application, including the plan and the operating schedule
 - The statutory guidance for licensing authorities issued by the secretary of state under section 182 of the Licensing Act 2003
 - The council's statement of licensing policy
 - Copies of relevant representations made by the following responsible authorities:
Police
 - Copies of relevant representations made by the following interested parties
None received

Consideration

4. The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm
5. As relevant representations have been made, it is the duty of the panel to take such of the steps set out below as it considers appropriate for the promotion of the licensing objectives. The steps are:
 - (a) grant the application subject to the conditions specified in the operating schedule modified to such extent as the panel considers appropriate for the promotion of the licensing objectives, and any mandatory condition,
 - (b) modify the conditions of the licence,
 - (c) refuse to specify a person in the licence as premises supervisor
 - (d) reject the application
6. The Guidance issued by the Secretary of State and the Council's Statement of Licensing Policy will be material in considering the application, but cannot override the licensing objectives.
7. The following parts of the secretary of state's guidance appear to be particularly relevant to the application and the relevant representations:

3.7	Mobile, remote, internet and other delivery sales
9.30	Hearings
9.41	Determining actions that are appropriate for the promotion of the licensing objectives.
10.52	Age verification

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the guidance.

8. The following parts of the council's statement of licensing policy appear to be particularly relevant to the application and the relevant representations:

9.5	Licensing Panel Hearings
10.3	Conditions that the Licensing Authority May Impose
14.1.1	Underage Drinking

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the policy.

Procedure

9. The applicant and the makers of the relevant representations have been invited to attend or be represented at the hearing.
10. The panel is asked to use the attached procedure in the hearing.

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	No implications arising directly from the report.
Community Safety	No implications arising directly from the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

LEAD AUTHOR	TEL	DATE	DOC ID
Chris Hambly	01253 658422	3 rd May 2016	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Guidance issued under S182 of Licensing Act 2003	March 2015	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf
Statement of Licensing Policy	January 2016	http://www.fylde.gov.uk/business/licensing/licensingact2003/licensingpolicystatement/

Attached documents

1. Application Form
2. Representation



**Application for a premises licence to be granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Wishky Ltd

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description The Old Diary Stanley Bank Farm Singleton Road Weeton Preston Lancashire			
Post town	Preston	Postcode	PR4 3PA

Telephone number at premises (if any)	None
Non-domestic rateable value of premises	£6500 (UNIT 2, STANLEY BANK FARM)

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- | | |
|--|---|
| a) an individual or individuals * | <input type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input checked="" type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |

- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☐

I am making the application pursuant to a
statutory function or ☐
a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Wishky Ltd
Address The Old Bakery Green Street Lytham Lancashire FY8 5LG
Registered number (where applicable) 9876000
Description of applicant (for example, partnership, company, unincorporated association etc.) A limited company owned solely by Mr Neil Thomas Butler
Telephone number (if any) None
E-mail address (optional) My current email address is: ntbutler81@gmail.com

Part 3 Operating Schedule

When do you want the premises licence to start?

DD		MM		YYYY			
0	1	0	5	2	0	1	6

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD		MM		YYYY			

Please give a general description of the premises (please read guidance note 1)

The premises is a lock up storage unit with power. I am not certain there is running water or heating in the property. It is a small unit within the larger Old Diary (Unit 2) on Stanley Bank Farm. The unit is rectangular in shape with a sliding solid wooden door to enter the unit. The unit is roughly 25ft by 14ft giving a rough calculation of the square footage to be around 350sqft.

I intend to use this space for storage and re-bottling to create my monthly whisky based subscription boxes.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)

☐

Supply of alcohol (if ticking yes, fill in box J)

☒

In all cases complete boxes K, L and M

The pages relating to licensable activities A-I have been removed as irrelevant to this application.

J

Supply of alcohol Standard days and timings (please read guidance note 6)			<u>Will the supply of alcohol be for consumption – please tick</u> (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 4) None		
Mon	0700	1800			
Tue	0700	1800			
Wed	0700	1800			
Thur	0700	1800	<u>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 5) None		
Fri	0700	1800			
Sat	0700	1800			
Sun	0700	1800			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Name Mr Neil Thomas Butler	
Postcode	
Personal licence number (if known) NOT YET KNOWN	
Issuing licensing authority (if known) Preston City Council	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

I can't think of anything for this section. The business will not be doing anything associated with the Adult Entertainment industry.

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	PLEASE NOTE: It is not my intention to open the premises to sell Alcohol to members of the public. It is merely a place to store and distribute alcohol from to my customers who use my website.
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			
			<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

My website is a subscription based business model. Customers will create a profile and provide their date of birth. They will input their debit card details and recurring payments will be taken. They will also be given the choice of Paypal or Amazon Pay to make these payments. Our smallest subscription level on a monthly basis is roughly £24 per month.

b) The prevention of crime and disorder

The premises are in a rural area on a farm and within a secure unit. There are other units on site so the between the hours of 0700 and 1800 daily there would always be people around. The farm owner also lives on site too so outside these hours the Farmer and his family are around.

c) Public safety

Members of the public will not be welcome in the unit. No passing trade will occur. Alcohol will not be sold on the premises. Only via our website. Collections will not be allowed only delivery using our preferred delivery partner.

d) The prevention of public nuisance

The hours detailed in this application are between 07.00 and 18.00 7 days a week. As mentioned above members of the public will not be welcome and only members of staff of Wishky Ltd will be on site on a daily basis.

e) The protection of children from harm

Members of the public are not welcome, staff of the company will not be allowed children on site. It will be against company policy to have children on-site. Anybody suspected to be under the age of 18 would need to provide proof of age if they turned up without a prior arrangement.

If a child is present for any other reason they will need to be supervised by their guardian at all times. I.e. if a child is with an owner of another local business who is interested in what we do. They will be expected to keep that child safe from harm.

On a business to consumer basis purchases can only be made online, I will be asking for date of birth

details when they purchase something. At the point of entry to my site I will also be asking them to declare they are of legal drinking age in the country the order is placed from. At the point of delivery I will not be able to ask for ID as Royal Mail or other delivery partners won't do this. I will also be encouraging delivery to a work address for the convenience of my customers. This will limit the deliveries to a home address where a child would take in the item once delivered.

I will not sell Alcopops online via my website

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. ☐
- I have enclosed the plan of the premises. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☐
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☐
- I understand that I must now advertise my application. ☐
- I understand that if I do not comply with the above requirements my application will be rejected. ☐

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 11).
If signing on behalf of the applicant, please state in what capacity.

Signature	Neil Butler
Date	02/03/2016
Capacity	Business Owner and expected DPS

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

Post town

Postcode

Telephone number (if any)

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

Fylde Council Licensing Service

Representation made by a Responsible Authority to an application for the grant / variation of a Premises Licence / Club Premises Certificate

Responsible Authority

Name of Responsible Authority	LANCASHIRE CONSTABULARY		
Name of Officer (please print)	PC 4107 Emma Pritchard		
Signature of Officer	<i>E Pritchard</i>		
Contact telephone number	01253 604007		
Date representation made	26	04	16
Do you consider mediation to be appropriate	YES		

Premises Details

Premises Name	Wishky Ltd
Address	The Old Dairy, Stanley Bank Farm
	Singleton Road
	Weeton
	Preston
Post Code	PR4 3PA

Reasons for making representations

Lancashire Constabulary are extremely concerned with this application for a new premises licence which is essentially a website on which members of the public can buy alcohol which is then delivered to them by Royal Mail or other courier services.

There is nothing in this application that would prevent a child obtaining alcohol and the only consideration to this on the application is that the website would require a person to provide a date of birth and tick a box to say they are over 18. There are then no proof of age checks and The Police are concerned that this would be an extremely easy way for persons under 18 to obtain alcohol.

The application states that this 'is a subscription based model' and 'customers create a profile and they would input their debit card details and recurring payments will be taken'. However upon meeting the premises licence holder it transpires that this will not be the case and he wants to also do ad hoc sales of alcohol and although he is starting with whisky he is looking at possibly gin and vodka also.

It is the responsibility of the Premises Licence Holder to ensure alcohol is not sold to customers under 18 years of age by taking all reasonable precautions and exercising due diligence to avoid committing this offence; having a person merely stating they are

18 on an online application does not satisfy due diligence. Therefore Lancashire Constabulary feel that if this application was granted it would have an adverse effect on the licensing objectives as there is no protection of children from harm.

If this new premises licence is granted in its current form, we would not be satisfied the promotion of the Licensing Objectives would be ensured. However, should the below conditions be agreed this would uphold the Licensing Objectives.

It is recommended that the licence should only be granted if the application is amended, or if conditions are applied, as detailed below.

The following conditions to be added to the Operating Schedule:-

- 1) The primary operation of the premises should be a website that supplies premium spirits, principally whisky, aimed at discerning drinkers.
- 2) The premises website home page shall clearly state alcohol sales shall only be made to persons aged 18 or over.
- 3) No alco-pops or discount beers will be made available.
- 4) The premises are not open to the public at any time and there will be no direct sales to the public from the premises at any time. There will be no direct sales of alcohol from the delivery vehicle.
- 5) There shall be in place for the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any customer to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or a photo driving licence or passport indicating that they are over 18 years of age.
- 6) All deliveries of alcohol shall be delivered to a premises address with a valid postcode. The person who orders and pays for the alcohol delivery must be the same person who receives the alcohol when delivery takes place. These deliveries should require a signature on receipt of goods.
- 7) A record of all transactions will be maintained. The transactions record will contain the name, address, details of the order along with the requested time of the order. This shall be documented and available for inspection to Police officers or other authorised persons.