

LICENSING SUB-COMMITTEE

DATE	13 April 2021
REPORT OF	Sharon Wroot – Executive Director for Environment, Economy and Resources
SUBJECT	Receipt of representations regarding an application for a new Premises Licence at Thomas Green of London (Scartha) – 1A Waltham Road, Grimsby, DN33 2LY
STATUS	Open

CONTRIBUTION TO OUR AIMS

Stronger Economy:

Support for premises that promote the licensing objectives through appropriate action against those that do not.

Stronger Community:

Reduce incidence of crime, anti-social behaviour and public nuisance associated with licensed premises

Promotion of public safety and child protection in relation to licensed premises.

EXECUTIVE SUMMARY

The Licensing Authority under the Licensing Act 2003 (“the Act”) has a duty to determine applications for any Licence under the Act where relevant representations have been made. This duty has been delegated to the Licensing Sub-Committee. **This case involves a representation made by a local resident on the grounds of the Prevention of Public Nuisance.**

RECOMMENDATIONS

To determine the application for a Premises Licence and consider any relevant representations under s18 of the Act. To take such steps as considered **appropriate** for the promotion of the licensing objectives.

REASONS FOR DECISION

Must have regard to:-

- North East Lincolnshire Council’s Statement of Licensing Policy.
- Guidance issued by the Secretary of State under s.182 of the Act.

Steps taken must be **appropriate** for the promotion of the Licensing Objectives, namely:-

- the prevention of crime and disorder;
- public safety
- the prevention of public nuisance; and
- the protection of children from harm.

1. BACKGROUND AND ISSUES

These are fully contained in the report of Jo Bennett, Licensing Enforcement Officer.

2. RISKS AND OPPORTUNITIES

Crime and Disorder – If the Sub-Committee finds that the grant of this new application would undermine the licensing objectives, it must to consider what, if any, steps are appropriate to prevent this. If appropriate steps are not taken there is a risk that the licensing objectives will not be promoted.

Human Rights – The premises licence holder is entitled to a fair hearing; article 6 of the European Convention on Human Rights applies. Article 8, the right to respect for private and family life, also applies as the “licence” is crucial to the livelihood of the premises licence holder. The Human Rights of the wider community are also engaged.

Equality and Diversity – No direct effects

Value for Money –The aim must be to take action that prevents problems persisting and using further licensing resources.

The Impact on the Social, Economic and Environmental well-being of the Borough – Action taken to ensure that licensed premises promote the licensing objectives will have a positive impact in these respects.

Environmental Sustainability Implications – None

3. OTHER OPTIONS CONSIDERED

The steps which may be taken are:

- Grant the licence with modified conditions. This means the proposed conditions could be altered or omitted or new conditions added.
- Exclude any licensable activity to which the application relates.
- Refuse to specify the named DPS
- Reject the application

If none of these steps is considered appropriate the application should be granted in the form it was made.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are potential positive reputational implications for the Council resulting from the decision where appropriate action has seen to have been taken. An action plan has been agreed with the Council’s communications service covering information requirements and communication channels to be utilised.

5. FINANCIAL CONSIDERATIONS

This report relates to a determination required in response to a

an application made under the Licensing Act 2003. The process is governed by statutory regulations and the fees involved are statutory. There are no direct resource or funding implications in the first instance but there may be on appeal (see Section 5).

6. FINANCIAL IMPLICATIONS

The premises licence holder, the responsible authorities and any relevant person have a right of appeal against the decision made to the Magistrates and/or High Court. If the Licensing sub-committee takes a step which is considered to be unnecessary or unlawful by a higher court there is a risk that an award of costs may be ordered against the Council in favour of the successful appellant. Such costs are difficult to quantify or estimate.

7. LEGAL IMPLICATIONS

These are covered in the body of the report of the Licensing Officer.

8. HUMAN RESOURCES IMPLICATIONS

There are no Human Resource Implications.

9. WARD IMPLICATIONS

Scartho

10. BACKGROUND PAPERS

Please refer to the Index of Members' Papers

11. CONTACT OFFICER

Jo Bennett – Licensing Enforcement Officer

**JOANNE HEWSON
CHIEF OPERATING OFFICER**

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

***Thomas Green of London (Scarcho)
1A Waltham Road
Grimsby
North East Lincolnshire
DN33 2LY***

NORTH EAST LINCOLSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

Report to Licensing Sub-Committee
following receipt of Relevant Representations

1. Summary Of Application - (Full details in Application Form)

1.1 Premises: Thomas Green of London

1.2 Applicant: Chipboard12 Ltd

1.3 Date Application Received: 23 February 2021

1.4 The Proposed Operation:

The applicant applied for a Premises Licence to include the following:

Supply of Alcohol

Monday to Sunday 08:00 to 23:00 hours

Hours Premises Open to the Public

Monday to Sunday 08:00 to 23:00 hours

Proposed conditions:

- A tamper resistant CCTV system shall be installed, maintained in working order and operated at the premises, with sufficient cameras to cover entrances, sales counter and areas not easily supervised from the sales counter.
- CCTV will continuously record in colour, providing real time pictures of evidential quality in all lighting conditions.
- CCTV images shall be retained for a period of no less than 28 days.
- Recordings of incidents at the premises must be made secure for inspection by the police and provided on lawful request. This means that a member of staff shall be available within 24 hours or by prior appointment who can operate the CCTV system and providing recordings in accordance with lawful requirements.
- Any Alcohol order for delivery must be paid for in full prior to the delivery being dispatched.

- An incident book shall be kept at the premise in which details of crime and/or disorder that relate to, or are linked with, licensable activities at the premises shall be recorded. The incident book shall contain the following details;
 - time, date and location of incident.
 - nature of the incident
 - the result of the incident.
 - action taken to prevent further such incidents.
 - each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS.
- The incident book shall be made available to police upon request. Each entry shall be retained for a period of 12 months from date of completion.
- Challenge 25 shall be implemented, and a proof of age policy is to be applied with the accepted means of proof of age being:
 - Passport
 - Photo Driving Licence
 - A recognised valid photo-id card bearing the PASS hologram
 - Any future accredited and accepted proof of age, as defined by Humberside Police
- Signs shall be displayed stating that the premises operates a Challenge 25 Policy
- Staff training will be given to all staff working at the premises on commencement of employment. Such training shall be documented and recorded in a book/folder kept solely for that purpose. It will record the date and names of those trained and the person providing it. All present shall sign the book. The training shall cover aspects of the responsible sale of alcohol and conflict management. Records of training will be available to be viewed on demand by a person under the direction and control of the Chief Constable of Humberside Police or an authorised officer of North East Lincolnshire Council.

1.5 The following condition has been agreed with Humberside Police's Licensing Department: -

- Alcohol spirits must only be displayed for sale behind the sales counter or other Police approved secure display cabinet.
- The nature of the premises is to predominantly be that trading as a deli and convenience store with a coffee bar/bistro to complement the deli/convenience store and may not be operated as a general bar.
- The premises website shall have and display an age verification section throughout the order process, which prompts customers to confirm they are 18 years or over before being able to fully complete a transaction to purchase alcohol.

1.6 No representations were submitted by Humberside Police or any of the other Responsible Authorities.

2. Summary of Representations – (Full details in report)

One representation has been submitted in relation to this application by an Interested Party (a person living in the vicinity of the premises).

2.1 Representation 1:

2.1.1 Date representations received: 22 March 2021

2.1.2 Persons making representation: Marcus Croft

2.1.3 Licensing objectives affected: Prevention of Public Nuisance

2.1.4 Summary of Recommendations: None given

2.2 Mediation

Attempts to mediate were unsuccessful as the applicant requested that their representation be taken before the committee. Therefore, mediation by the Licensing Section was not possible prior to the hearing.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy are considered relevant to these representations:

2.1 - 2.4, 9.1.1 - 9.1.9: Licensing Objectives

6.2.1: Extent of Control

6.4.1: Need

8.2.1 – 8.2.9: Premises Licences

8.3.18.3.6: Operating Schedules

8.7.1 – 8.7.4: Representations

9.4.1 – 9.4.7: Prevention of Public Nuisance

10.1 – 10.15: Cumulative Impact

4. Guidance issued under Section 182 of the Licensing Act 2003 –

This guidance is provided for Licensing Authorities carrying out their functions. It is regarded by the Government as a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. It does not however replace any statutory provisions of the 2003 Act and it is for the Licensing Authority to take their own professional and legal advice about its implementation.

The following sections of the Guidance are considered relevant to these representations:

8.41 - 8.49: Steps to Promote the Licensing Objectives

9.3 – 9.10: Relevant Representations

9.31 – 9.40: Hearings

10.10: Proportionality

10.13, 10.15: Hours of Opening

5. General Advice on Determination of the Application –

- 5.1** The sub-committee are advised that findings on any issues of fact should be on the balance of probability.
- 5.2** The sub-committee are advised that in arriving at any decision, it must have regard to relevant provisions of national guidance and North East Lincolnshire Council's Statement of Licensing Policy. Reasons must be given for any departure.
- 5.3** The sub-committee are advised that the final decision should be based on the individual merits of the application and the factual findings made at the hearing.
- 5.4** Section 18 of the Licensing Act 2003 states that where relevant representations have been made and a hearing is held to consider them, the sub-committee can take such of the steps set out below as it considers **appropriate** for the promotion of the licensing objectives – in this case if it is considered the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance, or the Protection of Children from Harm are likely to be affected.
- Grant the licence with modified conditions. This means the proposed conditions could be altered or omitted or new conditions added.
 - Exclude any licensable activity to which the application relates.
 - Reject the application

If none of these steps are considered appropriate the application should be granted in the form it was made.

- 5.5** Conditions should be proportionate to the size, style and characteristics of the premises and the activities proposed or taking place and must be appropriate
- 5.6** The sub-committee are advised that they must take into account the following Human Rights provisions:
- Everyone affected by a decision has a right to a fair hearing.
 - Everyone has the right to his private and family life, his home and his correspondence.

- 5.7 The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010

6. Observations

- 6.1 This is an application for a New Premises Licence for the Sale of Alcohol at a new deli & convenience store with a coffee bar within the village of Scartho.
- 6.2 The applicant has offered several conditions which can be found in full at 1.4 of this report. Humberside Police have also stated they have no objection to the application provided three other conditions are placed on the licence (see 1.4 also).
- 6.3 Only one representation has been received and accepted, this representation was from an Interested Party i.e., local resident and was raised under the Prevention of Public Nuisance. The representee raised issues with parking and with the number of premises in the Scartho area. These cannot be considered by the Licensing Subcommittee due to not being relevant to the Licensing Act 2003. However, the committee should consider the issues raised around noise, lighting, litter, and anti-social behaviour.
- 6.4 Another representation, which raised concerns of Public Safety due to there being no railings on the roundabout was received but not accepted. This is because, in relation to the scope of the Licensing Act, Public Safety is taken to cover those people using the Licensed Premises and therefore is not a relevant factor to consider in this case based on the representation received. However, this representation also showed support for the premises.
- 6.5 All Responsible Authorities have been consulted regarding this application and no representations have been received from any.
- 6.6 The power of review exists for any licensed premises that do not operate in a way that promotes the licensing objectives. This can ultimately result in revocation of the licence.
- 6.7 The representee has not suggested any alterations to the application that they think would resolve the problem.

**Report prepared by:
Jo Bennett
Licensing Enforcement Officer
29 March 2021**