

LICENSING SUB-COMMITTEE

DATE	9 th July 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 TODAY'S EXPRESS, 40 CARTERGATE, GRIMSBY, DN31 1RT.
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 3 representations on the grounds of Crime & Disorder and 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 Kate Todd, Licensing Enforcement Officer.

2. RISKS AND OPPORTUNITIES

Crime and Disorder – If the Sub-Committee finds this licensed premises has undermined the licensing objectives, it must 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 of 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 all 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 been seen to have been taken. An action plan has

been agreed with the Council's communications service covering information requirements and communications channels to be utilised.

5. FINANCIAL CONSIDERATIONS

This report relates to a determination required in response to 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

West Marsh

10. BACKGROUND PAPERS

Please refer to the index of Members Papers.

11. CONTACT OFFICER(S)

Kate Todd, Licensing Enforcement Officer

SHARON WROOT
Executive Director for Environment, Economy and Resources

LICENSING

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

Today's Express
40 Cartergate
Grimsby
DN31 1RT

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: Today's Express, 40 Cartergate, Grimsby, DN31 1RT

1.2 Applicant: AK South Yorkshire Ltd

1.3 Date Application Received: 20th May 2021

1.4 The Proposed Operation:

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

Sale of Alcohol (Off the Premises)

Monday to Sunday 0600 until 0000 hours

Late Night Refreshment

Monday to Sunday 2300 until 0000 hours

Proposed conditions: (Please see Annex 2)

The conditions stated in Annex 2 are the measures put forward by the applicant to promote the licensing objectives. All conditions have been agreed with Humberside Police.

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

3 representations have been submitted in relation to this application.

2.1 Representation:

2.1.1 Persons making representation: Mrs Pillai

2.1.2 Date representations received: 26th May 2021

2.1.3 Licensing objectives affected:

Crime & Disorder, Prevention of Public Nuisance

2.1.4 Representation Recommendations: None stated.

2.1.5 Persons making representation: Mr O'Flinn

2.1.6 Date representations received: 1st June 2021

2.1.7 Licensing objectives affected:
Crime & Disorder, Prevention of Public Nuisance

2.1.8 Representation Recommendations: None stated.

2.1.9: Persons making representation: Mr Thompson

2.1.10 Date representations received: 1st June 2021

2.1.11 Licensing objectives affected:
Crime & Disorder, Prevention of Public Nuisance

2.1.12 Representation Recommendations: Refusal

2.2 Mediation – (Please see Annex 3)

Letters have been issued to the residents who submitted a representation addressing their concerns. At the time of writing this report, no responses have been received to those letters, therefore mediation was not possible prior to this hearing.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy 2015 – 2020 are considered relevant to these representations:

- Licensing Objectives: 2.1 – 2.5
- Consultation: 4.1 – 4.6
- Extent of Control: 6.2.1
- Need: 6.4.1
- Premises Licence: 8.2.1 – 8.2.3
- Mediation: 8.6.2
- Representations: 8.7.2 – 8.7.3
- Prevention of Crime & Disorder: 9.2.4 – 9.2.6
- Prevention of Public Nuisance: 9.4.1 – 9.4.7

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:

- Licensing Conditions: 1.16
- Prevention of Crime & Disorder: 2.1 – 2.6
- Public Nuisance: 2.16 – 2.21
- Advertising Applications: 8.80 – 8.82
- Hearings: 9.31 – 9.40
- Relevant, vexatious and frivolous representations: 9.4 -9.10

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.

6. Observations

- 6.1** A total of 7 representations were submitted by Interested Parties, however only 3 representations have been accepted.
- 6.2** There have been no representations submitted by any of the Responsible Authorities.
- 6.3** The issues of increased traffic and parking, proximity of a school and school crossing, and the need for premises are not relevant matters in relation to the licensing objectives.
- 6.4** 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

**Report prepared by– Kate Todd, Licensing Enforcement Officer
28th June 2021**

Application for a new premises licence

Today's Express, 40 Cartergate, Grimsby, DN31 1RT

Operating schedule/proposed licence conditions (as agreed with Humberside Police)

A CCTV camera system capable of providing evidential quality images in all lighting conditions shall be used covering the interior and the immediate exterior (entrance) of the shop, including any fire exits.

The system must continuously record, covering each trading period at the premises, and the camera views are not to be obstructed.

Images will be retained for a period of at least 28 days and be made available to the Police/council upon request to a person under the direction and control of the Chief Constable or an officer of the local authority.

A monitor should be placed in such a position so as to be viewed by staff working in the sales area of the premises.

Any system installed should be capable of producing copies of recordings on site.

The Premises Licence Holder must ensure an appointed member of staff is capable of viewing and downloading CCTV footage in a recordable format at all times the premises are operating.

Records of maintenance of the CCTV system shall be kept by the person responsible and the system shall be maintained in working order and checked weekly. Records of any maintenance and weekly checks shall be endorsed by signature by the DPS or other responsible named individual, and actions taken must be recorded. The record shall be produced on request to a person under the direction and control of the Chief Constable or an officer of the local authority on production of their identification.

Recordings must be correctly date and time marked

Any incidents of crime and disorder at or immediately outside the premises, reported to or witnessed by staff, will be recorded in an incident book(s) kept at the premises. This book will

be made available for inspection available on request to a person under the direction and control of the Chief Constable or an officer of the local authority.

The premises shall operate a strict alcohol refusals policy - alcohol will not be sold to;

- (1) Any person recognised or identified as a street drinker (regardless of their level of inebriation at the time);
- (2) Any person found to be drinking alcohol in the street;
- (3) Any person suspected of trying to buy alcohol for another person who is drunk or appears to be drunk;
- (4) Any person who is verbally or physically abusive towards staff or customers.

A notice advising customers of the refusals policy shall be on display.

Alcohol spirits with an ABV (Alcohol by volume) above 20% will only be displayed for sale behind the sales counter or other Police approved secure display.

'Crimestoppers' promotional material will be on display to promote the initiative.

The PLH and other staff will be vigilant and monitor the area immediately outside the premises to ensure that youths do not congregate and cause annoyance.

Deliveries to the premises will be arranged so as not to cause any public nuisance.

Notice(s) will be on display in the premises asking customers to leave the premises quietly.

Staff will monitor the area immediately outside the premises on a regular basis to check for, and to properly dispose of, any litter from the premises.

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.

A refusals register (for the sale of alcohol) will be kept and be available for inspection by responsible authorities. The register will detail the time and date of the refused sale and the name of the staff member refusing the sale.

A staff training scheme shall be used for all staff authorised to sell alcohol. The training will cover the Licensing Objectives, importance of preventing and consequences of underage sales (including age verification), how to detect proxy sales, not serving to drunks and street drinkers, conflict management and complying with licence conditions. The staff will undertake training on commencement of employment, with refresher training provided every 12 months. Records will be kept, detailing the date and names of those trained, and the person providing the training. It will be made available to responsible authorities.

Notice(s) shall be displayed in the premises where they can be seen clearly to advise customers that it is unlawful for persons under 18 to purchase alcohol or for any persons to purchase alcohol on behalf of a person under 18 years of age.

Mrs Jeya Pillai
59 Alexandra Road
Grimsby DN31 1RE

27 June 2021

Dear Mrs Pillai

**APPLICATION FOR A NEW PREMISES LICENCE
NEW SHOP ON 40 CARTERGATE, GRIMSBY DN31 1RT**

I hope you are keeping well.

I am contacting you on behalf of my client, Mr Arumugam Kalamohan of AK South Yorkshire Ltd, who has applied for a premises licence at the above site.

As you are aware, the site is currently empty and it will be refurbished to a very high standard to become a modern and professional general convenience store. The new shop would serve the local community selling a wide range of goods including newspapers, magazines, bread, milk, sweets, snacks, dairy goods, cigarettes, soft drinks, household goods, lottery tickets, etc, plus services such as Paypoint.

The proposed alcohol sales would just be a part of the overall business. The focus of the shop will be as a general convenience store which would also offer some alcohol for sale. **This will not be a shop that mainly focusses on alcohol sales.**

I have received a copy of your recent representation from the Council and thought I would contact you (via the Council) to outline this application further, and to explain the steps that would be taken to promote the licensing objectives.

The licence application includes a document called an Operating Schedule. This is a really important document submitted by an applicant which outlines the steps to be taken at the shop to promote the licensing objectives. Each of the steps on an operating schedule become legally enforceable licence conditions should the application be approved.

You may not have seen the proposed operating schedule for the shop – and so I attach a copy for your information. The shop would sell alcohol in a responsible manner and the proposals are pretty comprehensive including

a CCTV camera system which would cover inside and the area immediately outside the shop;

the adoption of the 'Challenge 25' under age policy to ensure that all measures are in place to ensure that no-one under 18 is able to buy alcohol and other age-restricted goods;

a strict alcohol refusals policy including reference to 'street drinkers';

regular staff training;

staff to monitor outside the shop to check that youths aren't congregating causing a nuisance;

staff to check for and dispose of any litter from the shop.

Every new premises licence application involves an extensive consultation exercise carried out with the various responsible authorities including the Police, the Licensing Authority, Trading Standards, Environmental Health, Public Health, Child Protection, Planning, etc. **These authorities have carefully assessed the application and they are satisfied that a licence can be granted.**

Mr Kalamohan is investing considerably in this new business venture and several new jobs would be created. He is a responsible person, he has a personal licence and extensive retail experience. Staff will be trained to prevent underage sales and to sell alcohol responsibly. He wants to work with the local community, and I can assure you that his shop will be well-run and not cause or add to any issues in the local area.

I am aware that there are other convenience stores selling alcohol in the area, and I note that your address is the address of a shop called Lifestyle Express which I believe has a premises licence. Please note that the 'need' for a further licence is not something that can be taken into account by the Council;

In terms of public safety - please note that public safety (in terms of a premises licence) refers to the physical safety of customers and staff inside the shop.

Any existing problems of anti social behavior in the area should of course be reported to the Police. Mr Kalamohan will do absolutely everything that he can, within his power and control, to prevent crime and disorder. For example, the shop will have a top quality CCTV system covering inside and the area outside the shop, and the images would be made available to the Police upon request.

There is no evidence to suggest that a new shop would lead to an increased crime rate or further anti social behaviour/disturbance.

The licensing law is not a mechanism for the control of anti social behaviour of individuals once they are beyond the direct control of the business (with a premises licence).

Licensed premises are extremely well-regulated and they must, by law, promote the licensing objectives and fully comply with all of their licence conditions. If they don't, then the Authorities can take action - this includes prosecution, a licence review, or revocation of the licence.

The Police and the other Authorities will target any 'problem premises' and take action if something goes wrong. Likewise, if any local resident had evidence of problems at this shop in the future (with a licence) then a licence may be reviewed - the matter would then be considered by the Council.

I hope the above information is helpful and informative

This shop will be well run, it won't cause or add to any issues in the local community and, importantly, the shop would fully promote the licensing objectives.

I look forward to hearing from you and please do not hesitate to contact me if you have any queries.

Yours sincerely

Ian Rushton
JL Licence and Retail

Mr P Thompson
30 Earl Street
Grimsby
DN31 2LU

27 June 2021

Dear Mr Thompson

**APPLICATION FOR A NEW PREMISES LICENCE
NEW SHOP ON 40 CARTERGATE, GRIMSBY DN31 1RT**

I hope you are keeping well.

I am contacting you on behalf of my client, Mr Arumugam Kalamohanof AK South Yorkshire Ltd, who has applied for a premises licence at the above site.

I have received a copy of your recent representation from the Council and thought I would contact you to outline this application further, and to explain the steps that would be taken to promote the licensing objectives

As you are aware, the site is currently empty and it will be refurbished to a very high standard to become a modern and professional general convenience store. The new shop would serve the local community selling a wide range of goods including newspapers, magazines, bread, milk, sweets, snacks, dairy goods, cigarettes, soft drinks, household goods, lottery tickets, etc, plus services such as Paypoint.

The proposed alcohol sales would just be a part of the overall business. The focus of the shop will be as a general convenience store which would also offer some alcohol for sale. **This will not be a shop that mainly focusses on alcohol sales.**

The licence application includes a document called an Operating Schedule. This is a really important document submitted by an applicant which outlines the steps to be taken at the shop to promote the licensing objectives. Each of the steps on an operating schedule become legally enforceable licence conditions should the application be approved.

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a CCTV camera system which would cover inside and the area immediately outside the shop;

the adoption of the 'Challenge 25' under age policy to ensure that all measures are in place to ensure that no-one under 18 is able to buy alcohol and other age-restricted goods;

a strict alcohol refusals policy including reference to 'street drinkers';

regular staff training;

staff to monitor outside the shop to check that youths aren't congregating causing a nuisance;

staff to check for and dispose of any litter from the shop.

Every new premises licence application involves an extensive consultation exercise carried out with the various responsible authorities including the Police, the Licensing Authority, Trading Standards, Environmental Health, Public Health, Child Protection, Planning, etc. **All of these authorities have carefully assessed the application and they are satisfied that a licence can be granted.**

Mr Kalamohan is investing considerably in this new business venture and several new jobs would be created. He is a responsible person, he has a personal licence and extensive retail experience. Staff will be trained to prevent underage sales and to sell alcohol responsibly. He wants to work with the local community, and I can assure you that his shop will be well-run and not cause or add to any issues in the local area.

In terms of public safety - please note that public safety (in terms of licences) refers to the physical safety of customers and staff inside the shop. Traffic and road safety issues are dealt with by other Departments/agencies, and are not something that can be considered for a new licence application.

Any existing problems of anti social behavior in the area should of course be reported to the Police. Mr Kalamohan will do absolutely everything that he can, within his power and control, to prevent crime and disorder. For example, the shop will have a top quality CCTV system covering inside and the area outside the shop, and the images would be made available to the Police upon request.

There is no evidence to suggest that a new shop would lead to an increased crime rate or further anti social behaviour/disturbance. The licensing law is not a mechanism for the control of anti social behaviour of individuals once they are beyond the direct control of the business (with a licence).

The new shop is not just going to be an 'off licence'. It will be a professional and modern general convenience store selling a wide range of goods and providing a service to the community. I am aware that there are other convenience stores selling alcohol in the area, please note that the 'need' for a further licence is not something that can be taken into account by the Council;

Licensed premises are extremely well-regulated and they must, by law, promote the licensing objectives and fully comply with all of their licence conditions. If they don't, then the Authorities can take action - this includes prosecution, a licence review, or revocation of the licence.

The Police and the other Authorities will target any 'problem premises' and take action if something goes wrong. Likewise, if any local resident had evidence of problems at this shop in the future (with a licence) then a licence may be reviewed - the matter would then be considered by the Council.

I hope the above information is helpful and informative

This shop will be well run, it won't cause or add to any issues in the local community and, importantly, the shop would fully promote the licensing objectives.

I look forward to hearing from you and please do not hesitate to contact me if you have any queries.

Yours sincerely

Ian Rushton
JL Licence and Retail

Mr L O'Flinn
16 Lord Street
Grimsby DN31 1RT

27 June 2021

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staff to check for and dispose of any litter from the shop.

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These authorities have carefully assessed this application and they are satisfied that a licence can be granted.

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