

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

2 – 4 St Peters Avenue,
Cleethorpes

NORTH EAST LINCOLSHIRE COUNCIL
LICENSING AUTHORITY

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

1.1 **Premises:** 2 – 4 St Peters Avenue, Cleethorpes

1.2 **Applicant:** Dadas Ltd

1.3 **Date Application Received:** 21 November 2022

1.4 The Proposed Operation:

New two storey restaurant including the supply of alcohol. The applicant applied for a Premises Licence for the following:

Sale of Alcohol (On and Off the Premises)

Sunday to Thursday 1200 until 0000 hours
Friday to Saturday 1200 until 0100 hours

Recorded Music

Sunday to Thursday 0800 until 0000 hours
Friday to Saturday 0800 until 0100 hours

Late Night Refreshment

Sunday to Thursday 0800 until 2300 hours
Friday to Saturday 0800 until 0000 hours

Proposed conditions:

- A CCTV system will be installed and operated at the premises. It will be registered in accordance with the Data Protection Act, and warning signs displayed in public areas of the premises.
- There shall be sufficient cameras to cover those areas that are not easily supervised from the bar, including staircases and outside areas where it is intended to conduct licensable activities.
- A monitor should be placed in such a position so as to be viewed by staff working in both of the sales areas of the premises.

- The system must be capable of continuously recording in colour, providing real time pictures of evidential quality in all lighting conditions, and copies of such recordings shall be retained for a period of not less than 28 days.
- Any system installed should be capable of producing copies of recordings on site.
- Copies of recordings shall be provided on request to a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council on DVD/USB at no cost.
- The designated premises supervisor will be responsible for the operation of the system and shall ensure that it is maintained in accordance with these codes of practice. They must ensure an appointed member of staff is capable of 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/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.
- Cameras must be positioned to view all access to and egress from the premises (including fire exits) and all areas where the sale of alcohol occurs.
- Recordings must be made of each trading period conducted at the premises and must be correctly time and date marked.
- CCTV camera views are not to be obstructed.
- The premise licence holder/DPS/Duty Manager shall ensure that there is an adequate risk assessment of the need for SIA door supervision at the premises during events at the premises or in the local area and shall provide door supervision in accordance with that risk assessment. Such an assessment shall be written down and kept at the premises and be available for production on demand by a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.
- An incident log shall be kept at the premises, and made available on request to a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council, which will record the following:

- all crimes reported to the venue
 - all ejections of patrons
 - any complaints received
 - any incidents of disorder
 - all seizures of drugs or offensive weapons
 - any refusal of the sale of alcohol
 - any visit by a relevant authority or emergency service
- 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. 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 frequency of the training shall be on commencement of employment, with refresher training once every six months. The training shall cover all aspects of the responsible sale of alcohol (Premises Licence conditions, Licensing objectives, age verification, how to detect proxy sales, consequences of underage sales, serving to drunks) and conflict management. The book will be available to be viewed on demand by a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.

1.4 The following conditions have been agreed with Humberside Police's Licensing Department: -

- There will be signage requesting that customers respect the local residents and leave quietly.
- When events are held at the premises or in the local area, a thorough risk assessment will be completed for the use of Polycarbonate or crushable glassware and decanting of all bottles. Polycarbonate or crushable glassware will also be used upon the request of Humberside Police or the Local Authority.
- Substantial food shall be available throughout the trading period.
- Alcohol will only be sold as an ancillary to a person partaking in a table meal

- There must be a minimum of 45 covers downstairs and 60 covers upstairs inside the premises at all times.
- The premises shall only operate as a restaurant which do not provide any take away service of food or drink for immediate consumption. For clarity, items can be taken away if the customer has been and had a table meal and they are taking leftover food or wine away for consumption at home.
- Alcohol may not be served as an off sale, save for when a bottle of wine has been purchased as part of a table meal and not fully consumed at the time. The bottle should be appropriately sealed before leaving the premises.
- The premises shall adopt and operate a comprehensive drugs policy, including recording regular toilet checks, a copy of which shall be retained at the premises and made available for inspection if requested by officers under the direction and control of the Chief Constable of Humberside Police and employees of the Licensing Authority.
- There shall be no dancefloor at the premises

1.5 The following conditions have been agreed with North East Lincolnshire Council, Environmental Protection:

- Amplified recorded music shall only be played between the hours of
Sunday to Thursday 08:00 – 23:00hrs
Friday to Saturday 08:00 - 00:00hrs.
- External doors and windows are to remain closed after 10.00pm, except for entry and egress of customers.
- Disposal of empty bottles into waste receptacles outside the premises will not be permitted between 2300 hours and 0700 hours to minimise disturbance to nearby residents.

1.6 No representations have been received from Humberside Police or any other Responsible Authority.

2. Summary of Representations –

2.1 Representation 1:

2.1.1 Date representations received: 19 December 2022

2.1.2 Persons making representation: Richard Baxter

2.1.3 Licensing objectives affected: Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance

2.1.4 Summary of Recommendations:

Alcohol only to be served with a sit-down meal until 2300 hours daily.
Noise pollution from music to be contained within the building, doors to be kept closed at all times when music is playing.

2.1.5 Representation 2:

2.1.6 Date representations received: 19 December 2022

2.1.7 Persons making representation: Charles Jackson

2.1.8 Licensing objectives affected: Prevention of Crime and Disorder,
Prevention of Public Nuisance

2.1.9 Summary of Recommendations: Background music rather than amplified and alcohol being served only with meals.

2.1.10 Representation 3:

2.1.11 Date representations received: 19 December 2022

2.1.12 Persons making representation: Miss B Piggott

2.1.13 Licensing objectives affected: Prevention of Crime and Disorder,
Prevention of Public Nuisance

2.1.14 Summary of Recommendations: sale of alcohol for consumption on the premises only and for this to be exclusively available to customers who are eating at the establishment. Hours during which alcohol can be sold & music played to be limited to 22:00 daily. Late night refreshment license should not be permitted in any form.

2.1.15 Representation 4:

2.1.16 Date representations received: 19 December 2022

2.1.17 Persons making representation: Joanne Piggott

2.1.18 Licensing objectives affected: Prevention of Crime and Disorder,
Prevention of Public Nuisance

2.1.19 Summary of Recommendations:

Alcohol only to be served with a sit down meal. No alcohol to be served after 11pm. All doors & windows to be kept closed to ensure the noise stays inside the building.

2.2 Mediation

Details of pre agreed conditions were emailed to each representative on 20 December 2022. No requests for withdrawal have been received.

One representative replied requesting the application to go to hearing, the conditions didn't go far enough to address their concerns.

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 - 9.1.12 Licensing Objectives

6.2.1: Extent of Control

6.4.1: Need

6.6.1 - 6.6.2 Licensing Hours

8.2.1 – 8.2.2 Premises Licences

8.3.1 - 8.3.6 Operating Schedules

8.7.2 – 8.7.4 Representations

9.2.1 – 9.2.7 Prevention of Crime and Disorder

9.4.1 – 9.4.3, 9.4.5 – 9.4.7 Prevention of Public Nuisance

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:

1.2 – 1.5 Licensing Objectives and Aims

2.1 – 2.6 Crime and Disorder

2.15 – 2.21 Public Nuisance

8.41 - 8.49: Steps to Promote the Licensing Objectives

1.13, 3.1 – 3.2 Licensable Activities

1.14 Authorisation or Permissions

1.16 Licence Conditions – general principles

1.17 Each Application on its own merits

9.3 – 9.10: Relevant Representations

9.31 – 9.40: Hearings

10.1 – 10.9 Conditions attached to premises licenses

10.10: Proportionality

10.13, 10.14: 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, playing of amplified music and late night refreshment. The premises falls within a cumulative impact zone. However, with the addition of conditions,

the applicant has demonstrated there will be no negative impact to licensing objectives.

- 6.2** The applicant has already agreed to conditions set by Humberside Police and Environmental Protection NELC, full details can be found at 1.4 of this report.

The conditions restrict the use of the premises to a restaurant and only allow for alcohol to be served with food with no off sales. Conditions are also in place to reduce the impact of amplified music in the local area. The only regulated hours requiring a licence are now between 23:00 and 00:00 hours on Friday and Saturday.

The alcohol licensing hours and late night refreshment licence have not been subject to any conditions by a Responsible Authority.

- 6.3** Four representations have been received and accepted, these are from Interested Parties i.e. local residents and business owners and are raised under Prevention of Crime and Disorder and the Prevention of Public Nuisance, see representative's full reports for details.

Two further representations were received but couldn't be accepted as they were not submitted on the appropriate forms in time. However, Similar concerns to the representations were expressed.

- 6.4** All Responsible Authorities have been consulted regarding this application. Representations were made and conditions agreed from Environmental Protection NELC and Police Licensing. No other representations were received.

- 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.

**Report prepared by:
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Licensing Enforcement Officer**