

LICENSING ACT SUB COMMITTEE

Licensing Act 2003 Premise Licence Grant – Kanteena, Lodge Street, Canal Quarter, Lancaster, LA1 1QW Determination of Application Following Responsible Authority Representations 24 October 2019

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

To enable Members to determine an application for a Premise Licence under Section 17 of the Licensing Act 2003 submitted by Mr Pablo Aguilar for Kanteena, Lodge Street, Canal Quarter, Lancaster, LA1 1QW, following the receipt of relevant representations.

The report is public

RECOMMENDATIONS

The Sub Committee is requested to determine in the light of the representations made and having regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and any Regulations made under that Act, as well as Government Guidance, whether to grant the application as requested, modify any conditions of the licence, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

1.0 Introduction

1.1 The Council grants permissions for Premise Licences submitted under the Licensing Act 2003 (the Act). Mr Pablo Aguilar has submitted an application under Section 17 of the Licensing Act 2003 for a premises licence for Kanteena, Lodge Street, Canal Quarter, Lancaster

The application is for a licence to facilitate the following:-

Regulated Entertainment (Live and Recorded Music and Performances of Dance)
Monday – Sunday 09:00 hours until 06:00 hours;

Late Night Refreshment Monday – Sunday 23:00 hours until 05:00 hours

The sale and supply of alcohol Monday – Sunday 09:00 hours until 06:00 hours.

Details of the application for the premises licence are set out in the application form, which is detailed as Appendix No.1 to this report.

- 1.2 There is a statutory requirement to advertise such applications for a period of 28 days in which time representations in favour or against the application can be submitted. Any representation submitted must relate to the likely impact of the grant of the licence on one or more of the four licensing objectives which are:
- The prevention of crime and disorder;
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

- 1.3 During the 28 day representation period the applicant agreed additional conditions with Lancashire County Council Public Health & Wellbeing with specific regard to the safeguarding of children from harm licensing objective namely:-

- Persons under the age of 18 years shall vacate the premises by 9pm on days when no live music is being played at the venue;
- Persons under the age of 18 years shall vacate the premises by 11:30pm on days when live music is being played at the venue.

Details of this agreement are attached at Appendix No. 2 to this report.

- 1.4 Similarly, the applicant agreed an additional condition with the Council's Senior Environmental Health Officer for Community Protection with specific regard to the prevention of public nuisance licensing objective namely:-

- A noise limiting device will be utilised at the premises to prevent music noise levels being audible from within the nearest noise sensitive receptors. This would be subject to Environmental Health validation prior to the premises becoming operational.

Details of this agreement are attached at Appendix No. 3 to this report.

- 1.5 Any representations must relate to the likely impact of the grant of the licence in relation to all four of the licensing objectives, namely:

- Public Safety;
- The prevention of crime and disorder;
- Public Nuisance;
- The protection of children from harm.

- 1.6 Under Section 18(3) of the Act, it is necessary for a hearing to be held to consider the application, as representations have been received from Responsible Authorities. The relevant section prescribes:

Where relevant representations are made, the authority must-

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps are-

(a) to grant the licence subject to –

- (i) the conditions mentioned in subsection 2 (a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; and
- (ii) any condition which must under section 19,20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates.

In this instance all parties agree that a hearing is not necessary. The applicant has agreed to accept all the representations made, however the Licensing Act 2003 does not offer any provision to allow officers to grant applications where the licence issued does not reflect the licence applied for. As the application has been amended to reflect the representations made, the determination of the application must be made by the Sub Committee.

1.7 The Council's Statement of Licensing Policy is attached at Appendix No. 4 to this report. The following sections are relevant to this application:-

- Section 3: refers the duty to protect residential properties and having wider considerations to the application.
- Section 4: refers to the representations by Other Persons.
- Section 9: refers to Operating Schedule and Conditions.
- Section 11: refers to Opening Hours.
- Section 12: refers to Protection of Children
- Section 13: refers to Public Nuisance (noise).
- Section 14: refers to Prevention of Crime and Disorder.
- Section 15: refers to Public Safety.

1.8 In view of the agreements reached, the parties have not been invited to attend the determination. It was not felt necessary to request any clarification from the parties.

1.9 Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications. In particular, in accordance with Article 6, all parties are entitled to a fair hearing. Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

2.0 Conclusion

2.1 Members are requested, having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and Regulations made under that Act, Government

Guidance and representations made, to grant the application as modified by the inclusion of the information contained within Appendices 2 and 3 of this report. Members are reminded that they should state the reasons for their decision.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None.	
FINANCIAL IMPLICATIONS	
Financial Services have not been consulted as there are no financial implications.	
LEGAL IMPLICATIONS	
Legal implications are contained within the report. In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the Magistrates' Court within 21 days.	
BACKGROUND PAPERS	Contact Officer: David Eglin Telephone: 01524 582387 E-mail: deglin@lancaster.gov.uk Ref: DWE
None	