

**LICENSING SUB-
COMMITTEE**

10.30 A.M.

18TH APRIL 2024

5 LICENSING ACT 2003 PREMISE LICENCE GRANT- ASDA EXPRESS PFS RYLANDS, OWEN ROAD, LANCASTER, LA1 2LL - DETERMINATION OF APPLICATION FOLLOWING RELEVANT REPRESENTATIONS

The Sub-Committee comprised of Councillor Sally Maddocks (Chair), Councillor Martin Bottoms and Councillor Phil Bradley.

The Legal Advisor was Thomas Mitchell, Solicitor.

The Democratic Support Officer was Sarah Moorghen.

The Licensing Officer was David Eglin, also in attendance was Jennifer Curtis, Licensing Manager.

Members undertook a site visit at 9.30am and thereafter convened the hearing at Morecambe Town Hall.

The hearing was adjourned shortly after it started as it became apparent some objectors did not have a copy of the agenda before them and to ensure that they could fully participate the Chair adjourned to allow hard copies of the agenda to be printed and circulated.

The Licensing Sub-Committee are to determine an application for a Premise Licence submitted under Section 17 of the Licensing Act 2003 by Euro Garages Limited (the applicant) in respect of Asda Express PFS Rylands, Owen Road, Lancaster, LA1 2LL. The hearing was held in light of 4 relevant representations being received from "other persons" as defined under the Licensing Act 2003 within the 28 day statutory consultation period.

The applicants representative Mr Neil Eccles, National Licensing Manager for Asda was in attendance together with their legal representative Mr Richard Taylor, Solicitor from Gosschalks.

Mr Steven Clarke, Proprietor of Premier Convenience Express who had made representations was in attendance and was represented by Councillor Redfern, Ward Councillor for Skerton. Mr Charles Tisdall, of Dacrelands Clinic Corner of Owen Road and, Aldrens Lane, Ann Cunningham, resident of Owen Road and Daphne and Richard Rousse of Ashton Drive were also present and had made representations.

Parties present introduced themselves.

The Licensing Officer, Mr Eglin, introduced the report, and stated that the application was for a premises licence to facilitate the following:

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

(for consumption both on & off the premises)

Sale & Supply of Alcohol Monday – Sunday 00:00 until 23:59 (off premises)

During the statutory 28-day consultation period the Council received four relevant representations from other persons. The details of the representations were attached at Appendix No. 2 of the Licensing Officer's report. No representations were received from responsible authorities in the statutory 28-day consultation period.

Through questioning Mr Eglin confirmed that Lancashire Constabulary had been consulted as a responsible authority, that it had been received by them, but no representations had been received from them in the statutory 28-day consultation period.

The concerns of the other persons related to both the Public Nuisance and Crime Prevention licensing objectives. The other persons perceived that should the Sub-Committee seek to grant this licence there would be a strong likelihood of an increase in both noise nuisance and alcohol fuelled anti-social behaviour in affecting neighbouring residential premises.

Further, they believed that to allow the retail sale of alcohol for 24 hours per day from the premises would be wholly detrimental to the current peaceful status quo of this area of Lancaster, achieved through the hard work of the community and neighbourhood police.

The other persons addressed the subcommittee, referred to their written representations and expanded on what they said in their written representations. The concerns as noted above related to anti-social behaviour, noise, litter, social issues, human rights, diversity and equality impact issues. In their closing submissions other persons confirmed that they were opposed to the granting of the licence.

Mr Taylor made representations for and on behalf of the applicant detailing the history of the applicant, that it has over 1,000 stores that sees millions of customers per week. Mr Taylor explained that he had never had to sit in a Review of an Asda licence for any stores in England and Wales and no proceedings either in relation to breaches. Mr Taylor said that this is a testament to Asda's policies and procedures following the granting of a 24 alcohol licence.

In relation to the store in question, he explained that it had been open for the last 15 years, had recently been changed to Asda and currently operates on a 24 hours' basis. The application is to allow the applicant to sell alcohol during its opening hours. In respect of the late-night refreshments Mr Taylor explained that this is in relation to the provision of hot drinks only from a drinks machine and not in relation to the Greggs or Subway which he explained close at 5pm and 8pm respectively. Mr Taylor informed the Sub-Committee that the Applicant invited the Sub-Committee to impose a condition in respect of this should they consider it necessary.

Further, Mr Taylor explained that the doors to the store would be closed to members of the public (with the exception of emergency services) between the hours of 22.00 and 06.00 with all service being via a night hatch. Again, Mr Taylor informed the Committee that the Applicant was happy for that to be a condition of the licence should they consider it to be necessary.

Mr Taylor informed the Sub-Committee that Applicant, at this type of site, does not sell alcoholic drinks that would attract street drinking. The Sub-Committee were also informed that Asda engages an independent test purchasing company to ensure that its policies, such as the Challenge 25, are adhered to by staff and it is a disciplinary offence for staff not to comply.

Mr Taylor also highlighted that there were no representations received from the police, child safeguarding or environmental health and that they are the experts. In summing up, Mr Taylor referred to paragraphs 2.27, 9.43, 9.12 and 10.15 of the Revised Guidance issued under section 182 of the Licensing Act 2003. Mr Taylor also reminded the Sub-Committee about the review procedures available and informed the Sub-Committee that Asda has never been subjected to a review.

Mr Eccles informed the Committee that persons in the store need to be trained and are undergoing training and the store will not sell alcohol, even if granted a licence, until that has happened.

The Sub-Committee then withdrew to make its decision and sought advice from its legal adviser as to the appropriate phraseology of the decision.

DECISION

The Sub-Committee carefully considered all the written information before it, and the representations and views expressed at the hearing by the other persons and Mr Eccles and Mr Taylor on behalf of the Applicant. The Sub-Committee also had regard to the Council's Statement of Licensing Policy 2016-2021 and the relevant paragraphs of the Revised Guidance issued under section 182 of the Licensing Act 2003.

The Sub-Committee reminded itself that this is a new application for premises licence and that it must consider the likely impact of the grant of the licence in relation the licensing objectives; public safety, the prevention of crime and disorder, public nuisance and the protection of children from harm.

The Sub-Committee considered the case of *Daniel Thwaites v Wirral Borough Magistrates' Court* and were mindful that this is a new application. The Sub-Committee were of the opinion that there was insufficient evidence provided to show that the licensing objectives would be undermined if the application was granted (which would include the additional conditions as proposed by the applicant in the hearing). In particular, the Sub-Committee, noted that they had been informed that Lancashire Constabulary had been consulted but no relevant representations had been received from them.

They took into account the concerns of other persons in respect of a possible increase in crime and disorder and ASB and the effects of a possible increase in noise and examined the evidence of such, presented to them.

Further, there had been no relevant representations from any other responsible authority.

The Sub-Committee therefore concluded and were of the opinion that it is proportionate and appropriate to grant the application subject to the following conditions being added.

- Late night refreshment is to be limited to the sale of hot drinks only
- Sale and Supply of Alcohol to be via night hatch between the hours of 22.00 - 06.00

It was considered by the Sub-Committee that the inclusion of these conditions would further promote the Licensing Objectives.

Importantly, the Sub-Committee reminds all parties of the statutory right of responsible authorities and other persons to seek a review of a licence on the basis that the licensing objectives are not being met.

In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal against this decision to the Magistrates Court within 21 days.

(The meeting ended at 12.30 p.m.)

**Any queries regarding these Minutes, please contact
Sarah Moorghen, Democratic Support - email smoorghen@lancaster.gov.uk**