

# LICENSING ACT SUB COMMITTEE

## Licensing Act 2003 Premise Licence Grant – Lancaster Food Court, 71 North Road, Lancaster, LA1 1LU

### Determination of Application Following Relevant Representations 12 February 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 Lifestyle Express Stores Limited for Lancaster Food Court, 71 North Road, Lancaster, 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). Lifestyle Express Stores Limited have submitted an application under Section 17 of the Licensing Act 2003 for a premises licence for Lancaster Food Court, 71 North Road, Lancaster.

The application is for a licence to facilitate late night refreshment each evening (Monday – Sunday) between the hours of 23:00 and 03:00 and the sale and supply of alcohol off the premises each day (Monday to Sunday) during the opening hours between 08:00 and 03:00. Alcohol will only be supplied ancillary to a food order delivery and will not be displayed for sale on the premises.

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 Constabulary with specific regard to the sales of alcohol which accompany food deliveries and these are included with Appendix No.1 and relate to the following:-

- No cash transactions at the door or direct sales from the delivery van
- Payment for alcohol to be made by card when placing a telephone order
- Age check undertaken at the time of the delivery
- All alcohol deliveries must be accepted by an individual over the age of 18
- The delivery must not be left in a safe place or unsigned for
- The premises address must have a valid post code
- The delivery vehicle must only contain items which have been pre-ordered.

A total of four representations were received from Other People as defined by the Act. Copies of the representations are attached at Appendix No. 2 to this report.

Representation Number	Name	Address	Date received at Licensing Office
1	Mr M F Diggle	56 North Road, Lancaster, LA1 1LT	17.12.2018
2	Mr P Cusimano	54 North Road, Lancaster, LA1 1LT	19.12.2018
3	Mr Wahidullah Mayar	75/77 North Road, Lancaster, LA1 1LU	20.12.2018
4	Mrs Susan Rutherford	Lancaster BID Ltd, F1 City Lab, Dalton Square Lancaster, LA1 1PP	21.12.2018

1.4 The representations relate to the likely impact of the grant of the licence in relation to all four of the licensing objectives, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.5 On 11<sup>th</sup> January 2019 a mediation meeting was convened and attended by all parties to give an opportunity to discuss the application in detail and the concerns that had arisen to date. The applicant and their Solicitor believe they should be given the

chance to run their business as an already experienced operator who would demonstrate due diligence in upholding the four licensing objectives. The Other Persons meanwhile were still of the belief that to grant this application will inevitably lead to an increase in footfall to the area and exacerbate existing problems of noise nuisance and crime and disorder.

Accordingly, a compromise between parties was unable to be reached and the representations remain intact.

- 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 Other Persons. 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;

- 1.7 The Council's Statement of Licensing Policy is attached at Appendix No. 3 to this report. The following sections are relevant to this application:-

- Section 3: refers to 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 accordance with the relevant Regulations, the parties have been given notice of the hearing. The notice of hearing is attached as Appendix No. 4. It was not felt necessary to request any clarification from the parties. The parties have been required, in accordance with the Regulations, to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further

documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all 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 should consider, having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act, Government Guidance and representations made, 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.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None.	
<b>FINANCIAL IMPLICATIONS</b>	
Financial Services have not been consulted as there are no financial implications.	
<b>LEGAL IMPLICATIONS</b>	
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.	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> David Eglin <b>Telephone:</b> 01524 582387 <b>E-mail:</b> <a href="mailto:deglin@lancaster.gov.uk">deglin@lancaster.gov.uk</a> <b>Ref:</b> DWE
None	