

# LICENSING ACT SUB COMMITTEE

## LICENSING ACT 2003 PREMISE LICENCE GRANT- GDK LANCASTER, UNIT B 112 PENNY STREET, LANCASTER, LA1 1XT

### DETERMINATION OF APPLICATION FOLLOWING RELEVANT REPRESENTATIONS

19TH JUNE 2019

#### Report of Licensing Manager

##### PURPOSE OF REPORT

To enable members to determine an application for a Premise Licence under Section 17 of the Licensing Act 2003 submitted by Hibrid Solutions Limited for GDK Lancaster, Unit B, 112 Penny Street, 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). Hibrid Solutions Limited have submitted an application under Section 17 of the Licensing Act 2003 for a premises licence in respect of GDK Lancaster, Unit B, 112 Penny Street, Lancaster.

The application is for a licence to facilitate late night refreshment each evening (Sunday – Thursday) between the hours of 23:00 and Midnight and at weekends (Friday & Saturday between the hours of 23:00 hours and 01:00 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 consultation period 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 J Weatherill	Diana Court, Henry Street, Lancaster, LA1 1BX	26.03.2019
2	Ms J Hollings-Tennant	Diana Court, Henry Street, Lancaster, LA1 1BX	26.03.2019
3	Miss K Hodgson	9 Diana Court, Henry Street, Lancaster, LA1 1BX	26.03.2019
4	Ms W Longworth	Flat No.4 Diana Court, Henry Street, Lancaster, LA1 1BX	03.04.2019

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

- Public Nuisance

1.5 Each of the Other Persons believe there is the likelihood of an increase to noise levels and anti-social behaviour should this application be granted and exacerbate the current situation with car parking issues on Henry Street and the associated disturbance with car doors banging, horns being blown, engines left running and general noise from customers shouting and arguing late into the evening.

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 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 13: refers to Public Nuisance (noise).
- Section 14: refers to Prevention of Crime and Disorder.

1.8 In accordance with the relevant Regulations, the parties have been given notice of the hearing. 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 Councils 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> Jennifer Curtis <b>Telephone:</b> 01524 582732 <b>E-mail:</b> <a href="mailto:jcurtis@lancaster.gov.uk">jcurtis@lancaster.gov.uk</a> <b>Ref:</b> JC/DWE
None	