

# LICENSING COMMITTEE

## HIGHWAYS ACT 1980

### STREET CAFE LICENCE – CAPPUVINO, 60 CHURCH STREET, LANCASTER

#### REQUEST FOR VARIATION OF STANDARD CONDITIONS IN RELATION TO PERMITTED TIMES AND ALCOHOL CONSUMPTION WITHOUT A TABLE MEAL

4<sup>th</sup> June 2020

#### Report of Licensing Enforcement Officer

##### PURPOSE OF REPORT

An application for a Street Cafe Licence licence has been received from Mr Miguel Binetti. Along with his application the applicant has requested a variation of the standard licence condition which allows the street cafe to operate between the hours of 10am and 8pm, to allow him to operate from 8.30am to 9pm. Additionally, he requested a waiver to the conditions that all alcohol consumption must be taken with a table meal and consumed in polycarbonate glasses.

The report is public

##### RECOMMENDATIONS

The Committee is requested to determine in the light of the representations made, whether to allow the applicant's request for a variation of the standard licence condition in relation to the following

- permitted times of operation for the street cafe licence to allow him to operate from 8.30am to 9pm instead of the standard 10am to 8pm.
- To facilitate alcohol consumption without patrons having a table meal
- To allow the use of standard glasses rather than those made of polycarbonate plastic.

##### 1.0 Introduction

1.1 The Council grants permissions for Street Cafe Licences under Section 115E of the Highways Act 1980. Under Section 115F of the same Act, a District Council may attach to the grant of a licence under this section such conditions as they may think are fit and appropriate. Attached at **Appendix 1** is the application and supporting documentation

1.2 For the purpose of the above, the Council has established conditions attached to the grant of a Street Cafe Licence with alcohol consumption. A copy of the full conditions attached to the grant of a street café licence is attached at **Appendix 2**

1.3 In relation to this application condition No.4 states:-

The use of the Licensed Area shall cease before 20.00 hours each day and shall not commence prior to 10.00 hours.

1.3.1 The purpose of this condition is to keep the areas clear of obstruction to allow vehicular access for service vehicles and to allow street cleansing before the commencement of operation of the cafe where necessary.

1.3.2 In relation to this application conditions No. 30 & 31 states:-

Where intoxicating liquor is permitted to be served or consumed in the licensed area then polycarbonate glasses must be used at all times

Where intoxicating liquor is permitted to be consumed in the licensed area this may only be served and consumed when accompanying a substantial meal. This does not include bar snacks such as crisps and nuts. All patrons consuming intoxicating liquor must be seated at a table within the licensed area, there will be no parallel drinking allowed whatsoever.

The purpose of these conditions are to uphold the crime and disorder licensing objective which are supported by Lancashire Constabulary's Local Licensing Officer.

1.4 The applicant submitted a representation in support of his application where he believes the style of management of Cappuvino together with the demographic of the client base and staff training are sufficient to negate the standard conditions. It is acknowledged that with regard to the earlier opening time of 08:30 hours this is specifically for the sale of quality coffees to the breakfast market with no presence of alcohol and accordingly the Council would offer no objection. The representation is attached at **Appendix 3**.

1.5 The Council's Licensing Manager, Mrs Jenette Hicks, has submitted a representation against the waiver of the night-time standard cessation hour of 20:00 from the perspective of public nuisance and public safety. She contends the premises is located in the busiest street in the City with regards to the night-time economy with heavy footfall of patrons between licensed premises at either end of Church Street and to have tables and chairs outside until 9pm would impact on these licensing objectives. Further, any consumption of alcohol in a street café area is far better controlled when it is ancillary to a table meal rather than as an addition to the existing indoor licensed area. A copy of this representation is attached as **Appendix 4**.

1.6 A further representation against this application was received from PC 2338 Andrew Taylor of Lancashire Constabulary who is concerned that to allow tables and chairs on the highway in this particular location after 20:00 hours could lead to an escalation of

crime and disorder in that in certain circumstances they could be used as weapons by passers-by. Furthermore, the use of polycarbonate glasses offsets any likelihood of injuries that could occur if ordinary glass was knocked over, deliberately or otherwise, and left out on this busy street. A copy of the Police representation is attached at **Appendix 5**.

- 1.7 As part of the application process Lancashire County Council's Highways Department together with the City Council's Planning and Street Cleansing Departments have been consulted. At the time of writing no representations have been received from either of these Authorities.
- 1.8 Mr Binetti has been invited to attend the meeting to make representations in support of his request.

## 2.0 Conclusion

- 2.1 Members are asked to consider whether they are satisfied to allow the applicant's request for variation of the standard licence conditions, nos 4 30 and 31 and to allow the Street Cafe at Cappuvino, 60 Church Street, Lancaster, to operate from 8.30am to 9pm inclusive and without the requirement for patrons consuming alcohol there to be from polycarbonate glasses and with a table meal. In making the decision members, can grant or refuse the variation in relation to each of the standard conditions.

<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>	
There is no right of appeal against imposition of a condition attached to a Street Cafe licence.	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> David Eglin <b>Telephone:</b> 01524 582387 <b>E-mail:</b> deglin@lancaster.gov.uk <b>Ref:</b>
None	