

LICENSING ACT SUB COMMITTEE

LICENSING ACT 2003 PREMISE LICENCE VARY – KFC, 110 PENNY STREET, LANCASTER, LA1 1XN.

DETERMINATION OF APPLICATION FOLLOWING MEDIATION WITH RESPONSIBLE AUTHORITY

14th March 2024

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

To enable members to determine an application to vary a Premise Licence under Section 34 of the Licensing Act 2003 submitted by Mulcroft Limited, 30 Corporation Street, Rotherham, S60 1NG, following mediation with Lancashire Constabulary.

The report is public.

RECOMMENDATIONS

The Sub Committee is requested to determine in the light of the representation 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). Mulcroft Limited submitted an application under Section 34 of the Licensing Act 2003 to vary the premises licence for KFC, 110 Penny Street, Lancaster, LA1 1XN.

The current premises licence permits the following:

Late Night Refreshment	Monday – Wednesday	23:00 hours until 23:30 hours
	Thursday	23:00 hours until Midnight
	Friday & Saturday	23:00 hours until 01:00 hours
	Sunday	23:00 hours until 23:30 hours

The premise licence facilitates the sale of hot food & beverage for consumption both on and off the premises.

Details of the current premises licence are detailed as Appendix No.1 to this report.

- 1.2 The current variation application is to increase the hours of licensable activity for Late Night Refreshment on Monday – Sunday from 23:00 hours until 05:00 hours inclusive and increase the opening times to 24 hourly operation.

Details of the application to vary the premise licence are attached as Appendix No.2.

- 1.3 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

- 1.4 No representations were received from Other Persons as defined by the Act during the statutory 28 days consultation period. The Council received notification from a Responsible Authority namely PC 2338 Andrew Taylor of Lancashire Constabulary that mediation had taken place with the Solicitor acting for the applicant in respect of the crime prevention licensing objective.

- 1.5 Police wished to see more robust and up-to-date conditions contained within the operating schedule of the premise licence to satisfy the crime & disorder licensing objective than those currently appearing. Following extensive discussions and negotiation between the Police Licensing Officer and the solicitor acting on behalf of the applicant agreement was reached to include additional conditions within the premise licence in respect of crime prevention to the satisfaction of both parties.

These conditions are attached as Appendix No.3 for Members' attention.

- 1.6 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

- 1.7 Under Section 18(3) of the Act, it is necessary for a hearing to be held to consider the application when a representation has 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.

Whilst this was negated following negotiation between applicant and Responsible Authority, the Council's current constitution determines Members must consider the application when conditions have been agreed subsequent to its receipt by the Licensing Authority.

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:
- (c) to refuse to specify a person in the licence as the premises supervisor.
- (d) to reject the application.

1.8 The updated Council's Statement of Licensing Policy was approved by Licensing Committee in November 2023 and was subsequently considered by Cabinet in February 2024, prior to approval by Full Council in April 2024. In the meantime, we can however rely on the previous policy until full implementation of the updated version.

- Section 9: refers to Operating Schedule and Conditions.
- Section 11: refers to Opening Hours.
- Section 14: refers to Prevention of Crime and Disorder.

1.9 In accordance with the relevant Regulations, the parties have been given notice of the hearing. 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.

1.10 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, and are accordingly asked to approve the additional licence conditions agreed between Responsible Authority and applicant.

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 582033 E-mail: deglin@lancaster.gov.uk Ref: DWE
None	