

LICENSING ACT SUB COMMITTEE

LICENSING ACT 2003

**PREMISE LICENCE GRANT– ASDA EXPRESS PFS
RYLANDS, OWEN ROAD, LANCASTER, LA1 2LL.**

DETERMINATION OF APPLICATION FOLLOWING RELEVANT REPRESENTATIONS

18th April 2024

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 Euro Garages Limited, Asda House, South Bank, Great Wilson Street, Leeds, LS11 5AD, 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). Euro Garages Limited have submitted an application under Section 17 of the Licensing Act 2003 for the grant of a premises licence in respect of Asda Express PFS Rylands, Owen Road, Lancaster, LA1 2LL.

The application is for a 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)

The applicant has identified due diligence to the promotion of the licensing objectives within the operating schedule of the premise licence application in terms of thorough CCTV coverage, staff training and adherence to the Challenge 25 proof of age scheme.

Details of the application for the premises licence are set out in the application form including the plan, which is detailed as 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 statutory 28 day consultation period the Council received four relevant representations from “Other Persons” as defined by The Act. These relate to both the Public Nuisance and Crime Prevention licensing objectives.

Details of the representations are attached at Appendix No.2.to this report.

1.4 The concerns of The Other Persons relate predominantly to public nuisance where it is perceived that should Members seek to grant this licence then there would be strong likelihood of an increase to both noise nuisance and alcohol fuelled anti-social behaviour in respect of neighbouring residential premises. Further, they believe that to allow the retail sale of alcohol for 24 hours per day from the premises would be wholly detrimental to the current status quo of this area of Lancaster.

1.5 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

1.6 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 as defined in the Licensing Act. 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 Members may take 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

1.7 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. We can however rely on the previous policy until full implementation of the updated version.

This 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 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.

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	