

DECISION NOTICE - LICENSING ACT 2003 SUB-COMMITTEE

APPLICATION OF THE PREMISES LICENCE – HANA EXPRESS, 2 BURGHLEY ROAD, PETERBOROUGH, PE1 2QB

12 JULY 2023

This Decision Notice refers to the application of the premises licence Hana Express, 2 Burghley Road, Peterborough, PE1 2QB, for a new premises licence located within the cumulative impact zone.

The applicant, (Nijole Makareviciute), had applied to licence Hana Express Store, 2 Burghley Road, Peterborough, in order to sell alcohol as off sales, Monday through to Sunday from 0700hrs to Midnight.

The Sub-Committee had read the committee papers, which contained the Licensing Officer's report; the premises application and supporting information; and the objections raised by the Police, Cllr Jamil, Public Health and Safer Communities. One household also objected.

The Sub-Committee heard in person from:

- Public health in their capacity as a Responsible Authority
- Safer Communities
- The Police in their capacity as a Responsible Authority
- Cllr Jamil, Ward Councillor
- The Applicant, Nijole Mikareviciute

Those who objected to the granting of licence, stated:

- The area was associated with street drinking, alcohol fuelled anti-social behaviour, issues around community safety due to the excessive consumption alcohol, noise late at night from persons intoxicated
- Availability of alcohol attracts sex trade workers and street drinkers
- The area was problematic hence the Cumulative Impact Zone policy and the Public Spaces Protection Order
- There were disproportionate alcohol related illnesses

The Applicant in support of the licence being granted stated:

- Fully aware of the law regarding sales of cigarettes, alcohol and vapes, especially to children.
- Drugs and prostitution were outside of her control.
- Outside issues associated with alcohol were generally not caused by off sales as in her experience, 95% of purchases are consumed in the home.
- Lighting and CCTV operated by the shop had reduced crime and alcohol related bad behaviour in the immediate area.
- Bins supplied by the shop have reduced litter.

- Not just an off licence, selling groceries as well.
- Currently no complaints.
- Public houses were contributing to the noise disturbance at night.
- Immediate neighbours were happy with the shop.

In their deliberations, the Sub-Committee had been referred to:

- Peterborough City Council's Statement of Licensing Policy, in particular the Special Policy
- The Government Guidance issued under section 182 of the Licensing Act 2003
- Licensing Act 2003

The Special Policy:

In April 2013, following "Operation Can-Do", the licensing authority adopted a special policy in order to help redress the cumulative impact of licensed premises in the area.

Evidence based assessments show there exists disproportionate social issues, including alcohol abuse and alcohol related anti-social behaviour adversely impacting on family life and the community, partly due to the proliferation of licensed premises and the easy access to alcohol.

The 2020 consultation revealed that the policy was still required, and the policy was reimplemented in January 2021.

Further information on "Op can do" and the policy can be found on the Council's website.

The Statutory Government Guidance at paragraph 14.44 stated:

A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high-capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

In the Licensing Authority's Statement of Licensing policy at paragraph 12.4 it stated:

The Cumulative Impact policy creates a rebuttable presumption that relevant applications within the area for new premises licences, that are likely to add to the existing cumulative impact will normally be refused, if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.

And at paragraph 12.11

Applicants will need to address the cumulative impact in their operating schedules in order to rebut such a presumption.

The Sub-Committee considered additional conditions:

- Employing a security officer when alcohol sales take place;
- Reduction in the hours alcohol could be sold; and
- Restriction of alcohol sales to prohibit single cans.

The Sub-Committee disregarded irrelevant matters that had not promoted the licensing objectives.

The Public Health's submissions were compelling as outlined in the committee papers. The Sub-Committee also attached some weight to the submissions made at the hearing by the Police, Safer Communities and the Ward Councillor, who had first-hand experience of the issues.

The Sub-Committee believed that the applicant had not reached the required threshold to rebut the presumption not to grant. The Sub-Committee also believed that should the licence be granted, the premises would add to the cumulative impact, further adding to the existing identified alcohol related problems associated in the zone.

The Sub-Committee was of the opinion that additional conditions had not been appropriate to promote the licensing objectives, in particular those of, the prevention of public nuisance and crime and disorder.

The Sub-Committee therefore **REFUSED** the licence for the premises, known as Hana Express, 2 Burghley Road, Peterborough, PE1 2QB.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days of receiving this formal notice at:

Peterborough Court House, Bridge Street, Peterborough, PE1 1ED. Tel No. 01223 376000. There is a fee to pay.

Councillor Wiggin

Sub-Committee Chairman