

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
12 JULY 2023		PUBLIC REPORT
Contact Officers:	Darren Dolby, Licensing Regulatory Officer Maria Crowe, Trainee Regulatory Officer	Tel. 453540 Tel. 453426

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Nijole Mikareviciute

REFERENCE NO: 122364

PREMISES: Hana Express, 2 Burghley Road, Peterborough, PE1 2QB

GLOSSARY OF TERMS: Attached at **Appendix A** on **Page 8 - 10**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Hana Express, 2 Burghley Road, Peterborough, PE1 2QB taking into account the representations against the application that have been received.

2. BACKGROUND INFORMATION

2.1 This is a new application for a premises licence at the premises. There have been a number of premises licences granted at this premises. The original premises licence, granted under the Licensing Act 2003 in 2006, was for the Glass Onion with the 'on and off sales' of alcohol authorised for Sunday to Thursday 9am to Midnight, Friday and Saturday 9am to 1am. The last premises licence at this premises was for the Creations Lounge with the authorisation of 'on sales' of alcohol only authorised Monday to Sunday between 5pm and 11.30pm. This licence lapsed in October 2020 when the licence holder's business was liquidated at Companies House. The current applicant does not have any known connection with previous licence holders.

2.1.1 Since 18th April 2013 the Licensing Authority has adopted a special policy relating to the cumulative impact in respect to all licensed premises within the 'Operation Can – Do' area. An explanation of what this special policy entails can be found on page 11 of the Council's Statement of Licensing Policy. The Council's Cumulative Impact Assessment statement can be found at **Appendix C Page 29** and a map showing the Can – Do area is attached at **Appendix D Page 39**

2.2 The premises fall within the 'Operation Can – Do' area and is therefore subject to the provisions of the special 'cumulative impact' policy.

2.3 A map is attached at **Appendix E Page 41** showing the location of the nearest 'off licensed' premises.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

Monday to Sunday 7:00 to 24:00

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B – Pages 11 – 28.**

4.2 Representations against the application being granted have been received from Cambridgeshire Constabulary and Public Health in their capacity of being a 'Responsible Authority', and from Peterborough City Council Safer Community Service, a local Councillor and a local resident in their capacity of 'other persons'. These representations are attached at **Appendix F, G, H, I and J from Page 43.**

4.3 Part P of the application sets out the applicant's proposed conditions under the licensing objectives, these being, 'The Prevention of Public Nuisance', 'Public Safety', 'Prevention of Crime and Disorder' and 'The Protection of Children from Harm'. These are also contained within the body of this report (in section 7) and in accordance with section 10.5 of Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule.

4.4 No representations have been received from any other of the Responsible Authorities, Peterborough Trading Standards, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services.

4.5 A 'Notice' was displayed in the newspaper in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42 – The licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

5. REPRESENTATIONS

5.1 Summary of issues raised in the representations against the application being granted :

- The granting of the licence would increase the availability of alcohol in the area leading to a negative impact on the licensing objectives, especially the prevention of crime and disorder objective.
- The granting of the licence would have a negative impact on the health and wellbeing of residents and businesses in the area as evidenced in the CIA statement.
- The granting of the licence would contribute to anti-social behaviour in the area.

5.2 Members should note that the correspondence attached against the application are in their entirety. Please note that not all matters raised within the representations are relevant matters for consideration under the Licensing Act 2003. It is up to the Committee to decide upon what 'weight' they attach to these areas

6. MEDIATION

6.1 Mediation has not been undertaken.

7. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES :

7.1 Crime and disorder

The premises licence holder will ensure that CCTV cameras are located within the premises to cover all public areas including all entrances and exits. The CCTV system will record clear images permitting the identification of individuals. The CCTV system will securely retain all

recorded footage for a minimum of 31 days. The CCTV system will operate 24/7 and the equipment will have a constant and accurate time and date generation. The CCTV system will employ security functions to prevent recordings being tampered with, i.e. password protected. The premises licence holder will be able to produce / download / burn CCTV images upon request by a police officer or an authorised officer of the licensing authority within 24 hours. Any footage will be in a format that can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (ie. compact disc, flash card etc), a secure storage system to store those recording mediums shall be provided.

The premises licence holder will ensure that any digital CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document www.ico.org.uk regarding installation of CCTV at the premises.

All staff shall be trained in the requirements of the Licensing Act 2003, relevant age restrictions in respect of the sale of alcohol, vulnerability, Challenge 25 Scheme, recognising signs of drunkenness, how to refuse service, the premises duty of care policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene, reporting an incident to the emergency services and the conditions in force under this licence.

Alcohol Sales area to be no more than 20% of premises total sales area

No super-strength beer, lagers, ciders, perry's or spirit mixtures of 6.5% ABV (alcohol by volume) or above shall be sold at the premises

There shall be no availability / sell of miniature spirits, or individual vessels.

No alcoholic drinks will be purchased by the store owners or staff from sellers calling at the store.

All invoices (originals or copies) for all alcoholic goods for retail sale on the premises will be kept at the licensed premises and made available to Police, Council and HMRC Officers upon request.

A strict stock control system will be introduced so that the licensee can quickly identify where and when alcoholic drinks have been purchased.

A ultra-violet light will be available and maintained at the store for the purpose of checking the UK Duty Stamp on all spirits as soon as practical after they have been purchased.

If any spirits bought by the company have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to the Trading Standards department and HMRC as soon as possible.

All sealed containers of alcoholic drinks offered for sale for consumption off the premises must be clearly labelled or marked with the name and postcode of the premises.

When considered necessary via a risk assessment by the Licence Holder / DPS at least one (1) SIA registered door supervisor must be on duty at the premises. A record must be kept of their SIA registration number and the dates and times when they are on duty

7.2 **Public Safety**

A fire risk assessment required under the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.

7.3 **Prevention of Public Nuisance**

Prominent, clear notices shall be displayed at all exits requesting customers and staff to respect the needs of local residents and leave the premises and the area quietly

Litter bins shall be provided at the premises in sufficient capacity to ensure that customers can adequately dispose of any litter.

7.4 Protection of Children

The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises & signage will be prominently placed within the premises advertising the fact that the premises operate the 'Challenge 25' initiative

A Refusals Register is to be used to record all incidents when a sale is refused. The register is to be kept in the store at all times unless it is requested by authorised officers of responsible authorities. The Refusal/Challenge Register is to be checked and signed off by the Designated Premises Supervisor every two weeks

All staff, who are not personal licence holders working at the premises involved in the sale of age restricted products including alcohol will receive on-going training and will be refreshed at least every 6 months. This will be recorded in a staff training register and will also include a written test of knowledge. The Training records must be made available to authorised officers of responsible authorities on request. Records shall be retained at the premises.

8. POLICY & GUIDANCE IMPLICATIONS

8.1 The following sections/paragraphs are applicable to this application:

8.2 Council's Statement of Licensing Policy

- Objectives, Section 4 on Page 6
- Fundamental Principles, Section 6 on Page 8
- Licence Conditions, Section 15 page 18
- Delegation / Decision Making / Administration, Section 18 on Page 20

8.3 Guidance Issued under Section 182 of the Licensing Act 2003 December 2022

- The Licensing Objectives – Section 2 pages 6 to 12
- Applications for Premises Licences – Section 8 pages 54 to 72
- Determining applications – Section 9 pages 73 to 81
- Conditions Attached to Premises Licences – Section 10 page 82 to 93

9. LICENSING OFFICER'S COMMENT (FOR INFORMATION)

9.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is "not relevant" to the application.

10. LEGAL OFFICER'S COMMENTS

10.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a new licence made under Section 17 of the Licensing Act.

10.2 In this case, the application was received at these offices on 19 May 2023.

10.3 The application before this Committee will be treated on its own merits, and the Licensing committee will make its decision based upon:

- The merits of the application;
- The promotion of the four licensing objectives;

- The statement of policy of the Licensing Authority; and
- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – April 2018.

10.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:

- Decide to grant the licence in the same terms as it was applied for;
- Decide to grant the licence, but to modify or add conditions (to promote the licensing objectives);
- Exclude from the scope of the licence a licensable activity; and
- Decide to refuse to grant the licence.

10.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

APPENDIX A

LICENSING ACT 2003

GLOSSARY OF TERMS

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

'Child'

- (a) means an individual aged under 16
- (b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

'Designated Premises Supervisor' means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

'Other Persons':

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

'Late Night Refreshment' means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

'Licensable Activities' means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

'Licensing Authority': - is the licensing function of Peterborough City Council

'Licensed Premises' includes club premises and events unless the context otherwise requires.

'Licensing Objectives'

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

'Operating Schedule' means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Challenge 25' means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

'Rateable Value': as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

'Regulated Entertainment' (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

'Relevant Licensing Authority': is the Authority in the area the premises are situated.

'Responsible Authority' means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

'Supply of alcohol':

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

'Temporary Event Notice' means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

'the Act': means the Licensing Act 2003

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