

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

**Thorpe Park – Temporary Showbar,
Humberston**

NORTH EAST LINCOLSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

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following receipt of Relevant Representations

1. Summary of Application - (Full details in Application Form)

1.1 Premises: Thorpe Park, Temporary Showbar

1.2 Applicant: Haven Leisure Ltd

1.3 Date Application Received: 19th January 2023

1.4 The Proposed Operation:

Temporary Show Bar to be used whilst existing facilities are refurbished and upgraded.

The applicant applied for a Premises Licence to allow the following:

Sale of Alcohol (On and Off the Premises)

Recorded Music #

Plays #

Films #

Live Music #

Recorded Music #

Performance of Dance #

7 days a week from 0900 – 2300

1.5 # It should be noted that these activities are deregulated between 0800 and 2300 under these circumstances. However, the applicant has chosen to include them on the licence to allow proportionate controls to be more readily applied to the proposed operation and provide reassurance to Responsible Authorities and Interested Parties about their intentions.

Proposed conditions:

- A radio or phone will be used by any door staff and the duty manager to keep in contact with the premises providing licensable activities on the park.
- Such radio or phone shall be kept in good working order and shall be monitored by a responsible member of staff.

- Any incident at the premises will be recorded in an incident log as a true record of events as soon as reasonably practicable and will be signed and dated by the person making the entry.
- Tables will be cleared of all empty bottles and glasses on a regular basis.
- All staff who work behind the bar will be fully trained to ensure that no person who is drunk or disorderly or who appears to be of the age of 18 is served with intoxicating liquor.
- A Resort Security Team is on duty 24 hours a day and are in radio contact with each other and with the entertainment venues and bars on the park.
- All fire exits are checked as being open and accessible and unobstructed prior to the Temporary Showbar being open to members of the public and are checked at regular intervals whilst the Temporary Showbar is open to the public.
- There shall be a suitable number of adequately trained staff to ensure the safe evacuation of people from the premises in the event of an emergency. Such staff will have been issued with specific duties in the event of an emergency.
- All staff shall have received training on the safe evacuation of the premises in the event of an emergency.
- The Premises Licence holder shall take all reasonable steps practicable to prevent a noise nuisance to occupants of any neighbouring properties during the provision of Regulated Entertainment.
- The Premises Licence Holder shall ensure notices requesting patrons leave the premises in a quiet and orderly manner are displayed in a prominent position at the exit to the premises.
- The Premises Licence Holder shall ensure that instructions are given to staff to request that patrons leave the premises quietly when required.
- A written noise management plan shall be in place for events held in the temporary Showbar. The noise management plan shall include measures to control noise from amplified entertainment. Measures shall include but not be limited to the layout of the temporary Showbar including the location and direction of any

speaker systems, type of noise monitoring and a procedure for investigating noise complaints.

- Prior to first use of the temporary Showbar a sound level regulatory device (noise limiter) shall be installed, and the limiter threshold shall be submitted and agreed in writing by the Environmental Protection Officer of North East Lincolnshire Council and shall remain as such thereafter. The limiter threshold shall be set with reference to a Noise Management Report which will be prepared on behalf of the premises licence holder prior to first use of the temporary Showbar for regulated entertainment. The noise limiter shall be regularly maintained and calibrated in accordance with the manufacturer's instructions.
- A Challenge 25 policy shall be implemented and maintained at the premises.
- The premises licence holder shall accept the following forms of ID as valid proof of age and identity:
 - Picture driving licence Passport
 - PASS accredited proof of age card
 - Any other form of identification as approved or prescribed by the Secretary of State as a mandatory condition

1.4 The following conditions have been agreed with Humberside Police's Licensing Department:

- Doors and windows to be kept closed where necessary other than for access to and egress from the premises.
- b) Two SIA registered door supervisors to be on duty at the Temporary Showbar from 18:00 hours daily. An adequate risk assessment will be conducted to assess the need for any extra SIA door supervisors and any additional SIA staff will be provided as advised by the risk assessment.
- A radio must be used to keep in contact with the premises providing licensable activities on the park.
- Such radio must be kept in good working order and shall be monitored by a responsible member of staff.
- A register of door staff must be maintained indicating the number of door staff on duty, their identity and the times they were on duty.
- Door supervisors must carry with them proof of their registration with the SIA and shall wear their name badges at all times.

- Tables must be cleared of empty bottles and glasses on a regular basis.
- CCTV must be provided on the premises, with warning signs displayed in public areas, and must be kept in good working order. As a minimum, CCTV must cover all areas where the sale of alcohol occurs.
- If required crime prevention notices must be displayed in the premises warning customers of any prevalent crime that may affect them.
- All staff who work behind the bar must be fully trained on induction, with refresher training every 12 months, to ensure that they are aware of the licensing objectives, the premises licence conditions, proxy and underage sales, and serving to drunks. A record will be kept and available to be viewed by a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.
- Risk assessments in respect of staff who handle cash, work alone or who work as part of the team security must be carried out and any action which is needed must be implemented.
- CCTV recordings must be in colour, providing real time pictures of evidential quality in all lighting conditions, correctly time and date marked, with no camera view obstructed. All recordings must be retained for a minimum of 30 days.
- Copies of recordings will be provided upon request to a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.
- A resort security team must be on duty 24 hours a day and in radio contact with each other and with the entertainment venues and bars on the caravan park.
- At least one first aider must be on duty and if there are more than one on duty their rules must be clearly defined.
- There must be no demonstration of hypnotism without the prior approval of the Licensing Authority.
- Risk assessments (including a fire risk assessment) must be carried out for all premises where licensable activities take place and following such risk assessment an action plan will be prepared and any additional action required must be implemented.
- No performance involving nudity or striptease must take place at the premises.

- The premises must observe the Portman Groups Retailer Alert Bulletins issued under the Portman Groups 'Code of Practice on the naming, packaging and promotion of alcoholic drinks'.
- Where performances are presented especially for unaccompanied children there shall be at least one attendant for every 50 children or part thereof.
- Challenge 25 shall be implemented, and a proof of age policy is to be applied with the accepted means of proof of age being:
 - o Passport
 - o Photo Driving Licence
 - o A recognised valid photo-id card bearing the PASS hologram. any future accredited and accepted proof of age, as defined by Humberside Police.
- Signs shall be displayed stating that the premises operates a Challenge 25 Policy.
- An incident log shall be kept at the premises, and made available on request to a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council, which will record the following:
 - o all crimes reported to the venue
 - o all ejections of patrons
 - o any complaints received
 - o any incidents of disorder
 - o all seizures of drugs or offensive weapons
 - o any visit by a relevant authority or emergency service
 - o any faults in the CCTV system, radio system or searching equipment or scanning equipment
- A log shall be kept at each bar in the licensable area detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The book will be available to be viewed on demand by either an officer of the Local Authority or an officer under the direction and control of the Chief Constable.
- A thorough risk assessment will be completed for the temporary bar, for using of Polycarbonate or crushable glassware and decanting of all bottles. Polycarbonate or crushable glassware will also be used upon the request of Humberside Police or the Local Authority.

1.5 The following has been agreed with North East Lincolnshire Council, Environmental Protection:

- That the Noise Management Plan will include reference to the requirement to control noise from the stage that is part of this application, in combination with the existing external stage, when required.

1.6 No representations are in place from any of the Responsible Authorities.

2. Summary of Representations –

(Copies of all the relevant representations are available with the hearing documents)

- 2.1 40 relevant representations were received in opposition to this application.
- 2.2 1 person declined to allow their details to be released and their representation is not included here, but the issues of concern are covered by other representations.
- 2.3 3 people did not confirm if they were content to have their details made public and those representations are not included here, but the issues of concern are covered by other representations.
- 2.4 The majority of the representations are from people who reside on, or who have connections with, Humberston Fitties.
- 2.5 Whilst all of the Licensing Objectives are cited, the main concern is the Prevention of Public Nuisance in terms of potential noise from the venue.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy are considered relevant to these representations:

2.1 - 2.4, 9.1.1 - 9.1.12 Licensing Objectives

6.2.1: Extent of Control

6.4.1: Need

6.6.1 - 6.6.2 Licensing Hours

8.2.1 – 8.2.2 Premises Licences

8.3.1 - 8.3.6 Operating Schedules

8.7.2 – 8.7.4 Representations

9.2.1 – 9.2.7 Prevention of Crime and Disorder

9.4.1 – 9.4.3, 9.4.5 – 9.4.7 Prevention of Public Nuisance

4. Guidance issued under Section 182 of the Licensing Act 2003 –

This guidance is provided for Licensing Authorities carrying out their functions. It is regarded by the Government as a key mechanism for promoting best practice, ensuring consistent application of licensing

powers across the country and for promoting fairness, equal treatment and proportionality. It does not however replace any statutory provisions of the 2003 Act and it is for the Licensing Authority to take their own professional and legal advice about its implementation.

The following sections of the Guidance are considered relevant to these representations:

1.2 – 1.5 Licensing Objectives and Aims

2.1 – 2.6 Crime and Disorder

2.15 – 2.21 Public Nuisance

8.41 - 8.49: Steps to Promote the Licensing Objectives

1.13, 3.1 – 3.2 Licensable Activities

1.14 Authorisation or Permissions

1.16 Licence Conditions – general principles

1.17 Each Application on its own merits

9.3 – 9.10: Relevant Representations

9.31 – 9.40: Hearings

10.1 – 10.9 Conditions attached to premises licenses

10.10: Proportionality

10.13, 10.14: Hours of Opening

5. General Advice on Determination of the Application –

- 5.1** The sub-committee are advised that findings on any issues of fact should be on the balance of probability.
- 5.2** The sub-committee are advised that in arriving at any decision, it must have regard to relevant provisions of national guidance and North East Lincolnshire Council's Statement of Licensing Policy. Reasons must be given for any departure.
- 5.3** The sub-committee are advised that the final decision should be based on the individual merits of the application and the factual findings made at the hearing.
- 5.4** Section 18 of the Licensing Act 2003 states that where relevant representations have been made and a hearing is held to consider them, the sub-committee can take such of the steps set out below as it considers **appropriate** for the promotion of the licensing objectives – in this case if it is considered the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance or the Protection of Children from Harm are likely to be affected.
 - Grant the licence with modified conditions. This means the proposed conditions could be altered or omitted or new conditions added.

- Exclude any licensable activity to which the application relates.
- Reject the application

If none of these steps are considered appropriate the application should be granted in the form it was made.

- 5.5** Conditions should be proportionate to the size, style and characteristics of the premises and the activities proposed or taking place and must be appropriate
- 5.6** The sub-committee are advised that they must take into account the following Human Rights provisions:
- Everyone affected by a decision has a right to a fair hearing.
 - Everyone has the right to his private and family life, his home and his correspondence.
- 5.7** The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010

6. Observations

- 6.1** This is an application for a New Premises Licence and not a review of any existing licence.
- 6.2** With reference to item 1.5 above, while this is the case from a deregulation perspective, the operator must still promote all licensing objectives and therefore if public nuisance is witnessed, action can still be taken designed to alleviate the matter. This could be in the form of a review of the Premises Licence by a Responsible Authority or any "Interested Party" with relevant evidence.
- 6.3** With reference to the representations, I have attempted to provide a summary of the issues that are relevant for discussion at the meeting from a licensing perspective:
- Potential anti-social behaviour associated with alcohol consumption is relevant but there are conditions designed to control such matters on site. However, where such incidents occur away from the premises e.g. on the beach, these are not matters for this hearing.
 - The proximity of the Site of Special Scientific Interest (SSSI) could be relevant but more details are required as to how it might be adversely affected.
 - Public Nuisance could be caused by matters other than noise such as light from lasers, litter, odour and anti-social behaviour, and all of these are therefore potentially relevant.

- The Protection of Children from Harm in terms of sales of alcohol is relevant but there are conditions to control this matter.
 - In terms of proposed resolutions to the issues highlighted in the representations, most respondents wish for the application to be refused. Other proposals are to relocate the bar to an area where noise issues were perceived to be less likely, to provide effective acoustic controls designed to minimise the risk of noise issues and to reduce the times of operation to Fridays and Saturdays from 1100 – 2000 or 2100.
 - There is a request that the details of the Noise Management Plan should be available at the meeting. If this is not practical the amendment of the proposed condition to require the plan to be agreed with North East Lincolnshire Council's Environmental Protection Team prior might provide some reassurance.
- 6.4** North East Lincolnshire Council's Statement of Licensing Policy encourages applicants to gain planning permission before or at the same time as making a licensing application. However, it also recognises that this is not a legal requirement and that the planning and licensing regimes are based on different legal principles and legislation and must therefore be dealt with separately. The licensing and planning teams are liaising over this development and an update on the current position will be provided at the meeting.
- 6.5** With reference to the issue of noise complaints about the Thorpe Park site, appendix 3 sets out the position at the time of writing this report.
- 6.6** The power of review exists for any licensed premises that do not operate in a way that promotes the licensing objectives. This can ultimately result in revocation of the licence.

**Report prepared by:
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