

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

Side By Side
22 Alexandra Road,
Cleethorpes

NORTH EAST LINCOLSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

Report to Licensing Sub-Committee
following receipt of Relevant Representations

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

1.1 Premises: 22 Alexandra Road, Cleethorpes, DN35 8LG

1.2 Applicant: Erin White

1.3 Date Application Received: 09th October 2023

1.4 The Proposed Operation:

The premises will be a cocktail and wine bar located in Cleethorpes. Alcohol will be served mainly for consumption on the premises. The premises will serve a range of drinks and also serve food.

The applicant applied for a Premises Licence for the following:

Sale of Alcohol (On and Off the Premises)

Sunday to Wednesday 1200 until 0000 hours
Thursday to Saturday 1200 until 0200 hours

Recorded Music

Sunday to Wednesday 1200 until 0000 hours
Thursday to Saturday 1200 until 0200 hours

Live Music

Monday to Sunday 1200 until 2300 hours

Proposed conditions:

- Secure premises when not open with alarms and adequate security features
- Installation of CCTV
- Remove all valuable goods from premises or keep out of sight, including any cash.
- Limiting trusted key holders.

- 0 tolerance policy for abuse to staff and customers.
- 0 tolerance policy for substance abuse.
- Fire and emergency plan.
- Providing sound insulation.
- Not positioning speakers near open doors or windows.
- Prohibit smoking out the front of the premises.
- Ensure a challenge 25 policy.
- No entry for under 18's after a certain time.

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

- A CCTV system will be installed and operated at the premises. The system will need to be registered in accordance with the Data Protection Act, and warning signs displayed in public areas of the premises.
- There shall be sufficient cameras to cover those areas that are not easily supervised from the bar, including outside areas where it is intended to conduct licensable activities.
- A monitor should be placed in such a position so as to be viewed by staff working in the sales area of the premises.
- The system must be capable of continuously recording in colour, providing real time pictures of evidential quality in all lighting conditions, and copies of such recordings shall be retained for a period of not less than 28 days.
- Any system installed should be capable of producing copies of recordings on site.
- Copies of recordings shall be provided on request to a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council on DVD/USB at no cost.
- The designated premises supervisor will be responsible for the operation of the system and shall ensure that it is maintained in accordance with these codes of practice. They must ensure an

appointed member of staff is capable of downloading CCTV footage in a recordable format at all times the premises are operating.

- Records of maintenance of the CCTV system shall be kept by the person responsible and the system shall be maintained in working order and checked weekly. Records of any maintenance/weekly checks shall be endorsed by signature by the DPS or other responsible named individual, and actions taken must be recorded. The record shall be produced on request to a person under the direction and control of the Chief Constable or an officer of the local authority on production of their identification.
- Cameras must be positioned to view all access to and egress from the premises (including fire exits) and all areas where the sale of alcohol occurs.
- Recordings must be made of each trading period conducted at the premises, and must be correctly time and date marked.
- CCTV camera views are not to be obstructed.
- The premises will ensure there is a minimum of 1 SIA door staff at the premises on a Friday, Saturday and any day leading into a bank holiday from 2000hrs
- The premise licence holder/DPS/Duty Manager shall ensure that there is an adequate risk assessment of the need for SIA door supervision at the premises when it is open, with a further assessment for events held at the premises or in the immediate vicinity of the premises (i.e Armed Forces Weekend/Carnivals etc) and shall provide door supervision in accordance with that risk assessment. Such an assessment shall be written down and kept at the premises and be available for production on demand by a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.
- Challenge 25 shall be implemented and a proof of age policy is to be applied with the accepted means of proof of age being:
 - Passport
 - Photo Driving Licence
 - 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.

- Staff training will be given to all staff working at the premises by the DPS. Such training shall be documented and recorded in a book/folder kept solely for that purpose. It will record the date and names of those trained and the person providing it. All present shall sign the book. The frequency of the training shall be upon commencement of employment,

with refresher training once every six months. The training shall cover all aspects of the responsible sale of alcohol (Licensing objectives, age verification, how to detect proxy sales, consequences of underage sales, serving to a person who is drunk and street drinkers etc) and conflict management. The book will be available to be viewed on demand by a person under the direction and control of the Chief Constable or an officer of North East Lincolnshire Council.

- 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:
 - all crimes reported to the venue
 - all ejections of patrons
 - any complaints received
 - any incidents of disorder
 - all seizures of drugs or offensive weapons
 - any refusal of the sale of alcohol
 - any visit by a relevant authority or emergency service
- There will be signage requesting that customers respect the local residents and leave quietly.
- When events are held at the premises, or in the vicinity of the premises, a thorough risk assessment will be completed for the use of Polycarbonate or crushable drinkware and decanting of all bottles. Polycarbonate or crushable drinkware will also be used upon the request of Humberside Police or the Local Authority.
- All alcoholic or soft drinks served for consumption in outdoor areas after 2000hrs will be served either in a plastic bottle with the caps retained at the bar or in polycarbonate/plastic crushable drinkware. Any glass bottles will be decanted into polycarbonate/plastic crushable drinkware.
- Staff will conduct regular litter checks on the front of the premises and remove any litter/debris/glass to dispose of responsibly. The checks shall be recorded and signed by the person completing them. The record shall be made available on request by an officer of the Local Authority or an officer under the direction and control of the Chief Constable.
- There must be a minimum of 40 seats inside the licensed area of the premises at all times for the use of customers.
- The premises shall adopt and operate a comprehensive drugs policy, including recording regular toilet checks, a copy of which shall be retained at the premises and made available for inspection if requested by officers under the direction and control of the Chief Constable of Humberside Police and employees of the Licensing Authority.

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

- External doors and windows to be closed during amplified entertainment between 21:00hrs and 11:00hrs except for exit and egress.
- A noise limiting device to be installed with a level to be agreed by Environmental Protection

1.6 No representations have been received from Humberside Police or any other Responsible Authority.

2. Summary of Representations –

2.1 Representation 1:

2.1.1 Date representations received: 20th October 2023

2.1.2 Persons making representation: Leigh Stead

2.1.3 Licensing objectives affected: Prevention of Public Nuisance

2.1.4 Summary of Recommendations: Avoid playing music at unsociable hours directly below residential flats.

2.1.5 Representation 2:

2.1.6 Date representations received: 21st October 2023

2.1.7 Persons making representation: Sue Hawkins

2.1.8 Licensing objectives affected: Prevention of Public Nuisance

2.1.9 Summary of Recommendations: Avoid playing music at unsociable hours directly below residential flats.

2.1.10 Representation 3:

2.1.11 Date representations received: 27th October 2023

2.1.12 Persons making representation: Brian Rowe

2.1.13 Licensing objectives affected: Prevention of Public Nuisance

2.1.14 Summary of Recommendations: Avoid playing music at unsociable hours directly below residential flats. Avoid all anti-social behaviour around the premises.

2.2 Mediation

Details of pre agreed conditions were emailed to each representative on 13th November 2023. No requests for withdrawal have been received.

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*
- 9.4.1 – 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*
- 2.15 – 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*
- 16.26 – 16.28 Live Music*
- 16.33 Recorded Music*

- 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 for the Sale of Alcohol, playing of amplified, live and recorded music. With the addition of

conditions, the applicant has demonstrated there will be no negative impact to licensing objectives.

- 6.2** The applicant has already agreed to conditions set by Humberside Police and Environmental Protection NELC, full details can be found at 1.4 of this report.

Conditions are also in place to reduce the impact of amplified music in the local area. This includes a noise monitor being installed and set to a level that has been agreed by Environmental Protection. All external doors and windows are to be closed during all amplified entertainment between 21:00hrs and 11:00hrs, except for exit and egress.

The alcohol licensing hours have not been subject to any conditions by a Responsible Authority.

- 6.3** It is worth highlighting that no licence is required for both Live and Recorded music on premises that are authorised for the sale of alcohol for consumption on the premises between the hours of 0800 and 2300.
- 6.4** Three representations have been received and accepted, these are from Interested Parties i.e. local residents and business owners and are raised under the Prevention of Public Nuisance, see representative's full reports for details.

One further representation was received but couldn't be accepted as they were not submitted on the appropriate forms in time. However, similar concerns to the representations were expressed.

- 6.6** All Responsible Authorities have been consulted regarding this application. Representations were made and conditions agreed from Environmental Protection NELC and Police Licensing. No other representations were received.
- 6.7** 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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Licensing Enforcement Officer**