

LICENSING ACT 2003

Report to Licensing Sub-Committee following receipt of Relevant Representations

**Maison De Muse
49 Sea View Street
Cleethorpes
DN35 8EU**

NORTH EAST LINCOLSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

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

1.1 Premises: Maison De Muse, 49 Sea View Street, Cleethorpes, DN35 8EU

1.2 Applicant: Aucho Leisure Ltd

1.3 Date Application Received: 2nd October 2024

1.4 The Proposed Operation:

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

Supply of Alcohol (On and Off the Premises)

Monday to Sunday 0800 until 2230 hours

Hours Premises Open to the Public

Monday to Sunday 0700 until 2300 hours

Conditions agreed with Humberside Police:

1. A CCTV system will be installed and operated at the premises. The CCTV system will need to be registered in accordance with the Data Protection Act, and warning signs displayed in public areas of the premises.
2. There shall be sufficient cameras to cover those areas that are not easily supervised from the bar, including outside areas.
3. A monitor should be placed in such a position so as to be viewed by staff working in the sales area of the premises.
4. 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.
5. Any system installed should be capable of producing copies of recordings on site.

6. 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.
 7. 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.
 8. 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.
 9. 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.
 10. Recordings must be made of each trading period conducted at the premises, and must be correctly time and date marked.
 11. CCTV camera views are not to be obstructed.
- The premise licence holder/DPS/Duty Manager shall ensure that there is a risk assessment of the need for SIA door supervision at the premises during events at, or in the vicinity of, the premises 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.
 - 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

- 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 (Premises Licence Conditions, 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.
- There will be signage requesting that customers respect the local residents and leave quietly.
- The premise will not display, offer, or sell any beers, lagers or ciders with an ABV in excess of 5.6%.
- 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 glassware and decanting of all bottles. Polycarbonate or crushable glassware will also be used upon the request of Humberside Police or the Local Authority.
- There must be a minimum of 30 covers inside the premises at all times for the use of customers.
- The nature of the premises is to predominantly be that trading as a coffee bar/bistro to and may not be operated as a general bar.
- Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
- 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.

2. Summary of Representations –

2 representations have been made, one by a local resident and another by a Ward Councillor in support of the resident. Both representations contain a number of concerns which are not relevant to the Licensing Act 2003, however both representations mention their concern regarding noise at the premises.

2.1 Representation 1:

2.1.1 Date representations received: 31st October 2024

2.1.2 Persons making representation: Mr Ronald Nutting

2.1.3 Licensing objectives affected: The Prevention of Public Nuisance

2.2 Representation 2:

2.2.1 Date representations received: 31st October 2024

2.2.2 Persons making representation: Cllr Malcolm Morland

2.2.3 Licensing objectives affected: The Prevention of Public Nuisance

2.16 Mediation – Mediation was conducted but was deemed unsuccessful.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy 2015 – 2020 are considered relevant to these representations:

- Licensing Objectives: 2.1 – 2.4, 9.1 – 9.1.9
- Extent of Control: 6.2.1
- Licensing Decisions: 7.1 - 7.9
- Applications: 8.1.4
- Premises Licence: 8.2.1 – 8.2.9
- Representations: 8.7.1 - 8.7.4
- Prevention of Crime and Disorder: 9.4.1 – 9.4.7

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:

- Public Nuisance: 2.21 – 2.27
- Licensing Conditions 8.69 – 8.71
- Determining Applications 9.1, 9.3
- Hearings 9.31, 9.38 - 9.44

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** The North East Lincolnshire Statement of Licensing Policy section 6.3.2 states that Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the development concerned. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Planning Committee. The granting by the Licensing Committee of any variation of a licence would not relieve the applicant of the need to apply for other permissions. Applicants for licences should note that the existence and/or granting of one type of permission will not mean that they will automatically be granted another type of permission.
- 6.2** The issue of smoking is not considered a relevant matter in relation to the public safety objective as it cannot be limited to those persons using the premises as set out in section 9.3.3 of the statutory guidance. Legally this not a matter that can be dealt with under this legislation.
- 6.3** The location of the premises subject to this application falls outside the current Cumulative Impact Zone in Cleethorpes.
- 6.4** The power of review exists for any licensed premises that does not operate in a way that promotes the licensing objectives. This can ultimately result in revocation of the licence.

Report prepared by

Kate Brooks - Licensing Enforcement Officer

Date: 20th November 2024