phil Kirklees COUNCIL

Name of meeting: Licensing Panel

Date: Wednesday 22nd March 2023

Title of report: Licensing Act 2003 – Application for the Grant of a Premises Licence: Batley Lanka Superstore, 363 Bradford Road, Batley, WF17 5PH.

Purpose of report: To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	**Not applicable**
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	**Not applicable**
The Decision - Is it eligible for call in by Scrutiny?	**Not applicable**
Date signed off by Strategic Director & name **Is it also signed off by the Service Director (Finance)?** **Is it also signed off by the Service Director for Legal Governance and Commissioning?**	**Fiona Goldsmith – on behalf of Colin Parr Strategic Director (Environment and Climate Change** **Not applicable** **Not applicable**
Cabinet member portfolio	**Cllr Will Simpson**

Electoral wards affected: Batley East

Ward councillors consulted: Cllr Fazila Loonat
Cllr Adam Zaman
Cllr Habiban Zaman

Public or private: **Public**

GDPR Implications:

GDPR has been considered and appropriate sections of the report have been amended.

1 Summary

The purpose of this report is to inform Members of an application for the grant of a premises license, which as a result of representations received, has been referred to this Panel for determination.

2 Information required to take a decision

2.1 Application

2.1.1 On 27 January 2023 the Licensing department received an application for the grant of a premises licence for Batley Lanka Superstore, 363 Bradford Road, Batley, WF17 5PH. The application was made on behalf of the applicant by JL License and Retail, 77 Womack Gardens, St Helens, Merseyside, WA9 5UY. A copy of this application may be seen at **Appendix A**.

2.1.2 A plan of the location of the premises can be found at **Appendix B**.

2.1.3 The premises at 363 Bradford Road, Batley, WF17 5PH have previously been licensed for late night refreshment. The dates of the licence were from 1st May 2013 until 25th November 2020. The times of the licence were:

Friday & Saturday 23:00 – 04:00
Sunday & Monday 23:00 – 23:59
Wednesday & Thursday 23:00 to 23:59

2.1.4 The licensable activities applied for by the applicant are as follows.

Sale of Alcohol for consumption off the premises
Monday - Sunday 06:00 – 23:00

2.1.5 In total, 2 representations from Batley East Ward Councillors have been received relating to this application. The application was also served on responsible authorities to which no representations were received.

2.1.6 The representations that were received consider that the following licensing objectives would not be met should this licence be granted:

- Public Nuisance
- Prevention of Crime and Disorder
- Protection of Children from Harm
- Public Safety

A copy of the representations may be seen at **Appendix C**

2.1.7 On 1st March 2023 the Licensing Consultant, Ian Rushton, sent a letter, via email to Cllr Fazila Loonat and Cllr Habiban Zaman highlighting a proposed operating schedule / licensing conditions. Copies of this letter May be seen at **Appendix D**

2.2 Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

1.0 – Executive Summary

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

1. Public Safety

2. Prevention of crime & disorder

3. Prevention of public nuisance

4. Protection of children from harm

2.3 Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the representations relate to all four of the licensing objectives, Public Safety, Prevention of Crime & Disorder, Prevention of Public Nuisance and Protection of Children from Harm. Member's attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix D.**

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safeguarding Children team.

3.3 **Place Based Working**

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

3.4 **Climate Change and Air Quality**

There are no climate change or air quality implications contained in this report.

3.5 **Improving outcomes for children**

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective.

3.6 **Financial Implications for the people living or working in Kirklees**
The decision members make may have financial implications for the applicant.

3.7 **Other (e.g. Integrated Impact Assessment (IIA)Legal/Financial or Human Resources) Consultees and their opinions**

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

Under the provisions of the Licensing Act 2003 there is no requirement for an IIA, while licence conditions should not duplicate other statutory provisions, members should be mindful of requirements and responsibilities placed on them by other legislation, which may include:

- The Gambling Act 2005
- The Environment Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

Consultation has taken place in accordance with the Act. There have been no matters arising from responsible authorities.

4 Next steps and timelines

4.1 When determining the application Members, having had regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are

- grant the application,
- grant the application with the appropriate conditions,
- exclude from the scope of the licence any of the licensable activities which relate to this application, or
- reject the application

4.2 Findings on any issues of fact should be on the balance of probability.

4.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

4.4 The decision should be based on the individual merits of the application.

5 Officer recommendations and reasons

5.1 Members of the Panel are requested to determine the application

6 Cabinet portfolio holder's recommendations

Not applicable

7 Contact officer

Phil Asquith, Licensing Officer, Licensing Service
Tel: 01484 221000 ext. 77841
Email: Philip.asquith@kirklees.gov.uk

8 Background Papers and History of Decisions

8.1 Appendix A – Application for the Grant of a Premise Licence for Batley Lanka Superstore.

8.2 Appendix B – Location Plan

8.3 Appendix C – Objections from Batley East Ward Councillors

8.4 Appendix D – Relevant sections of Secretary of State Guidance – Section 182 of Licensing Act 2003

9 Service Director responsible

Katherine Armitage
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