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Your Ref: DSFX1771382421863

Rox Javaid
Licensing
Kirklees Council
PO Box 1720
Huddersfield
HD1 9EL

Dear Ms Javaid

Licensing Act 2003 Representation to the application for a new Premises Licence DSFX1771382421863 (PR00529), Shop & Go, 21 Lord Street, Huddersfield, HD1 1QA

I write to make a representation on behalf of Kirklees Council in its capacity as a Licensing Authority which is deemed a Responsible Authority under the Licensing Act 2003.

This representation is made as the licensing authority have concerns the application could have a negative impact on the following licensing objectives –

- the prevention of crime and disorder,
- public nuisance, and
- protection of children from harm.

The premises to which this application relates falls directly within the Huddersfield Town Centre Cumulative Impact Area ('CIA'). As such, this representation also refers to the Council's Cumulative Impact Assessment Policy which forms part of the Council's Statement of Licensing Policy ('SoLP').

1. The Council's CIA policy was adopted to give the licensing authority greater power to control the number of premises within the town centre licensed for sales of alcohol off the premises. The CIA policy was introduced because the licensing authority determined that the concentration of 'off licensed' premises was having a detrimental effect on the promotion of the licensing objectives.
2. The effect of the CIA policy is that for applications for new premises licences, within the cumulative impact area, it would be inconsistent with the licensing authority's duty to promote the licensing objectives to grant that new licence. Effectively introducing a presumption that the application will be refused unless the applicant can rebut this presumption by demonstrating, through their operating schedule, that their application will

have no negative cumulative impact on the licensing objectives, including prevention of crime and disorder, public nuisance and protection of children from harm.

3. Paragraph 5.5 of the Council's Statement of Licensing Policy reminds applicants that responsible authorities, or other people may make representations if they feel the applicants' proposals do not adequately promote the licensing objectives.
4. Paragraph 5.6 of the Councils statement of licensing policy goes on to recommend early consultation with responsible authorities.

The purpose of this is to promote early engagement with responsible authorities and for responsible authorities to outline any concerns or risk they may have and afford an applicant the opportunity to address those concerns and risks in their operating schedule.

5. As already stated, the application relates to a premises that falls directly within the Huddersfield Town Centre Cumulative Impact Area, and the application is seeking authorisation to sell alcohol off the premises which is a licensing activity covered by the CIA policy. The Council's CIA policy states –

This cumulative impact assessment has been carried out in accordance with Section 5A of the Licensing Act 2003. This cumulative impact assessment is published because it considers that the number of premises with off sales only within Huddersfield and Town Centre and Dewsbury Town Centre are impacting on the promotion of the licensing objectives.

This assessment is formed due to analysis of the crime statistics provided by West Yorkshire Police between the period 2018 to 2023. In addition, following consideration of the comments received following the requisite statutory consultation that has been carried out, which by large support the decision for the introduction of the assessment. It confirms that it would be inconsistent with the Council's duty to promote the licensing objectives to grant new and variation applications for premises licences with off sales in both Huddersfield and Dewsbury Town Centres.

6. The Licensing Act 2003 ('the 2003 Act') is accompanied by Statutory Guidance issued under Section 182 of the 2003 Act. This guidance is published to assist both licensing authorities and applicants in understanding their responsibilities under the Licensing Act 2003.
7. Paragraphs 8.41 to 8.49 sets out the expectations on applicants when considering what steps they should take to promote the licensing objectives, in particular paragraphs 8.41 and 8.42 provide –

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are

also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8. Paragraphs 8.43 of the guidance deals specifically with the expectations on applicants where a specific policy applies in the area, for example an area subject to a CIA policy -

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact assessment), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

9. Paragraph 8.47 goes on to say -

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

10. Paragraphs 14.20 to 14.48 of the statutory guidance provides information relating to cumulative impact and the CIA policies themselves. In particular paragraph 14.40 provides -

14.40 In publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA a licensing authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the licensing authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right.

The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact

issues when setting out the steps that will be taken to promote the licensing objectives.

Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.

11. Regarding the licensing authority's representations. This application for a premises licence seeks to authorise the retail sale of alcohol off the premises seven days a week 24 hours a day, in addition the application also seeks to authorise the provision of late-night refreshment, indoors during the same period. However, the licensing authority accepts the licensing of late-night refreshment is only applicable between the hours of 23:00 and 05:00 the following day.
12. The applicant describes the premises as a small convenience store selling sweets, drinks and crisps, and wishes to sell alcohol to increase footfall. As part of the application the applicant has put forward the following steps, they will take to promote the licensing objectives –

a) General

'We are currently adhering to the all four licensing objectives and actively contributing to the overall safety and wellbeing of the community. In addition to our current efforts, we are committed to implementing further measures aimed at enhancing our adherence to the objectives and ensuring a safer environment for all customers and residents. Some of our major planned future implementations mentioned in the following sections.'

b) Prevention of crime and disorder

'We have planned to implement comprehensive security measures such as CCTV cameras, effective crowd control strategies and Trained staff members to recognise and handle potential instances of crime or disorderly conduct. In addition to that we will Partner with local law enforcement agencies to exchange information and collaborate on crime prevention initiatives. Establish strict policies against illegal activities within the premises and promptly address any breaches.'

c) Public safety

'We have planned to Conduct regular safety inspections to identify and mitigate potential hazards within the establishment and Ensure all equipment and facilities meet safety standards and regulations and also provide adequate emergency exits, fire extinguishers, and clear evacuation routes. In addition to that we educate our staff members on emergency response protocols and conduct periodical drills. So we will continue to follow the above mentioned safety measures strictly.'

d) Prevention of public nuisance

'Monitor noise levels and ensure compliance with local noise ordinances. Implement policies to address issues such as littering, loitering, and disruptive behaviour. Work closely with neighbouring businesses and residents to address

concerns and maintain positive community relations. Encourage customers to respect the surrounding environment and minimise disturbance to others.'

e) The protection of children from harm

'We are planning to enforced strict age verification procedures to prevent underage access to alcohol or restricted areas. Clearly display age restrictions and prohibit the sale of age-restricted products to minors. Well trained our staff on identifying and addressing situations involving minors at risk. In Addition to that, we will keep ensuring safety and wellbeing of the children.'

13. I understand the applicant has been advised the premises falls within the Council cumulative impact area, and yet at the time of making this representation the applicant has offered no additional information as to what steps they will take to address the concerns and risks identified in the Council's CIA policy.
14. Equally the application does not provide any evidence to demonstrate that it will not add to cumulative impact and therefore does not meet the requirements of the Council's CIA policy; and it is the view of the Licensing Authority, in its capacity as responsible authority, this does not therefore justify the granting of the licence.
15. Against this policy and guidance framework, the Licensing Authority considers that the applicant's operating schedule does not meet the requirements for applications within a cumulative impact area.
16. The measures proposed are generic and could be applied to any premises in any location. They do not demonstrate how this application will avoid adding to cumulative impact, as required by paragraph 8.43 of the statutory guidance.
17. This failure is compounded by the fact that the application seeks authorisation for the sale of alcohol 24 hours per day, 7 days per week. The applicant has provided no assessment of the risks associated with early-morning or late-night availability of alcohol in the town centre, nor any measures to mitigate the well-documented link between 24-hour off-sales, street drinking, and alcohol-related anti-social behaviour identified within the CIA.
18. In addition, this representation is made on the basis that the application will also have an adverse effect on the following licensing objectives.

Prevention of Crime and Disorder

The applicant has stated the steps they will take to promote this objective will be to 'plan to implement a comprehensive security measure such as CCTV'. While the licensing authority supports the use of CCTV the applicants have not detailed the type or specification of this CCTV, this makes it difficult to assess the suitability of the system.

In addition, the applicant has not offered any further details on how, or to what level, their staff will be trained or details of the policies they will establish to address illegal activity.

It is the view of the licensing authority that this lack of detail in the measures the applicant will take demonstrates insufficient consideration of their responsibilities to prevent crime and disorder.

Public Nuisance

Street drinking remains a concern for the local community in Huddersfield, and this is demonstrated in the recent consultation on the review of the Council's Public Space Protection Orders ('PSPO'), during which a range of issues were raised by the public including that street drinking and incidents of street drinkers urinating and defecating in the street had gotten worse.

Given this application relates to retail sales of alcohol off the premises, and is in the area covered by the PSPO, the applicant has not offered any further steps as to how they intend to operate their business in a way that would prevent public nuisance in particular street drinking.

Off-sales premises, by their nature, facilitate immediate consumption in public places. The applicant has not proposed any measures such as restrictions on high-strength alcohol, single cans, or window advertising, all of which are measures identified in the Council's policy as tools to mitigate street drinking and public nuisance.

Protection of Children from Harm

Paragraphs 2.28 to 2.38 of the Statutory Guidance provides guidance on protecting children from harm. Paragraph 2.29 provides –

2.29 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. [...]

In addition to the statutory guidance the Council's statement of Licensing Policy at 6.27 provides the following –

6.27 The licensing authority expects licensees to put in place clear measures to prevent consumption of alcohol by children, including:

- *Challenge 25, or a similar age-checking scheme, supported by clear signage, till prompts where appropriate and refusal logs.*
- *Use of independent age verification checks.*
- *Risk assessment of proxy purchasing and mitigation measures to prevent it.*
- *Employment of personal licensees where appropriate.*
- *Appropriate staff training and refresher training.*

In making their application the applicant has stated they plan to enforce strict age verification procedures and prohibit age-restricted sales to minors; however, the applicant has not provided any detail on how they will achieve this. At a minimum the licensing authority would expect applicants to have considered the points outlined in 6.27 of the Council's statement of licensing policy (above).

It is the view of the licensing authority this absence of measures shows a lack of understanding of the responsibilities placed on licence holders to protect children from harm, and therefore places children at risk.

19. In conclusion, the Licensing Authority does not support this application as the applicant has failed to demonstrate –

- An understanding of how the Council's CIA policy impacts their application,
- The reasons as to why the application might be considered an exception to the Council's CIA policy,
- An understanding of their responsibilities relating to prevention of crime and disorder and public nuisance and put in place measures to meet those responsibilities; and in the absence of any measures fails in their responsibility to promote those objectives,
- An understanding of their responsibilities relating to protecting children from harm and put in place measures to meet those responsibilities; and in the absence of any measures will fail to protect children from harm,

20. Given the absence of any CIA-specific mitigation and the 24-hour nature of the application, the Licensing Authority does not consider that the imposition of conditions would be sufficient or appropriate to address the risks identified. To do so would require the Licensing Panel to effectively redesign the application, contrary to the principles set out in the statutory guidance.

21. In determining this application, the Members of the Licensing Panel are invited to have regard to the Council's CIA, Statement of Licensing Policy, and the statutory guidance. In the absence of compelling and locally-specific evidence that the grant of this licence would not add to cumulative impact, the Licensing Authority submits that the application should be refused in accordance with policy.

Yours sincerely

R. Williams
Public Protection Operational Manager
On behalf of the Licensing Authority