

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Date 7th April 2020

1. **LICENSING ACT 2003**

Submitted by: **Head of Environmental Health Services**

Portfolio: **Finance & Efficiency**

Ward(s) affected: **All**

Purpose of the Report

To inform the committee of an objection from Environmental Health in relation to a new premises licence application for Castle Pizza Grill on the grounds of Prevention of Public Nuisance.

Recommendations

In accordance with the Licensing Act 2003, the statutory guidance and the Council's own Statement of Licensing Policy the Sub-Committee must consider the Premises Licence and have regard to the four licensing objectives, as below, when making its decision:

- (i) The Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) The Prevention of Public Nuisance
- (iv) The Protection of Children from Harm

Reasons

Mr Idris Anik has made an application for a new premises licence to allow the sale of late night refreshment for Castle Pizza Grill. Under consultation, the Council has received an objection from Environmental Health in relation to noise and odour under the grounds of Prevention of Public Nuisance.

1. **Background**

1.1 The licence information relating to this driver is as follows:

Premises: **Castle Pizza Grill**
Location: 83 Knutton Lane, Newcastle-under-Lyme, ST5 6ET
Licence Number: New Application
Reference Number: **020240**

1.2 **Mr Idris Anik** has made an application for a new premises licence for the premises Castle Pizza Grill, 83 Knutton Lane, Newcastle-under-Lyme, ST5 6ET to allow the sale of late night refreshment on Mondays to Sundays 23:00-02:30. The application is attached as Appendix A.

1.3 A representation was received from Environmental Health on the 10th March 2020 on the grounds of Prevention of Public Nuisance. The representation is attached as Appendix B. This representation followed discussions between Environmental Health and the applicant,

details of their discourse are attached as Appendix C with photos of the ventilation system attached as Appendix C1.

- 1.4 The premises is located on the edge of a primarily residential area adjacent to Newcastle Fire Station in the Knutton and Silverdale Ward on the boundary of the Town Ward. A copy of a location plan is attached as Appendix D.

Issues

- 2.1. The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives;
 - (i.) The Prevention of Crime and Disorder
 - (ii.) Public Safety
 - (iii.) The Prevention of Public Nuisance
 - (iv.) The Protection of Children from Harm
- 2.2. The Licensing Act 2003 requires the Council to publish a "Statement of Licensing Policy" that set out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Copies of the Council's Statement of Licensing Policy and the Government's Statutory Guidance will be available at the Licensing Sub-Committee hearing.
- 2.3. In making their decision on the application the Sub-Committee are obliged to have regard to the Statutory Guidance and the Council's own Statement of Licensing Policy. The Sub-Committee must also have regard to the representations made and the evidence heard at the hearing. However, the Sub-Committee must disregard any representations that do not relate to the promotion of the four licensing objectives.
- 2.4. Whilst there are ongoing issues relating to noise nuisance at the premises these are not necessarily relevant to this application. The options considered need to be proportionate and based on the application which has been made.

Options Considered

- 3.1 The relevant options considered in relation to this application are:
 - a.) grant the application
 - b.) modify proposed and/or agree condition (including timings) and grant the application
 - c.) refuse the application

Proposal

- 4.1 The Sub-Committee, where it considers that action under its statutory powers is appropriate, may take any of the following steps for the promotion of the four licensing objectives. The steps available to the Sub-Committee are listed in Section 3.1 of this report.
- 4.2 For this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.
- 4.3 The Sub-Committee are asked to note that they may not modify the conditions or take any other steps merely because they consider it desirable to do so. Any action taken must be appropriate in order to promote the licensing objectives.

5. **Reasons for Preferred Solution**

5.1 To ensure that the Council promote the licensing objectives in accordance with their statutory duty.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 *The Council's corporate priorities are:*

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

7. **Legal and Statutory Implications**

7.1 The power to grant a premises licence falls under Section 18 of the Licensing Act 2003.

7.2 Hearings will be carried out in a fair, proportionate and consistent manner in line with:

Article 6(1) guarantees an applicant a fair hearing
Article 14 guarantees no discrimination

8. **Equality Impact Assessment**

8.1 Not applicable

9. **Financial and Resource Implications**

9.1 All parties have the right to appeal the decision at the Magistrates Court and if successful could apply for the award of costs.

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10. **Major Risks**

10.1 Applicants have the right of appeal to Council decisions in respect of granting, suspending, revoking or refusing to renew driver licences. Should the applicant be successful then they may apply for the award of costs which the Council may have to pay in part or wholly.

11. **Sustainability and Climate Change Implications**

11.1 Not applicable

12. **Key Decision Information**

12.1 Not applicable

13. **Earlier Cabinet/Committee Resolutions**

13.1 The Licensing Committee has previously resolved to have regards to its Licensing Policy.

14. **List of Appendices**

14.1 Appendix A – Premises Application with Plan
Appendix B – Environmental Health representation

Appendix C – Location Plan of the premises

15. **Background Papers**

15.1 Licensing Policy 2015-2020

15.2 Licensing Act 2003 Statutory Guidance