

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Licensing Sub-Committee

5 December 2022

TITLE:	Application for the Grant of a Premises Licence for Airport, 19 Broad Street, Leek, Staffordshire, ST13 5NR.
PORTFOLIO:	Councillor Mike Worthington – Portfolio Holder for Finance (Licensing)
OFFICER:	Mike Towers, Senior Officer (Housing, Public Health & Licensing)
WARD:	Leek South

Attached documents

- Appendix 1 – Copy of the application form and plan.**
- Appendix 2 – Relevant representation from Environmental Health.**
- Appendix 3 – Applicant’s agent response to Environmental Health representation.**
- Appendix 4 – Environmental Health response to Applicant’s Agent.**
- Appendix 5 – Applicant’s Agent further response to Environmental Health dated 10.11.2022.**
- Appendix 6 – Environmental Health to Applicant’s Agent dated 11.11.2022**
- Appendix 7 – Relevant representation from an interested party.**
- Appendix 8 – Additional information from interested party.**
- Appendix 9 – Location map.**

Recommendations

- 1.1 That members determine the application for the Grant of a Premises Licence in respect of Airport, 19 Broad Street, Leek, Staffordshire, ST13 5NR within the provisions of the Licensing Act 2003.

Executive Summary

- 2.1 An application was received on 28 September 2022 from Ms Emine Fezal Yurdakul, Pera Solutions Ltd on behalf of her client Mrs Eylem Ozkan, 19 Broad Street, Leek, Staffordshire, ST13 5NR, for the grant of a premises licence in respect of an alcohol home delivery service from Mrs Ozkan's residential address as above. During the consultation period 2 relevant representations were received and therefore the application is required to be determined by the Licensing Sub-Committee.

Background:

- 2.2 An application was received on 28 September 2022 from Ms Emine Fezal Yurdakul, Pera Solutions Ltd, 105-109 Sumatra Road, London, NW6 1PL on behalf of her client Mrs Eylem Ozkan for the grant of a premises licence in respect of Airport, 19 Broad Street, Leek, Staffordshire, ST13 5NR. A copy of the application form is attached at Appendix 1 and confirmation of the name of the premises from the applicant's agent.

The licensable activities applied for are:-

- Sale of alcohol (online only):-
Every day:- 10:00 – 03:00

The premises will not be open to the public, but orders may be taken via the webpage between the following times: -

- Every day:- 10:00 – 03:00

- 2.3 In accordance with the requirements of the Licensing Act 2003 consultation on this application was conducted between 29 September 2022 and 26 October 2022 by the displaying of a public notice on the premises and in a local newspaper, namely The Leek Times and Echo (05 October 2022) giving details of the application. A copy of the application was also available on the Staffordshire Moorlands District Council webpage.
- 2.4 During the consultation period Staffordshire County Council Trading Standards and the applicant agreed to the conditions detailed below to be incorporated in the operating schedule should the licence be deemed as granted.

- a) The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Police or an “authorised person” (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of the Local Authority/Council. Prominent, clear, and legible signage shall also be displayed on the website/social media platforms advertising the scheme operated.
- b) A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be reviewed by the Designated Premises Supervisor and produced to the Police or an “authorised person” (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of the Local Authority/Council on demand.
- c) All persons responsible for making alcohol sales shall be trained in the requirements of the Challenge 25 age verification policy.
- d) Alcohol shall be sold in sealed containers only.
- e) All deliveries of alcohol shall only be delivered to an address with a valid postcode and will only be delivered directly to that property.
- f) Alcohol can only be delivered to a residential or business address and not to a public place.
- g) If the person making the delivery considers that the recipient of alcohol appears to be under the age of 25, acceptable proof of age which shall include recognised photographic identification is to be requested before any alcohol is handed over.
- h) Acceptable proof of age shall include identification bearing the customer’s/recipient’s photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.
- i) Minimum age of 18 for delivery persons.

- j) Delivery will be refused if the person believes the alcohol is being purchased on behalf of another person aged under 18 years.
- k) Customers to be reminded on the website/social media advertisements that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.
- l) The website will ensure they receive a declaration via form completion or tick box from the person placing the order that the person is over 18 years of age.
- m) The premises will use online verification software at the point of purchase. The software must be able to verify both the age and identity of the purchaser. No sale of alcohol is to be made to anyone identified as being under 18 years of age.

(N.B Only l or m of the above is required, not both)

- n) The terms and conditions of the company website will contain the following:-
 - I. The company follows the Challenge 25 scheme and will not supply alcohol to any person until it has been verified that the person is over 18 years of age.
 - II. That no parcels will be left by the courier if the person at the delivery address is believed to be under 18 years of age.

Relevant Representations

2.5 Responsible Authorities

Planning Officer – None received

Health and Safety Authority – None received

Child Protection Body – None received

Staffordshire County Council Trading Standards – Conditions agreed during the consultation period.

Home Office Immigration – None received

Staffordshire Public Health - None received

Staffordshire Fire and Rescue Services – None received.

Staffordshire Police – None received.

Environmental Health Officer – Relevant representation submitted during the consultation period.

- 2.6 On 12 October 2022 a relevant representation was received from the Environmental Health Department at Staffordshire Moorlands District Council. A copy of this representation is attached at Appendix 2.
- 2.7 On 25 October 2022 the applicant's agent responded to the Environmental Health Department's representation. A copy of this is attached at Appendix 3 (*applicant's agents' comments in red*). Also submitted were documents in relation to noise assessments but they were not specific to the premises applied for and therefore not deemed as relevant to this application.
- 2.8 On 04 November 2022 the Environmental Health Officer responded to the comments from the applicant's agent. A copy of this response is attached at Appendix 4 (*the officer's response can be found on page 3 of this Appendix*).
- 2.9 On 10 November 2022, the applicant's agent submitted an amended response to the Environmental Health Department's representation (*point 5 only has been amended*). A copy of this is attached at Appendix 5.
- 2.10 On 11 November 2022, the Environmental Health Officer submitted a further response to the applicant's agent. A copy of this is attached at Appendix 6 (*the officer's response can be found on page 4 of this Appendix*).

Other Persons

- 2.11 On 04 October 2022 a representation was received from Reverend Edward and Mrs Christina Gorniak, local residents. A copy of this representation is attached at Appendix 7.
- 2.12 On 14 October 2022 further information was submitted by Reverend and Mrs Gorniak in support of their representation. A copy of this is attached at Appendix 8.
- 2.13 The committee are advised that the relevant points of the representation are based around the hours applied for and the proximity of the proposed premises to the neighbouring property and therefore, the potential for noise disturbance. Further noise and safety concerns are raised due to the proposal for the alcohol to be stored in the cellar and the only rear access to 19 Broad Street being through the rear of the neighbouring property (21 Broad Street).

2.14 When determining if a representation is relevant consideration is given to paragraph 9.9 of the Section 182 guidance: -

“It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.”

2.15 A plan to show the proximity of the objectors to the premises is attached at Appendix 9.

Local Policy Consideration

2.16 In carrying out its duties under the Act, the Licensing Authority will actively promote the licensing objectives, namely: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm

2.17 The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under section 182 of the Act and the local statement of licensing policy.

2.18 The Licensing Authority has the ability to deviate from both the guidance issued by the Secretary of State and/or this statement of licensing policy where the facts of a case merit it. If such an occasion does arise, then full reasons for such deviation will be given as part of the published decision.

2.19 The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

2.20 The Sub-Committee must take such of the following steps, as it considers appropriate for the promotion of the licensing objectives:

- (a) Grant the application as applied for.
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.

(c) Reject the whole or part of the application.

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.

The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

- 2.21 The applicant, Environmental Health or the interested parties have the right of appeal to the Magistrates Court within the period of 21 days beginning with the day on which they are notified in writing of the Licensing Sub-Committee's decision.

Options and Analysis

There are no options to consider other than detailed in the report. Applications made within the Licensing Act 2003 (Hearings) Regulations 2005.

Implications

- 3.1 Community Safety - (Crime and Disorder Act 1998)

None

- 3.2 Employees

None

- 3.3 Equalities

This report has been prepared in accordance with the Council's Diversity and Equalities Policies.

- 3.4 Financial Considerations

There are no direct financial implications for the authority from this application, although should Mrs Eylem Ozkan, Environmental Health or Reverend and Mrs Gorniak exercise their right of appeal against any decision made by the Sub-Committee, then there would be additional

costs incurred by the authority in defending the decision in court.

3.5 Legal

All parties have the right of appeal to the Magistrates Court.

3.6 Sustainability.

None.

Alicia Patterson
Head of Environmental Health

Background Papers

Staffordshire Moorlands District
Council Licensing Policy:-
2021 - 2026
Amended Guidance issued under
Section 182 of the LA2003

Location

Licensing Section

Contact

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