



Report

Date: 24th April 2024 TIME: 10:00AM

To the Chair and Members of the Licensing Sub-Committee

Licensing Act 2003 – Application for a Variation of an Existing Premises Licence.

Pizza King Express BBQ House, 31B Violet Avenue, Edlington, Doncaster, DN12 1NP

EXECUTIVE SUMMARY

1. To request that members of the Sub-Committee determine the application for a variation to an existing premises licence in respect of Pizza King Express BBQ House, 31B Violet Avenue, Edlington, Doncaster, DN12 1NP. The procedure for considering the application is set out at Appendix A.

EXEMPT REPORT

2. No parts of this report are exempt however, relevant sections may have been redacted to comply with Data Protection Legislation.

RECOMMENDATIONS

3. It is recommended that the Sub-Committee determine this application having regard to the representations made and the evidence before it.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

4. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on applications for a review of a premises licence.

BACKGROUND

5. The premises concerned are currently a takeaway establishment. The application is for a variation of an existing premises licence to allow Off Sales and replace the existing conditions attached to the premise licence with new enforceable conditions.
6. A summary of the application is attached as Appendix B to this report.
7. A location plan of the premises is attached at Appendix C.


8. A copy of the application is attached at Appendix D.
9. Under the Licensing Act 2003, statutory guidance issued under section 182 of the Act and the Licensing Authority's Statement of Licensing Policy, any licensing application under the Act in respect of which representations have been made to the Licensing Authority and which have not been withdrawn or resolved by mediation fall to be determined by the Licensing Sub-Committee having regard to the evidence before it.
10. The current premises licence, which shows the permitted licensable activities and conditions, is reproduced at Appendix E.
11. 2 relevant representations regarding the application have been received from MEMBERS OF THE PUBLIC which relate to one or more of the four licensing objectives. The representations are shown at Appendix F.
12. A copy of the application has been sent to each of the Responsible Authorities. Details of the application have been published on the Council website.

OPTIONS CONSIDERED

13. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on licence applications, which are the subject of representations and therefore no other option other than to hold a hearing can be considered.
14. Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
 - To modify the conditions of the licence.
 - To reject the whole or part of the application, and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

15.

Great 8 Priority	Positive Overall	Mix of Positive & Negative	Trade-offs to consider – Negative overall	Neutral or No implications
 Tackling Climate Change				✓

There are no implications of this type contained in this report



Developing the skills to thrive in life and in work



The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this outcome when making licensing decisions.

The licensing objectives are:

1. Prevention of crime and disorder
2. Prevention of public nuisance
3. Public safety
4. Protection of children from harm



Making Doncaster the best place to do business and create good jobs



The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.



Building opportunities for healthier, happier and longer lives for all



The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.



Creating safer, stronger, greener and cleaner communities where everyone belongs





Having robust procedures in place, the Local Authority can ensure licensed services are operating in a safe and legal way within the borough.



Nurturing a child and family-friendly borough



There are no implications of this type contained in this report				
 Building Transport and digital connections fit for the future				✓
There are no implications of this type contained in this report				
 Promoting the borough and its cultural, sporting, and heritage opportunities				✓
There are no implications of this type contained in this report				
Fair & Inclusive	✓			
The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.				

LEGAL IMPLICATIONS [Officer Initials NC Date 10/4/24]

16. The Licensing Authority must ensure it complies with its obligations under the Licensing Act 2003 and associated Regulations which includes, but is not limited to the following:-
17. In considering an application, the committee must have regard to the 4 licensing objectives (Prevent crime and disorder, Prevent public nuisance, Public safety, Protection of children from harm), take into account the statutory guidance issued by the Home Office and the Council's Statement of Licensing Policy. The committee shall consider the application in accordance with both the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation. The committee must make its decision based on evidence submitted in accordance with the legislation and give reasons for reaching its decision.
18. The 2005 Regulations also set out the pre-hearing requirements including to whom notice of hearings and details of the representations received must be

sent. The report confirms we have complied with the statutory requirements.

19. An appeal against the decision of the Licensing Authority may be made to the Magistrates' Court.
20. Legal advisors shall be present at the hearing to give specific legal advice.

FINANCIAL IMPLICATIONS [Officer R Taylor - Standard Implications Agreed 12/03/2024]

21. The costs associated with applications of this nature and their determinations are met from fees paid to the Council by applicants for Authorisations/Licences under the Licensing Act 2003 and there are no further financial considerations.

HUMAN RESOURCES IMPLICATIONS [Officer D Knapp - Standard Implications Agreed 11/03/2024]

22. There are no human resource implications to this type of report.

TECHNOLOGY IMPLICATIONS [Officer P Ward – Standard Implications Agreed 11/03/2024]

23. There are no specific technology implications in regard to this type of report. The NEC Assure system is used to process the application and record the outcome of the decision.

RISKS AND ASSUMPTIONS

24. There are no risks or assumptions other than those referred to in the implications above.

CONSULTATION

25. In addition to the advertising requirements, copies of the application form have been served on all relevant Responsible Authorities referred to in Section 13 of the Licensing Act 2003. These are:

- Doncaster Council – Environmental Protection - Enforcement
- Doncaster Council - Health & Safety Enforcement
- Doncaster Council – Licensing Authority
- Doncaster Council - Planning Services
- Doncaster Council - Trading Standards
- Doncaster Safeguarding Children Partnership
- Doncaster Council - Public Health
- Home Office - Immigration Enforcement
- South Yorkshire Fire and Rescue Authority
- South Yorkshire Police

BACKGROUND PAPERS

26. Doncaster Council's Statement of Licensing Policy 2021
27. Home Office Guidance issued under section 182 of the Licensing Act
28. Appendices to this report.

REPORT AUTHOR & CONTRIBUTORS

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APPENDIX A

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING ACT 2003 – Hearing Procedure LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

1. Meaning of Expressions used in this Document

<i>“the Act”</i>	- Licensing Act 2003
<i>“the Regulations” or any particular reference to a “Regulation”</i>	The Licensing Act 2003 (Hearings) Regulations 2005
<i>“the Authority”</i>	Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>“the Committee”</i>	the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
<i>“the Chair”</i>	the member of the Committee appointed to act as Chairperson of the Committee
<i>“the Applicant”</i>	the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review
<i>“responsible authorities”</i>	the public or other bodies described in the Act as “responsible authorities” and who have made representations
<i>“party”</i>	means person(s) to whom notice of hearing is to be given (including their representatives) and “party” and “parties” shall be construed accordingly

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the Authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non-contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their personal belongings out of the room except as may be directed by the Committee.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require

a determination to be made at the conclusion of the hearing or otherwise where the Committee is unable to announce its determination.

- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).

APPENDIX B**Name of Applicant: Er Doncaster Ltd****Name of Premises: Pizza King Express BBQ House****Address: 31B Violet Avenue, Edlington, Doncaster, DN12 1NP****Summary of Application:**

For full details please see copy of application at Appendix D.

Activity	Late Night Refreshment	
Location	Indoors	
	From	To
Monday	23:00	00:00
Tuesday	23:00	00:00
Wednesday	23:00	00:00
Thursday	23:00	00:00
Friday	23:00	00:00
Saturday	23:00	00:00
Sunday	23:00	00:00
Activity	Sale of Alcohol (Off only)	
Location	Licensed area (see plan)	
	From	To
Monday	15:00	00:00
Tuesday	15:00	00:00
Wednesday	15:00	00:00
Thursday	15:00	00:00
Friday	15:00	00:00
Saturday	15:00	00:00
Sunday	15:00	00:00

Location Plan

