

**FOR THE CHAIR AND MEMBERS OF
THE LICENSING SUB-COMMITTEE
FOR 9 JULY 2019**

APPLICATION FOR PREMISES LICENCE

Applicant: European Deli Limited

Ref.No. PR0150

Premises: 242-244 Linthorpe Road, TS1 3QP

Application received: 8 April 2019

Summary of Proposed Licensable Activities:

Sale of Alcohol (Off sales) 9.00am – 10.00pm Daily

Full details of the application and accompanying operating schedule have been reproduced at Appendix 1.

1. Notification to Responsible Authorities:

The following Responsible Authorities have all received notification of the application:

Chief Constable	Planning Manager
Chief Fire Officer	Trading Standards Manager
Area Child Protection Group	Director of Public Health
Environmental Health Manager (Public Safety and Public Nuisance)	Home Office (Immigration Enforcement)

2. Application advertised by the applicant: Teesside Gazette – 11 April 2019

3. Legislation

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives:

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

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State.

4. Background

The applicant's intention is that the premises will operate as a shop with an off licence and bakery, selling a range of products including groceries, sweets, soft drinks, milk and tobacco.

Members are reminded that as part of its overall Statement of Licensing Policy, the Council has established a Cumulative Impact Policy (CIP) in relation to off licence premises in Middlesbrough town centre which covers certain wards including Central, the area within which these premises are situated.

Work has been carried out to identify the location of off licence premises and links to crime, disorder, anti-social behaviour and alcohol attributable admissions to James Cook University Hospital. The evidence shows that there is a relationship between the density of off licence premises, crime and disorder/antisocial behaviour and alcohol attributable hospital admissions.

The evidence shows that the wards of Central, Newport, Park, Longlands and Beechwood and North Ormesby have the highest level of crime and antisocial behaviour, the highest number of off licence premises and alcohol attributable hospital admissions.

The Licensing Authority considers that the density of off licence premises in these wards is having a negative impact on crime and disorder. Whilst maintaining public health is not a licensing objective, many of the hospital admissions arise from alcohol related crime and disorder.

The Cumulative Impact Policy has been applied to this designated area due to the number, type and density of the premises selling alcohol for consumption off the premises. The Licensing Authority is satisfied that there is good evidence that crime and disorder or nuisance occurring in this location is being caused by the customers of off licence premises, and that the cumulative impact of off licensed premises in this location is evident.

The Licensing Authority has agreed that the Cumulative Impact Policy should be applied to:

- new premises licences for the sale of alcohol off the premises
- material variations to existing off licence premises.

The effect of this policy is to create a rebuttable presumption (following relevant representations) that applications within the cumulative impact area will normally be refused. To rebut this presumption, an applicant would be expected to show through the operating schedule and where appropriate, with supporting evidence, that the operation of the premises will not add to the cumulative impact already being experienced.

With regard to Cumulative Impact Policies, the revised guidance issued under the Licensing Act effective from 6 April 2018 at paragraph 14.44 states that a Cumulative Impact Assessment (CIA) should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application or for a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application

would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

The premises has previously had the benefit of a premises licence under the Licensing Act 2003. The premises operated as a convenience store with a premises licence permitting 'Off Sales' from 21 May 2012 until 27 July 2015 until the licence was revoked by the Council's Licensing Sub Committee following an application for review brought by Middlesbrough Council Trading Standards. The application was made following the discovery of a large quantity of counterfeit and illicit tobacco at the premises and following concerns about poor management of the premises.

5. The Representations

On 10 April 2019 a representation was received from Central Ward Councillor Linda Lewis, Councillor Zafar Uddin and Councillor Matthew Storey objecting to the application on the grounds of the four licensing objectives and the fact that the premises are located in the Cumulative Impact Area. A copy of that representation is attached at **Appendix 2**.

On 3 May 2019, a representation was received from the Director of Public Health objecting to the application on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm, and also because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 3**.

On 3 May 2019, a representation was received from the Trading Standards service on the grounds of the prevention of crime and disorder and the protection of children from harm, and also that the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 4**.

On 3 May 2019, a representation was received from the Licensing Section, acting as a responsible authority on the grounds of the prevention of crime and disorder and the protection of children from harm, and also that the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 5**.

On 7 May 2019, a representation was received from Cleveland Police objecting to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance, and also because the premises are located within the Cumulative Impact area. A copy of that representation is attached at **Appendix 6**. The police have also stated that they intend to submit further evidence in support of their representation, and copy of such documentation will be circulated to members prior to the hearing.

6. The Licensing Policy

Members are referred to the following relevant sections of the Council's Licensing Policy.

Prevention of Crime and Disorder	Page 20
Public Safety	Page 25
Prevention of Public Nuisance	Page 27
Protection of Children from Harm	Page 30
Cumulative Impact – off licence premises	Pages 41 onwards

And any other sections of the Policy which Members consider to be relevant.

7. Guidance to the Licensing Act 2003

Members are referred to the following relevant sections of the Guidance.

Prevention of Crime and Disorder	Starting at paragraph 2.1
Public Safety	Starting at para 2.7
Prevention of Public Nuisance	Starting at para 2.15
Protection of Children from Harm	Starting at para 2.22
Cumulative Impact	Starting at para 14.20

And any other sections of the Guidance which Members consider to be relevant.

8. Members' Options

Members may consider the following options:

1. Grant the application subject to conditions consistent with the operating schedule modified to such extent as considered appropriate for the promotion of the licensing objectives, provided that Members are satisfied that the granting of the application will not add to the existing cumulative impact in the area of the premises.
2. To refuse to specify a person in the licence as the premises supervisor.
3. To reject the application.

Members are reminded that any aggrieved party (i.e. Applicant, Responsible Authority, Other Person) may appeal any decision of the Licensing Committee to the Magistrates' Court.

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