

Licensing Act 2003

Representation by a Responsible Authority

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the Licensing Panel hearings.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

- 1. The Prevention of Crime and Disorder**
- 2. Public Safety**
- 3. Prevention of Public Nuisance**
- 4. The Protection of Children from Harm**

Please enter your details below:

Responsible Authority:	Lincolnshire Police
Contact Officer:	Pc 642 McConville
Address:	Lincolnshire Police – Licensing Myle Cross Centre Macaulay Drive Lincoln LN2 4 EL
Telephone Number:	101 – Lincolnshire – Alcohol Licensing
E-mail:	countylicensinggroup@lincs.pnn.police.uk

Please provide details of the application to which your representation refers:

Name:	A2Z Food Express (was Delicja)
Address:	Unit 2, 20 Westlode Street, Spalding PE11 2AF
Application Details:	New Premises Licence
Date Application Received:	3/6/21 (put back to this date due to failure to display of notice)

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box(es):

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

In relation to this application, the following Guidance issued under Section 182 of the Licensing Act 2003 has been considered –

From Section 9.12 –Each responsible authority will be an expert in their own field....for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority’s interest or expertise in the promotion of a particular objective may not be immediately apparent.

South Holland District Council Statement of Licensing Policy 2021-2026 has also been considered namely -

4.1 The Licensing Authority considers the effective and responsible management of the premises and the instruction, training and supervision of staff in the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives.....

The Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet those objectives.

Although it is not a requirement under the Act, applicants are advised to submit any risk assessments undertaken to the responsible authorities in order that they can assess the suitability of the operating schedule. The Licensing Authority recommends early consultation with Responsible Authorities.

4.2 Under the Crime and Disorder Act 1998, the Licensing Authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.

The Licensing Authority will seek to ensure that licence holders take measures to control the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter and leave.

The Licensing Authority will expect applicants to include in their operating schedules, the steps they propose to take to detect, reduce, and deter crime and disorder.

Applicants should consider the location and type of their premises when considering any option.

Applicants should seek advice from the Police on control measures under this licensing objective. It is recommended that applicants discuss the measures they intend to take with the Police prior to making the application to try and reduce representations.

There are many steps an applicant may take to prevent crime and disorder. Examples of measures the Licensing Authority may expect applicants to consider and address in their operating schedule include:

VII. Training given to staff to prevent the sale of alcohol to those who are underage or appearing to be drunk

VIII. Adoption of the Challenge 21 or Challenge 25 policy

IX. Measures agreed with the Police to reduce crime and disorder

XII. Provision of CCTV in and around the premises – CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective cctv system installed that operates in compliance with the requirements of Lincolnshire Police.

XIV. Measures to prevent glasses and bottles being taken away from the licensed premises. (comment – obviously intended for on-sales, however included as it shows it is a consideration due to risk, and the risk increases with the later the hours for these items to be used as weapons)

XV. Measures to tackle street drinking including not selling single cans or bottles of beer, lager and cider; not selling super strength (ABV above 6.5) beer, lager and cider; and attaching water proof labels with printed shop names and addresses to cans and bottles of beer, lager and cider (or all alcohol sold).

4.4 Licensed premises have a significant potential to impact adversely upon communities through public nuisance arising as a result of their activities. The Licensing Authority's aim is to maintain and protect the amenity of residents and other businesses from the potential negative impact of licensed premises, by promoting the need to prevent public nuisance, whilst at the same time recognising the valuable cultural, social and economic importance of such premises.

The Licensing Authority intends to interpret 'public nuisance' in its widest sense and takes it to include such issues as noise, light, including artificial light, odour, dust, insects, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the area affected. The Licensing Authority will expect applicants to include in their operating schedules, the steps they propose to take to prevent public nuisance. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type and location of premises and/or activities) which are likely to adversely affect the amenity of the area and the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicants operating schedule. These issues may include:

I. The customer profile

III. The location of the premises and the proximity to residential and other noise sensitive premises

IV. The hours of opening, particularly where this will include times between 23.00 hours and 07.00 hours

V. The nature of the activities to be provided.....

The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, depending upon the particular type of premises and the activities to be carried on:

I. Effective and responsible management of the premises

II. Appropriate instruction, training and supervision of those employed or engaged, to prevent incidents of public nuisance.....

III. Control of operating hours for all or part of the premises.....

IV. Adoption of best practice guidance....

VI. Management of people, including staff and customers entering and leaving the premises

The Licensing Authority recognises that it is necessary to balance the rights of local residents, businesses and others with those wishing to provide licensable activities and those who wish to use the facilities.

If it necessary for the prevention of public nuisance where conditions do not adequately address the issues an application can be refused.

5.2 As a general rule shops, stores and supermarkets should normally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes, unless there are good reasons, based on the licensing objectives, for restricting these hours. However, in the case of individual shops that are known to be, or are in an area which is known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representation, alimention licensing hours may be appropriate. However, each application will be considered on its own merits.

The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When issuing a licence or certificate, stricter conditions with regard to noise control and/or limitations to opening hours may be imposed in the case of premises which are situated in largely residential or sensitive areas when representations have been received.

5.3 The Licensing Authority does not propose to implement standard conditions on licences. It may attach conditions as appropriate given the circumstances of each individual case. These conditions will relate to the premises and other places being used for licensable activities in the surrounding area. In this regard the Licensing Authority will primarily focus on the direct impact, of any licensable activities taking place, on members of the public living, working or otherwise engaged in normal activity, regardless of their geographical proximity to the premises.

When considering conditions, the Licensing Authority will look to the relevant responsible authorities to assist and advise on the appropriate measures to be taken.

Where an applicant considers that representations are likely or probable, it is recommended that the applicant discuss the proposal with the licensing authority and those from whom they think representations are likely to be made prior to submitting their application.

Crime and Disorder Act 1998 Section 17

Duty to consider crime and disorder implications.

(1) *Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,*

(a) *crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and*

(b) the misuse of drugs, alcohol and other substances in its area, and

(c) re-offending in its area

(2) *This section applies to each of the following—*

.a local authority;

The premises this application refers was called Delicja, it is now called A2Z Food Express. The applicant did not approach Lincolnshire Police for consultation over hours or conditions prior to submitting the application this representation refers to. Once the application was submitted Lincolnshire Police contacted the applicant and consulted in the hope to gain reassurance that the applicant now understood what was required of them. However, as the email threads shows, Lincolnshire Police were unable to gain that assurance. Please see the email threads attached (please go by the date and time on the emails to read them in order).

The applicant and the premises have a history with regards to licensing.

Lincolnshire Police have 3 main concerns with this application, the applicant's ability to actively promote the licensing objectives, the conditions offered, and the hours intended, should the licensing committee be satisfied with the applicant's ability.

Under the revoked but at appeal premises licence at the same address, the applicant, who is premises licence holder and designated premises supervisor for that revoked premises licence has failed to comply with the premises licence conditions and yet again failed to price mark single cans of foreign beer, which is an indicator of smuggled goods, as seen in the review for the same premises licence which led to the revocation and on other submissions since that review. Please see the statement attached which Pc 642 McConville provided for the appeal, which details the history of the premises and the failings up to what was intended to be the final court hearing for the revocation but which has been delayed further. Non-compliance with premises licence conditions is an offence under Section 136 Licensing Act 2003 – unauthorised licensable activity.

A2Z Food Express is situated within a Public Space Protection Order (PSPO) for street drinking (failure to comply with an officer's request to stop), littering, spitting, urination and defecation. Lincolnshire Police would have expected an operating schedule to reflect this, to show what the operator was going to do to limit their impact on an existing problem.

The PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.

South Holland District Council and Partners have been working to improve the quality of life for those living, working and visiting the area. Lincolnshire Police's Licensing Department's role has been to consult with all applicants for new and major variations applications and where the application is for off-sales within the PSPO request the following PSPO type conditions, explain why and highlight the Council Licensing Policy. Since October 2020, 2 off-licence style premises on Westlode Street and New Road have, through consultation have accepted a version of the conditions below, without the need for a hearing.

The sale of cans and bottles of beers, lagers and ciders shall only be in packs of 4 or multiples thereof, unless the volume of the contents of the can or bottle is more than 600 millilitres.

No super-strength beers, lagers or ciders of above 6.5ABV (alcohol by volume) shall be sold at the premises.

Each individual alcohol product sold will bear a waterproof label which has been agreed with Lincolnshire Police and which contains the premises name and address.

...which Lincolnshire Police would seek for an application of this type within this location, along with the more normal conditions like CCTV, incident book, refusals register, challenge 25, staff training. However, these conditions, although robust, specific and measurable, only work when they are understood and implemented, and the applicants previous history and his evidenced lack of responsibility for the licensing objectives at an already problem premises, even though he is a personal licence holder and had an impending court hearing for that licence, calls this into doubt.

This application is for off-sale licensable hours from 0700-2230hrs Sunday to Tuesday and 0700hrs to midnight Friday and Saturday. The under appealed (revoked) premises licence off-sales hours are 0700-2100hrs every day. Lincolnshire Police question the extra hours requested on a Friday and Saturday, and conclude that it is solely to target one group of people - those using the pubs, clubs and take-aways, who are the only people frequenting the area at that time. The majority of customers will have come to the area on foot with the intention of consuming alcohol as part of the night's festivities and will remain in the area. The presence of an off-licence between two late night on-sales licenced premises increases the likelihood of alcohol being consumed in the street, both before and after visiting the late-night on-licensed premises and thereby being in breach of the PSPO.

The later hours requested in this application are not worked by police community support officers. Other accredited officers such as Council enforcement officers don't work these hours unless specifically tasked, and due to the increased risk of the hour and likely confrontation are unlikely to be tasked with this. This leaves the police constable who may be otherwise engaged

dealing with a missing person, a collision, a violent domestic, or taking someone who's in custody to hospital. Leaving the monitoring and enforcement of this order over the hours requested as something that cannot be relied upon due to the sheer reactive nature of policing the late-night economy.

The issue of pre-loading has increased as licensed venues hours have gone later and later. The younger drinking crowds who are often short of money don't want to pay the higher prices at on-licensed premises. They will buy alcohol cheaply from an off-licence and consume it before they go to an on-licensed premises. The result is they consume larger volumes of alcohol over a shorter period of time than they otherwise would have, had they started drinking when they got to the on-licensed venue. This consumption goes unchecked and often has a detrimental effect once inside the on-licensed premises.

Pre-loading will impact on refusals into on-licence venues, which by their nature are often confrontational and can result in people being injured and police being called. This will also increase the amount of people being removed from late night venues for over consumption, even they may not have consumed an alcoholic drink in the venue they are being removed from. This will put more pressure on the on-sales venues, and they may need to increase their door staff numbers to fully promote the licensing objectives and provide the duty of care expected. The blame for this overconsumption will unfairly be placed on the on-licensed venue, when they have in fact provided a service of care at a cost to themselves and may not have benefitted financially in any way. It will be extremely hard for the police to collect evidence in regard to pre-loading and over consumption and linking it back to the real problem premises.

Many of the pubs, clubs and some late-night takeaways manage their customers with the use of door staff, as with the later hour comes the greater risk to the licensing objectives. Door staff are a great expense to these venues and they 'police' both inside and outside the premises and ensure that the licensing objectives are being promoted. They ensure bottles and glasses, items that are often used as weapons, are not taken outside. In complete contrast, and by the very nature of its business, the premises this application refers to will be actively supplying customers with bottles, which will lead to potential weapons being taken into the night-time economy, with the obvious consequences of crime and disorder, public nuisance (litter) and likely breaches of the PSPO.

Door staff monitor people's level of consumption, watch behaviour and step in where required. Once alcohol is sold by the applicant there will be no person monitoring the level of consumption, as there would have been if the alcohol was sold and consumed inside. There will be no person watching their behaviour. The result will likely be a call to the Police or intervention by door staff from one of the on-licence premises. Both of which are unsatisfactory and not how the Licensing Act is designed to work. Having the benefit of alcohol licence is not meant to impact on the community and that includes other premises, their employees and the emergency services.

Door Staff conduct searches on people and their belongings for weapons, drugs and alcohol as a condition of entry. It is expected that alcohol hidden on people will increase as people often try to smuggle cheaper alcohol in to avoid the high drinks prices inside, which will lead to more refusals which again brings with it confrontation. In line with this the amount of alcohol hidden

in the outside areas will likely increase. People go outside for a 'smoke' and carry on consuming their hidden outside alcohol so as not to pay the inside prices, thereby consuming large quantities over a small time frame and again breaching the PSPO.

Late night off-sales will lead to continued consumption of alcohol by those persons who have already left the nearby on-licensed premises, many of whom will already be highly intoxicated. Alcohol could easily be purchased by persons on behalf of those who would ordinarily be refused service. On-sales premises have staff watching for groups where the designated driver is buying drinks and then passing them on to the rest of the group who wouldn't have been served had they approached the bar. This is then pointed out and the serving is refused and people are often asked to leave. This will not be possible in an off-licence style premises as that information gathering and communication isn't there once the alcohol is sold. The same method is used to obtain the alcohol for the underage should someone manage to get in the club, past the door staff. On-sales club style premises often have an over 18's only conditions and so have a double ID check, once at the door by door staff and once at the bar by bar staff. But again watching and communicating will likely show this up. This will not be possible with off-sales and the amount of drunk underage on the street is expected to increase and again the PSPO being breached.

This anecdotal, scenario based information highlights that risks involved with the selling of alcohol for off-sales, when situated between two late night on-premises licenced venues. The later hours offers greater risk for the operators and staff of the shop to deal with as well as for other operators in the area. Some of the risks, for example the introduction of bottles and therefore weapons onto Westlode Street, Lincolnshire Police believe, are impossible to condition due to the sheer nature of what an off-licence is.

In May 2018 the Government committed to implementing a new national alcohol strategy, and listed the fact that alcohol is implicated in over half of all violent crimes as a point of concern in their early day motion in Parliament in 2017. With headlines hitting the press like 'Ministers set to crack down on causes of alcohol-fuelled violence'

Public Health England produced an evidence based review in 2016 into the burden of alcohol and the cost effectiveness of control policies. Within that document are statistics Lincolnshire Police believe are relevant in relation to this application

- 53% of all violent incidents have been linked to alcohol
- Levels of violence are often disproportionately high on weekend nights
- On the weekend 70% of all violent incidents are alcohol related compared to 35% on weekdays
- Between midnight and 6am 84% of all violent incidents are alcohol related compared to 23% between midday and 6pm (although this timing is after that applied for Lincolnshire Police believe it is relevant, and customers can continue to drink what was purchased, and then it takes time to have an effect)
- Many of these assaults involve the use of glass or bottles as weapons
- 43% of people surveyed have been annoyed by people vomiting or urinating when they have been drinking

- 54% of people have been annoyed by people littering in the street after they have been drinking
- 27% of facial injuries in Scotland are alcohol related. This is similar to Australia, of which 9% of these were bottle or glass related. With the mean age of the injured party being 25 years, and 18-24 year olds counting for 36% of all cases reported.
- A survey of 30,000 in NW England showed nearly half of all respondents avoided the town centre at night because of drunken behaviour, with 61% of those aged 65-74years.

Public Health England states that by regulating the availability of alcohol through policies that sufficiently reduce the hours during which alcohol is available for sale can substantially reduce alcohol related harm in the night-time economy.

An Inquiry into the Impact of Alcohol on Emergency Services by the All-Party Parliamentary Group on Alcohol Harm in 2016 found

- 90 per cent of police officers expect to be assaulted on a Friday and Saturday night when they police during the night-time economy'
- 80% of police officers have been assaulted by people who are drinking
- 70% of all attendances at A&E departments are alcohol related at weekends

In May 2017 the Institute of Alcohol Studies in conjunction with the Foundation for Alcohol Research and Education produced 'Anytime, Anyplace, Anywhere? – addressing physical availability of alcohol in Australia and the UK' It uses evidence from Australia where restriction on very late closing has had a positive impact on the rate of alcohol related harm and has recommended restricted trading hours for off-licence alcohol.

Alcohol Focus Scotland found that crime was, on average four times higher in areas with the most alcohol outlets. A relationship was found between alcohol availability and harm. Alison Douglas chief executive of Alcohol Focus Scotland said 'Boards are responsible for promoting the licencing objectives...the local evidence will help them assess the overprovision of licensed premises in their area. There is no action that a licensing board can take to reduce the number of licensed premises; however, they do have the ability to prevent further increases. It is their duty to act in the public interest and where their communities are suffering, they should be applying the brakes.'

It's for the reasons stated above that Lincolnshire Police believe that the hours on the at appeal premises licence of 0700-2100hrs 7 days a week are more appropriate due to the location of the premises, should the licensing sub-committee be satisfied that the applicant is suitable and see fit to grant the premises licence.

South Holland District Council Statement of Licensing Policy makes it very clear that where a premises is located, what the premises activities will be and what the issues are within that area are of utmost importance when considering timings and conditions. However, prior to all that being consider *4.1 of the policy states..... The Licensing Authority considers the **effective and responsible management** of the premises and the instruction, training and supervision of staff in*

*the adoption of best practice to be amongst the **most essential control measures** for the achievement of the licensing objectives.....and 4.4 If it necessary for the prevention of public nuisance **where conditions do not adequately address the issues an application can be refused.***

Paraphrasing 4.1 and 4.4 - Effective and responsible management is an essential control measure, however, where not adequate to address the issues the application can be refused.

Lincolnshire Police has little confidence in the applicant ability to be effective and responsible, as even being trained, knowing the history of the premises and motivated by an impending court date, he failed to comply with the premises licence conditions and legislation regarding price marking. This was regarding the revoked premises licence, which was old, and did not consider the PSPO and therefore had much simpler conditions. What confidence can the community of Spalding have that going forward the applicant is going to robustly promote the stronger conditions if imposed so that their customers don't increase the issues of Spalding?

The committee must have total confidence that the applicant understands the conditions appended to the licence and the reasons for them and can demonstrate he is fully capable of implementing them over a period of time. The applicant needs to understand their place in the community, the impact they have on it and put the licensing objectives before profit. The committee will need to be sure that the already trained applicant, who has failed in his responsibilities at the same problem premises since that training will strongly uphold all of the licensing objectives, as without it the premises will be adding to the issues which created the need for the PSPO in the first place and that need remains as the PSPO has been reviewed and remains in place.

Lincolnshire Police request that serious consideration is given to the refusal of this application.

