

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 & Wine (Spalding) Ltd – Mr Saglar Ahmat
Address:	Unit 2, 20 Westlode Street, Spalding PE11 2AF
Application Details:	Variation
Date Application Received:	8/9/21

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**
- **Prevention of Public Nuisance** **X**
- **The Protection of Children from Harm**

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:

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

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 waterproof 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:

III. The location of the premises

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

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

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 representation refers to was called Delicja, it is now called A2Z Food Express. It was recently granted a new premises licence following representation from Lincolnshire Police, consultation and agreement between parties prior to hearing. However, it is now understood there was some discrepancy between the applicant and his representative on what was agreed and what the applicant was willing to accept, hence this application to remove two conditions.

The premises has a history with regards to licensing and there are currently 2 premises licences at the one premises, the new licence and one which is revoked but at appeal. The applicant is premises licence holder and designated premises supervisor for both licences. On the last compliance check at the premises, being run under the revoked premises licence, the applicant 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. The failing to price mark was an issue highlighted 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 made representation to the new premises licence application and requested

the very conditions that the premises licence holder now wants removed, to assist the operator in limiting 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 accepted a version of the conditions below, without the need for a hearing.

The conditions requested in PSPO areas for off-licence style premise are:

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 a premises of this type within this location, along with the more normal conditions of CCTV, Challenge 25, staff training, incident book, refusals register.

The first two conditions are the conditions the applicant want to remove from the current licence.

The no high ABV condition assists in lowering the level of intoxication within the area for the price paid, if the alcohol is consumed within the street. It also stops smuggled beer from the higher tax bracket (7.6% ABV) which is more popular and lucrative, being available. The applicant's previous history of selling unpriced beer, which is an indicator for smuggled goods, even though already highlighted twice previously and his evidenced lack of responsibility for the licensing objectives at a problem premises means this condition will assist the applicant in controlling his premises influence on the PSPO.

The no single cans or bottles condition will mean that if an individual is caught drinking in the street, all the containers purchased will be available to be seized at the same time, not just the one. This will mean the likelihood of buying another 4 containers will be less. If it was just the one being seized, the whole process would likely be repeated a few times until funds were exhausted.

This no single cans will likely mean less enforcement time spent repeatedly dealing with the one individual. Freeing up time to deal with other matters.

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
- 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.

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.'

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.

The revoked premise licence was old and did not consider the PSPO within its conditions. However, times have changed, the area has changed, the Licensing Guidance has changed as has the Licensing Policy. Licence holders now need to show what they are going to do to negate the risk they pose to the community with an existing issue.

The applicant needs to understand their place in the community, the impact they have on it and put the licensing objectives before profit. The applicant has offered no other conditions that would assist in limiting his premises effect within the PSPO. Without these conditions 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 has concerns in the applicant's ability due to the previous failure to price mark and non-compliance with conditions on a revoked premise licence. These very conditions will assist him all the more.

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

