

# Public Document Pack

**LICENSING SUB COMMITTEE**

**TUESDAY, 20 JULY 2021**

**SUPPLEMENTARY INFORMATION**

**SUBMISSION ON BEHALF OF THE APPLICANT**

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BEFORE A LICENSING SUB-COMMITTEE OF

LEEDS CITY COUNCIL

**LIETUVAITE SHOP LTD**

**15 Branch Road Armley LS12 3AQ**

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**SUMMARY OF PREMISES LICENCE APPLICANT'S SUBMISSIONS**

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*v.14.07.2021*

1. This is an application for a new premises licence, to permit the applicant to sell alcohol for consumption off the premises in a small supermarket that has already been trading at this address since April 2021. The addition of the sale of alcohol will allow the customer to make all their required purchases under one roof, providing convenience and efficiency of service.

2. The application, in terms of conditions offered has now been amended from the original application, and a full list of the additional proposed conditions can be found on pages 4-5 of this report.
3. The applicant for the new licence is Lietuvaite Shop Ltd, operational since April 2021, with the registered address listed as 15 Branch Road Armley Leeds LS12 3AQ, and Mrs Solvita Zirnikiene, listed as the sole director of the company. The DPS of the premises is to be Mr. Ruslanas Zirnikus.
4. The site is within the Armley Cumulative Impact Area. Therefore, in these submissions, the applicant has paid particularly careful attention to introducing measures and agreeing conditions and limitations that are likely to minimise any negative impact on the locality. Given these measures, the applicant is able to demonstrate that the grant of these licences will *not* add to the cumulative impact.
5. The original application offered a number of conditions and limited trading hours, but after representations from both the responsible authorities and interested parties, the applicant is willing to offer further conditions to be added to this premises licence should it be granted.
6. The conditions offered in the original operating schedule are as follows:
  - a) CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
  - b) Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.

- c) Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.
- d) The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.
- e) The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
- f) In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police immediately.
- g) The premises licence holder and/or designated premises supervisor will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti-social behaviour, admissions refusals and ejections from the premises. The Incident Report Register will contain consecutively numbered pages, the date time and location of the incident, details of the nature of the incident or to whom the incident was reported, the names and numbers of any police officers attending, the police incident and/or crime number, details of any witnesses and confirmation of whether there is CCTV footage of the incident. The Incident Report Register will be retained for a period of twelve months and produced for inspection immediately on the request of an authorised officer.
- h) The display of alcohol will be in a designated area of the premises which is capable of being supervised from the counter area.
- i) Customers will be reminded by way of a notice at the entrance/ exit door to please leave the premises quietly and have consideration for the neighbouring properties.

- j) Sufficient litter bins will be provided to allow the customers to deposit their waste/ rubbish in the correct manner
  - k) 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 an authorised person' (as defined by Section 13 of the Licensing Act 2003) or the police or an authorised Trading Standards Officer of the Council.
  - l) Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind the counter advertising the scheme operated.
  - m) 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 collected on a daily basis 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 Council on demand.
7. In addition to these conditions the applicant is also offering the following additional conditions to ensure that these premises do not add to the cumulative impact to the area:
- a) The licensable activities must at all times be ancillary to the primary use of the premises as a supermarket.
  - b) The premises will operate a closed licence. All alcohol will be displayed behind the counter, ensuring that there will be no self-service of any alcohol.
  - c) All stock will be individually labelled with price gun tickets, identifying the store.
  - d) No super-strength beer, lagers, ciders or spirit mixtures of 6.0% ABV (alcohol by volume) or above shall be sold at the premises

- e) The trading hours of the premises in relation to the sale of alcohol are to be reduced. The original application was seeking the sale of alcohol to be permitted between the hours of 09:00 to 21:00 Monday to Sunday. The applicant is willing to reduce these hours to 10:00 to 20:00, Monday to Sunday to reduce the risk of early morning and late evening drinking being generated from the premises.

8. A number of objections have been received in respect of this application.

Responsible authority representations have been received from:

- a) The Police
- b) Licensing Authority

Interested Party Representations have been received from:

- a) Jonathan Hindley
- b) Peter Mudge
- c) Armley Ward Councillors
- d) Rachel Reeves
- e) St Georges Crypt

9. The key areas of concern are as follows:

9.1 Street drinking

9.2 Anti-social behaviour

9.3 The Prevention of Crime and Disorder

In relation to the objections raised, the applicant would say this:

## 9.1 Street Drinking:

This seems to be by far the most common, and also the most concerning reason for the application to be refused. The applicant is mindful of the concerns raised and therefore has offered additional conditions to be included on the licence should it be granted. These are found on page 4 of these submissions and offer this:

*The premises will operate a closed licence. All alcohol will be displayed behind the counter, ensuring that there will be no self-service of any alcohol.*

This will ensure that street drinking does not increase due to this premises being granted a licence because:

The typical street drinker will be deterred from having to physically ask for his drink. It is an easier process to select from the shelves and purchase from the till point without any direct communication.

The staff member also has full control of the transaction. If they feel for any reason the sale will be a risk to the customer or others in the area, then the request can be refused.

*All stock will be individually labelled with price gun tickets, identifying the store.*

By offering this condition the premises are taking responsibility for their actions. It will now be easy to identify where the alcohol originated from should there be an issue on the street, and appropriate action can be taken with the store to ensure this does not reoccur. Should gun tickets not prove to be enough, then ultraviolet pens can be used to identify the stock, which is a more secure method of proving the source of the alcohol on the street.

*No super-strength beer, lagers, ciders or spirit mixtures of 6.0% ABV (alcohol by volume) or above shall be sold at the premises.*

This will effectively permit the sale of beers lagers and ciders of up to 6% to be stocked and sold from the premises. Alcohol of this strength is not attractive to the typical street drinker, as it rarely has the desired effect. Customers will only go to stores that sell the products they are looking for. If a shop doesn't sell beans, you don't go their asking for beans, it will be a waste of time. Similarly, the street drinker will not go to these premises as they will not be able to purchase their drink of choice. From the objections we see that the problem is "cheap and strong booze". This will not be available from these premises.

This premises will not add to the cumulative impact of street drinking in the area.

*The trading hours of the premises in relation to the sale of alcohol are to be reduced. The original application was seeking the sale of alcohol to be permitted between the hours of 09:00 to 21:00 Monday to Sunday. The applicant is willing to reduce these hours to 10:00 to 20:00, Monday to Sunday to reduce the risk of early morning and late evening drinking being generated from the premises.*

By only permitting the sale of alcohol from 10:00am, this ensures that no youngsters on route to school will be inconvenienced by those known as street drinkers attempting to purchase alcohol. It also means that by the time the premises begins to sell, those who are looking for alcohol to consume on the streets in the morning, will already have made their purchases elsewhere. By limiting the sale of alcohol to no later than 20:00 hours, the premises cannot be seen to be encouraging late night drinking, but also staying open long enough for their genuine customers to make their purchases for the evening to consume from their own homes.

## 9.2 Anti-Social Behaviour:

This can be seen as a direct consequence of Street Drinking. If the premises are not encouraging this type of customer by way of the measures offered in 9.1 above, then the cumulative impact of anti-social behaviour will not increase as a result of the premises being able to sell alcohol. By nature of the range of alcohol on offer, the limited display space, and so the limited range on offer, the customer who will be attracted to the store will not be the type to stand in the street consuming the alcohol purchased from the store.

## 9.3 The Prevention of Crime and Disorder:

As per 9.2, the representations link the disorder to the increasing problem of street drinking, be it actual crime, intimidating behaviour, drunk and disorderly behaviour, it can all be linked back to the availability of the type of alcohol that the street drinker looks to purchase. By removing this threat, the premises can ensure that they will not add to the cumulative impact of crime and disorder in the area.

10. In relation to the cumulative impact policy the applicant makes these points:

- a. The policy is not absolute. In appropriate cases the Council can, and does, grant applications as an exception to policy. The Council has previously demonstrated that it recognises the force of the words of District Judge Anderson in a different case:<sup>1</sup>

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<sup>1</sup> *Brewdog v Leeds City Council*, DJ Anderson, Leeds Magistrates' Court (6.9.2012)

*“It cannot be the policy of the cumulative impact policy to bring the iron curtain clanging down... I accept that the committee and the police did their best, but their application of the Policy was too rigid. They seemed to take the view that Man was made for the Policy, when the Policy should be made for the Man”*

- b. This is not an alcohol-led business. The core of the business is a retail shop. Alcohol is ancillary to the main grocery purchases that customers currently make from the store. by introducing a closed licence the retail space allocated to the display of alcohol will be 3m, which equates to around 15% of the overall selling space in the store. As mentioned earlier in these submissions, this is a small grocery/ supermarket store.
- c. The trading hours for the sale of alcohol have been reduced to 10:00 to 20:00 to ensure there is no negative impact to the community.
- d. The proposed licences are heavily conditioned to minimise the risk of any negative impact on the locality. In particular:
  - i. The licensable activities must at all times be ancillary to the primary use of the premises as a supermarket.

- ii. The premises will operate a closed licence. All alcohol will be displayed behind the counter, ensuring that there will be no self-service of any alcohol.
- iii. All stock will be individually labelled with price gun tickets, identifying the store.
- iv. No super-strength beer, lagers, ciders or spirit mixtures of 6.0% ABV (alcohol by volume) or above shall be sold at the premises.
- v. These are in addition to the conditions already offered in the operating schedule.

11. It is plain to all that the country is currently in very difficult times. Many businesses are closing down, many jobs have been, and many more will be lost in the coming months to the detriment of local communities and major cities alike. Here we have a business that, despite the economic uncertainty, is willing to invest in the local area, and not only provide a service for the local community, but also to continue to provide local jobs for local people. No one can predict with any certainty how long the country will suffer the effects of the COVID -19 pandemic. I think we can all recognise, that despite the easing of restrictions, this is far from over. Businesses that are still willing to invest in the area in these difficult times are in need of support and encouragement.

12. The propriety of taking into account the wider economic impact of licensing decisions was explicitly recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

*“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the*

*effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.”*

13. For these reasons, the sub-committee is invited to grant this premises licence as amended as an exception to Policy.

**STEWART GIBSON**

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14 July 2021

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