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Leeds District Licensing Department

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4th April 2022

Entertainment Licensing Section.
Leeds City Council,
Civic Hall,
Leeds.
LS1 1UR

RE: RESIDENTIAL PROPERTY @ 222 QUEENSWOOD DRIVE LEEDS LS6 3ND
NEW PREMISES LICENCE – PREM/04901/001 – LICENSING ACT 2003:

DATE OF HEARING – 12th APRIL 2022
WEST YORKSHIRE POLICE – REPRESENTATION
SUPPLEMENTARY INFORMATION:

Please accept this letter as 'supplementary information', to the letter of representation already served and dated the 22nd March in relation to this same matter.

The 'supplementary information' amounts to-

HOME OFFICE – REVISED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003 – (current version dated April 2018):
PARAGRAPHS 3.8 to 3.10-

These paragraphs from the S.182 Guidance quoted below in *italics*, and mentioned in the letter of representation already served by West Yorkshire Police, specially refer to section 189 & section 190 of Licensing Act 2003, and consolidate the legal stance in relation to both these sections, as to when alcohol can be 'sold / supplied' from vehicles (para. 3.8), and, in terms of a mobile delivery service taking orders by telephone, the actual 'location' which requires a premises licence to authorise the 'sale / supply' of alcohol (para. 3.9).

The paragraphs have been highlighted in bold only for effect, and to accentuate the points being made in the representation to this application served by West Yorkshire Police.

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“Mobile, remote, internet and other delivery sales

3.8 The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.

3.9 The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.

3.10 Persons who run premises providing ‘alcohol delivery services’ should notify the relevant licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact their licensing authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.”

Finally, and again as mentioned in the letter of representation, below is a set of typical conditions, which give or take a few adjustments on a case by case basis, is usually agreed between West Yorkshire Police and operators of alcohol delivery services in Leeds.

Notwithstanding any minor alterations however, the core elements of any alcohol delivery service which the conditions always attempt to address, are-

1. A robust age verification process throughout the whole three stage process of ordering, despatch and also at the point of delivery, since mandatory licence conditions apply (S.182 Guidance – para. 3.9 above),
2. The separate recording of the dates and times for the same three stage process, primarily to establish not only “*where the alcohol is appropriated to the contract*”, but also when, so as to make the actual ‘sale / supply of alcohol lawful’, i.e. within the hours authorised by the premises licence (also at para. 3.9 above), and
3. To make it as clear as possible, that there is only one ‘licensed premises’ from which alcohol can be ‘sold / supplied’, and further to strengthen the very same point, should there be any refusals on delivery (for whatever reason and by whoever makes the delivery), then the alcohol refused is to be returned to the ‘licensed premises’, **primarily in order that it cannot be ‘sold / supplied’ again from the back of a vehicle before it is returned.**

This latter point would appear to be the main obstacle with this application!

A set of typical conditions for an alcohol delivery service would be-

- (a) *There will be no access to these licensed premises by members of the public at any time whilst the premises licence has effect, except*
 - (i) *for those involved in the delivery of alcohol products which have been previously processed for despatch, or*

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- (ii) those collecting alcohol items which have previously been ordered,
- (b) Alcohol will not be despatched from any premises, other than these licensed premises by the premises licence holder in accordance with this licence,
- (c) The premises licence holder / designated premises supervisor will adopt an age verification policy throughout the whole process of operation, so that at any time, if customers are unable to prove they are 18, then the supply of alcohol will be refused at the point of any ordering procedure or facility, on collection and also on delivery,
- (d) On delivery of any items of alcohol previously ordered, either directly by the management of the premises, employees of the management of the premises, or via a third party courier instructed by the management of the premises, a 'Check / Challenge 21 / 25 policy' will be adopted, so that if on request, acceptable photographic documents cannot be produced to prove the date of birth of the purchase, then the delivery will be refused outright, and the alcohol returned to the licensed premises,
- (e) In all cases, delivery will be made only to the address indicated on each respective order and no other, otherwise it will be refused and the alcohol returned to the licensed premises, irrespective of who makes the delivery,
- (f) In all cases, alcohol shall not be delivered to a person in a public place (e.g. a car park, a street corner, a bus stop, a public park etc.),
- (g) In all cases, delivery will be refused to any person who is, or who appears to be under the influence of alcohol or drugs,
- (h) Taxi operators – either Hackney Carriages or Private Hire vehicles - will not be used for deliveries under any circumstances,
- (i) The premises licence holder / designated premises supervisor will keep records of –
- The date and time of all alcohol orders and the full name and address of who has made each order (including details of any refusals),
 - The date and time of the despatch of all orders from the licensed premises, and
 - The date and time when each delivery has been made, who to and where exactly (with details of any refusals), and whether by the premises licence holder or the name of a third party courier,
- which will be retained at the licensed premises, for possible inspection at any time on request, by a police officer or an authorised person of the licensing authority.

C/E [REDACTED] Mr. Bob Patterson
Leeds District Licensing Officer
West Yorkshire Police

Date: 4th April 2022

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