

Decision only

Licensing Act 2003 - Application for the variation of a premises licence at Gida Express, 12 Guildhall Walk, Portsmouth, PO1 2DD

Decision: the application for the variation of a premises licence was refused for the reasons listed below.

Reasons: The Committee heard the representations of the applicants, the relevant Responsible Authorities and considered all the papers put before them along with the annexes attached to each document.

The Committee is aware that the premises is located within an area of Special Policy and that when having regard to applications for licence grant or variation that the starting position is that any grant or variation which is likely to add to the existing cumulative impact will normally be refused or made subject to certain limitations unless and it is acknowledged that it is the applicant's burden to show, that the applicant can demonstrate that there will be no negative cumulative impact upon one or more of the licensing objectives.

The Responsible Authorities (Police and Licensing) assert that there are no proposed appropriate measures offered by the applicants' are sufficient to negate any cumulative impact upon the licensing objectives of: crime and disorder, prevention of public nuisance.

The Committee look to all the Responsible Authorities but mainly the Police for guidance and assistance in determining the effect a licensing activity in terms of all the licensing objectives, but principally in terms of the Police, prevention of crime and disorder - the Committee should, but are not obliged to accept all reasonable and proportionate representations made by the Police. The Committee take a similar view with respect to the representations made by the Licensing Manager.

The above stated the Committee have balanced within their consideration all representations made by the applicants through her advocate and by way of comments made by the current licensee/applicant. In considering the application the Committee is mindful of the following and considered that having heard all matters today could conclude that the following facts have been established:

1. That the area within the premise is situated is one of special policy and that it is clear that the advices as to mitigation of the presumed increase with respect to cumulated impact as suggested in the letter from the Police dated the 5th December 2016 have not been considered or dealt with, appropriately to assuage concerns and risk.
2. The Committee has not heard any (or appropriate) representations that would enable this Committee to conclude that this application within a special policy area is not likely to add to the existing cumulative impact.
3. The Committee having considered the Guidance (section 182) is aware that the burden to show no increase in cumulative impact rests upon the applicant and that this burden has not been shifted, to the satisfaction of this Committee.

4. It is accepted that the applicant has worked well with the Responsible Authorities and runs a successful business but that there is a lack of understanding as to the legal burden that the applicant retains and on balance when considering all factors this cannot shift.
5. The Committee have considered the Police representations as to the current levels of crime and disorder within the cumulative impact zone. They are entitled to accept on balance that there is higher risk of recorded violence within the night time economy within the cumulative impact zone.

With respect to this application the Committee are not satisfied that the applicants' have shifted their burden sufficiently to mitigate by way of their current operating schedule the negative cumulative impact on one or more of the licensing objectives in this case prevention of crime and disorder, prevention of public nuisance as such the application is refused.

The applicant has the right to appeal this decision to the Magistrates Court.