

To whom it may concern**Licensing, North West Leicestershire District Council.**

Dear Sirs,

Re: The Flag, 32 Borough Street, Castle Donington. Application for Alcohol Licence.

Leicestershire County Council in its capacity as the relevant Highways Authority for the district in which the above premises are located has a lengthy history dating back to around 2019, of involvement with the site and indeed with the ongoing difficulty as to the manner in which the premises have been managed in so far as they relate to the public Highway.

Leicestershire County Council fully understands that it does not exercise any Licensing jurisdiction (nor does it purport to) but has for several years since in or around 2019 acted on reports from members of the public and indeed from its own officers in relation to the continued unauthorised and dangerous use of by the former licensee of the pavement outside the premises.

The pavement in question forms part of the public highway and is therefore falls under the jurisdiction of Leicestershire County Council as regards the frequent placing of chairs and tables for use by customers on the footpath by the licensee / former licensee Mr Sandham albeit that this was done without the necessary pavement licence being applied for or granted.

By way of background, records indicate that Mister Sandham in his capacity as the previous Licensee of the Flag did in fairness make an application for a pavement licence albeit that the same was initially rejected.

There have been numerous breaches in relation to the use of the Public Highway by the licensee over the years the timeline summarised below may prove to be of assistance as we understand that there is now a fresh applicant for a Licence in the form of Mr Sandham's Partner who we understood previously to have some level of involvement in the management of the premises is now applying for a licence to run the same.

It is not the function of the County Council to consider the fitness or otherwise of the new applicant but by way of background information we consider the following to be pertinent in relation to the management of the premises as a whole in relation to the public highway.

- i. On 7th January 2019 following reports received, the County Council wrote to request that Mister Sandham submit a formal application for a cafe licence and remove the tables and chairs from the public highway.

- ii. On 27th February 2019 the County Council responded once more to a complaint in relation to the use of the public Highway received from a member of the public.
- iii. On the April 2019 a request was received by the County Council in its capacity as the relevant highways authority to take further action in relation to the continued obstruction of the highway and a notice pursuant to section 143 of the highways act 1980 was issued and served on Mr Sandham.
- iv. On 15th May 2019 further complaints were received by the County Council regarding use of the pavement.
- v. During June and July 2019, it was noted that there had been non-compliance with both the correspondence sent and the notice issued and that the offending tables and chairs remained in situ.
- vi. On 7th July 2020 communications took place between Leicestershire County Council and a Barrister instructed by Mr Sandham in relation to the application being made for the pavement licence referred to previously.
- vii. In June 2021 it again became apparent that there was an obstruction of the highway by reason of tables being in situ once more.
- viii. On 8th October 2021 a notice pursuant to section 149 of the Highways Act 1980 was served in relation to the premises
- ix. The service on Mr Sandham of a further section 149 Notice took place in August 2022 and culminated in a court hearing in the Leicester Magistrates Court on 5th of October 2022 when the complaint of Leicestershire County Council was upheld and the County Council were permitted to remove the chairs and tables and a copy of the order is enclosed for information.

In summary Leicestershire County Council's concerns that any future licensee must apply for a valid pavement licence but there are concerns on the part of Leicestershire County Council that any such licence is unlikely to be granted by reason of the physical lack of space causing an obstruction to the highway, making passing and re-passing along the public highway difficult or impossible particularly for those who may be blind or partially sighted and / or those who have mobility problems.

The lack of space necessitates movement of pedestrians into the carriage a situation which is to be avoided at all costs and it is the disregard both for the law and the wellbeing of members of the public which has historically taken place at the premises which has caused Leicestershire County Council significant concern, not least the failure to comply with the previous notices and the flagrant breaches which continued for so long.

We would ask that this be placed before the appropriate panel for assistance in considering this application and it is hoped that representatives of Leicestershire County Council including Ms J Patrick (Assistant Highways Engineer) and Mr A S L

Clemens (Solicitor, Team Leader) will both be in attendance to provide the committee with clarification and any information which may be required .

The committee will no doubt consider what weight is to be attached to the above information / representations and we would ask that the same please be placed on file in readiness for consideration.

Yours sincerely,

J Patrick

Assistant Engineer

Highway Control

Leicestershire County Council