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MEETING: LICENSING SUB-COMMITTEE

DATE: Friday 29th April, 2022

TIME: 4.00 pm

VENUE: Committee Room - Bootle Town Hall, Trinity Road, Bootle, L20 7AE

Members

Councillor Bradshaw
Councillor O'Brien
Councillor Lynne Thompson

COMMITTEE OFFICER: Amy Dyson Democratic Services Officer
Telephone: 0151 934 2045
E-mail: amy.dyson@sefton.gov.uk

See overleaf for COVID Guidance and the requirements in relation to Public Attendance.

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

Members are requested to attend a Briefing Meeting commencing at 3.15 p.m. on Friday 29th April 2022 in the Committee Room, Bootle Town Hall

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting.

COVID GUIDANCE IN RELATION TO PUBLIC ATTENDANCE

In light of ongoing Covid-19 social distancing restrictions, there is limited capacity for members of the press and public to be present in the meeting room indicated on the front page of the agenda at any one time.

We therefore request that if you wish to attend the Committee to please register in advance of the meeting via email to amy.dyson@sefton.gov.uk by no later than **12:00 (noon) on Thursday 28 April 2022**.

Please include in your email –

- Your name;
- Your email address;
- Your Contact telephone number; and
- The details of the report in which you are interested.

In light of current social distancing requirements, access to the meeting room is limited.

We have been advised by Public Health that Members, officers and the public should carry out a lateral flow test before attending the meeting, and only attend if that test is negative. Provided you are not classed as exempt, it is requested that you wear a mask that covers both your nose and mouth.

A G E N D A

1. Appointment of Chair

2. Declarations of Interest

Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.

**3. Licensing Act, 2003 – Premises Licence - Grant - Q
Coffee Ltd, 35 Queens Road, Formby L37 2HF**

(Pages 5 - 24)

Report of the Head of Highways and Public Protection

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Report to:	Licensing Sub-Committee	Date of Meeting:	
Subject:	Licensing Act, 2003 – Premises Licence - Grant Q Coffee Ltd, 35 Queens Road, Formby L37 2HF		
Report of:	Head of Highways and Public Protection	Wards Affected:	Harington
Portfolio:			
Is this a Key Decision:	N	Included in Forward Plan:	N
Exempt / Confidential Report:	The Report is not exempt, however parts of the Annex have been redacted by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972. The Public Interest Test has been applied and favours the information being treated as exempt.		

Summary:

To give consideration to an application for the grant of a Premises Licence.

Recommendation(s):

The Sub-Committee's instructions are requested.

Reasons for the Recommendation(s):

Under the Scheme of Delegation Officers cannot determine applications which have received relevant representations.

Alternative Options Considered and Rejected: (including any Risk Implications)

N/A

What will it cost and how will it be financed?

(A) Revenue Costs

There are no financial costs associated with the proposals in this report

(B) Capital Costs

There are no financial costs associated with the proposals in this report

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Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):

There are no financial implications arising directly from this Report except in the event of any Appeal made against the Sub-Committee's eventual decision, the costs of which would depend upon the length of the Appeal process.

Legal Implications:

The Chief Legal and Democratic Officer will provide legal advice to the Licensing Sub Committee on the issues set out in this report.

Equality Implications:

There are no equality implications.

Contribution to the Council's Core Purpose:

The Sub-Committee is acting in an administrative capacity under the Licensing Act 2003.

What consultations have taken place on the proposals and when?

(A) Internal Consultations

Consultation has taken place as per the provisions of the Licensing Act 2003.

(B) External Consultations

Consultation has taken place as per the provisions of the Licensing Act 2003.

Implementation Date for the Decision

Immediately following the Committee meeting.

Contact Officer:	Kevin Hogan
Telephone Number:	0151 934 2946
Email Address:	Kevin.hogan@sefton.gov.uk

Appendices:

Annex – Objections Received.

Background Papers:

There are no background papers available for inspection.

1. Application details

Application: Grant of a Premises Licence

Premises: Q Coffee Ltd,
35 Queens Road,
Formby L37 2HF

Applicants: Q Coffee Ltd

Representative: SG Licensing Limited

Designated Premises Supervisor: Mr Anthony Witterick

Licensable activities applied for:

- The sale of alcohol by retail (on and off the premises):

Days of Operation	Hours of Operation
Monday to Sunday	08.00 to 20.00

Hours premises to be open to public:

Days of Operation	Hours of Operation
Monday to Sunday	8.00 to 20.30

2. Details of proposed Operating Schedule

2.1 GENERAL

The applicant states *that the premises will operate to a high standard, and will do so should this licence be granted in terms of the sale of alcohol. All staff will be fully trained in their responsibilities with regard to the sale of alcohol, and will be retrained every six months, with recorded training records kept for inspection.*

2.2 THE PREVENTION OF CRIME & DISORDER

- 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.
- Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.
- A monitor shall be mounted on the wall at the premises where it is clearly visible to all members of the public. The monitor shall show the live CCTV footage being recorded.
- 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.
- 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

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recordable format EITHER DISC or VHS to the Police/Local Authority on demand.

- vi) 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.
- vii) In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police immediately.

2.3 PUBLIC SAFETY

- i) Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the police. All relevant fire procedures are in place for a premise of this size.

2.4 THE PREVENTION OF PUBLIC NUISANCE

- i) Patrons attending the premises will be reminded of their responsibilities to leave the premises quietly.

2.5 PROTECTION OF CHILDREN FROM HARM

- i) 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. 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 any bar advertising the scheme operated.
- ii) 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.

3. Objections/Representations received

3.1 Other person, business or body

Under the prevention of public nuisance objective two local residents make representation.

Copies of their representations are attached in the Annex to this Report.

4. Additional licensing information

- 4.1 Paragraph 1.17 of the Guidance issued under S.182 of the Act ("the Guidance") states that each application "*must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for*

example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.”

4.2 With regard to conditions, Paragraph 1.16 says that these are “*are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:*

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*
- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format.”*

4.3 However paragraph 10.10, with respect to proportionality, underlines that the Act “*requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.”*

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- 4.4 In respect of Hearings, Paragraph 9.37 states that as *“As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.”* Paragraph 9.38 continues: *“in determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:*
- *the steps that are appropriate to promote the licensing objectives;*
 - *the representations (including supporting information) presented by all the parties;*
 - *this Guidance;*
 - *its own statement of licensing policy.”*
- 4.5 Paragraph 9.39 states that the *“licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.”* Paragraph 9.40 states that alternatively *“the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information”.*
- 4.6 In addition to the above, Paragraph 9.42 states that *“Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be”* and further within Paragraph 9.43 that the *“authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”*
- 4.7 Paragraph 9.44 indicates that determination *“of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment*

of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business....The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. ”

4.8 SEFTON'S STATEMENT OF LICENSING POLICY

PUBLIC NUISANCE

In relation to the prevention of public nuisance objective, paragraph 3.9 advises applicants to consider the following matters when making an application:

- The type of activity, its frequency and the number and nature of customers likely to attend;
- Measures taken, or proposed, to prevent noise and/or vibration escaping from the premises given its location and proximity to residential and other noise sensitive premises. This would include music, plant noise and human voice, whether amplified or not;
- Measures taken to prevent the transmission of sound and/or vibration to adjoining properties;
- Measures taken, or proposed, for management and supervision of the premises and open areas to minimise unreasonable disturbance by customers and staff arriving or leaving the premises, including the delivery of goods and services;
- The proposed hours of operation for all, or parts, of the premises;
- Measures taken to prevent cooking odours and other smells escaping from the premises;
- Means of access to and egress from the premises, including customer entrances and exits on principal pedestrian routes;
- Whether routes to and from the premises pass residential premises;
- Whether the premises would result in increased refuse storage, disposal problems or additional litter in the vicinity of the premises, including measures taken to ensure the collection and disposal of litter and waste outside the premises;
- Measures to be taken to reduce drunkenness on the premises, e.g. the “Drink Less Enjoy More” scheme;
- If appropriate, a ‘wind down’ period between the end of the licensable activities and closure of the premises;

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Should the applicant, or a responsible authority, identify possible sound leakage from the premises paragraph 3.10 indicates that the Authority would expect this to be addressed in practical ways, such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation, or if necessary, air conditioning;
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level;
- Installing soundproofing measures to contain sound and vibration

In premises where customers leave late at night, or early in the morning paragraph 3.11 states that the Authority would expect the applicant to have included, in the Operating Schedule, such practical steps as:

- Erecting prominent notices at the exits to the premises asking customers to leave quietly and not to slam car doors;
- At appropriate time making loud speaker announcements to the same effect;
- Instructing door staff to ask customers leaving the premises to do so quietly;
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down;
- Improving availability of licensed taxis or private hire vehicles to take customers from the premises;
- Refusing entry to people known to regularly leave in a noisy manner;
- The supervision of any queues so as to keep noise and disturbance to a minimum

4.9 GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

PUBLIC NUISANCE

Paragraph 2.15 states that the Act “enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.”

Public nuisance is given a statutory meaning in many pieces of legislation. Paragraph 2.16 states that it is “however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.”

Paragraph 2.17 states that Conditions *“relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable...Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.”*

Paragraph 2.18 continues that as with all conditions *“those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.”*

Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods, Paragraph 2.19 stating for example *“the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.”*

Paragraph 2.20 states that measures to control light pollution should also require careful thought: *“Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.”*

Finally Paragraph 2.21 underlines that beyond *“the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.”*

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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The Licensing authority

24th March 2022

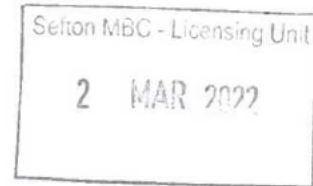
Licensing unit,

Sefton MBC

Magdalen House

30 Trinity road

Bootle L20 3NJ



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Sir/Madam,

It is with concern that I have learned that the premises at 35 Queen's road, Formby L37 2HF, to be known as Q Coffee, has applied to Sefton MBC for a Grant of a Premise Licence for the sale of alcohol by retail. I feel that the granting of a licence to premises within a residential area housing mainly families and elderly and disabled people will cause disruption, noise nuisance, traffic congestion and public disorder. As it will be the only licensed premise in the immediate area it will attract large numbers of people to a narrow residential junction which cannot sustain this.

The premises are at the junction of Queens road and Foster road. Foster road is a narrow road which already sees bottlenecks of traffic at key times of day, as it is the route through to two schools and there is a coop on the corner opposite the premises at no 35 Queens road which already brings a lot of congestion to the junction.

Since the arrival of the Coop the amount of litter has increased locally with broken bottles often found in Foster road and Sealand Close around the corner which are main routes for children to St. Lukes School and Range High School. The arrival of a licensed premises which is open all day from 8-8.30 can only add to the amount of litter. I therefore believe that the inevitable increase in traffic congestion and glass litter will be a hazard for local children and for the elderly disabled residents living in the Sealand Close housing estate which is behind the Coop.

Furthermore, during the summer months Queen's road is one of the main routes for visitors arriving at Formby to visit the National Trust Beach at Lifeboat road. Summer and holidays already see large numbers of visitors on foot and by car gathering and queuing outside the Coop store to purchase snacks and drink on the way to the beach. The siting of a licensed premises on the same narrow junction will not only add substantially to the crowds gathering along the pavement outside to drink and smoke but will also encourage people to 'hang around' outside after visiting the beach well into the evening. This will not only make the junction dangerous from a pedestrian and traffic perspective, but it will also see groups of youths gathering at night and will bring problems with public disorder and security for residential property in the immediate area, as well as noise disturbance.

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I therefore wish to make a representation against the granting of a licence to sell alcohol at 35 Queen's road Formby.

Yours sincerely, *ad*

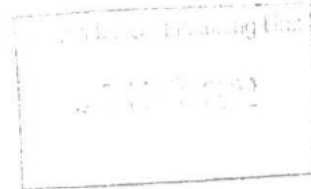
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[Redacted contact information]



25th March 2022

The Licensing Authority
Licensing Unit
Sefton MBC
Magdalen House
30 Trinity Road
Bootle
L20 3NJ



Dear Sir/ Madam,

I am writing to you with concern upon hearing that the premises at 35 Queens Road, Formby L37 2HF to be known as Q Coffee has applied to Sefton MBC for a grant of premises license for the sale of alcohol by retail. I believe that the granting of a license to premises would be detrimental to the residential area which house mainly families, the elderly and people who have either or both physical and mental disabilities. Thus causing public disorder, noise nuisance, disruption to residents everyday lives and traffic congestion. As Q Coffee would be the only licensed premises within the immediate area I feel that this would only cause and attract large numbers of people to gather at a narrow residential junction that would not be able to sustain the footfall.

The premises is situated at the junction of Queens Road and Foster Road. Foster Road being a narrow road which is a through route to two schools, which causes bottlenecks of traffic at key times of the day. There is CO-OP on the opposite corner of the said premises which already brings a lot congestion, along with the obstruction of pavement parking.

Not only has the opening of the CO-OP increased the amount of congestion to the immediate area it has increased the amount of litter and broke bottles which have been discarded along Foster Road, Sealand Close and the alleyway, this being the main route used by school children who attend ST LUKES SCHOOL and THE RANGE HIGH SCHOOL. I strongly believe that the arrival of a licensed premises with the opening hours 8am - 8.30pm would not only encourage crowds to gather but also increase traffic congestion and litter being discarded. The glass litter in particular being a hazard not only to the local children but also to the wildlife , pets and residents of Sealand Close.

Having the siting of a licensed premises along the same narrow junction as the CO-OP would only increase the volume of traffic and people to a quiet residential area. Especially during the summer months as Queens Road is one of the main routes used by visitors wanting to visit the National Trust Beach – Lifeboat road.

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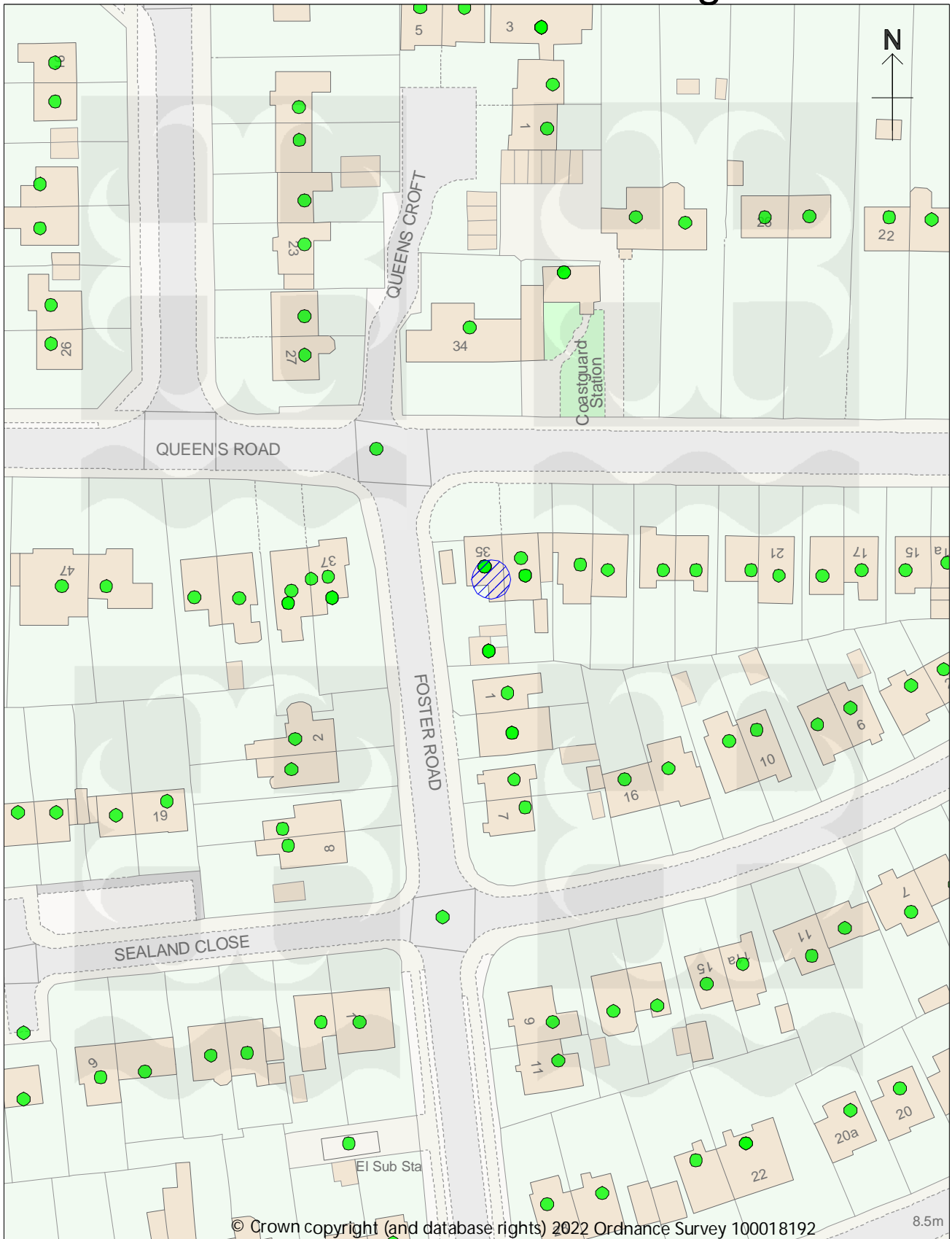
Furthermore this would encourage crowds to drink, smoke and hang around on the pavement in groups causing not only noise nuisance and intimidation to the local residents but also making the junction dangerous from both a traffic and pedestrian perspective. I am extremely concerned that youths will start to hang around at night and that the immediate area will not only suffer from anti social behaviour, but may also attract the selling and using of illegal drugs which these venues are a point of opportunity for these types of illegal activities. This will also bring problems with public disorder and the security of residential properties and residents' cars.

I therefore wish to make a representation against the granting of a license to sell alcohol at 35 Queens Road Formby L37 2HF.



Yours Faithfully





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Sefton Council



Reference: Grant
Date: 28/03/2022
Scale: 1:1000
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Q Coffee Limited
35 Queens Road
Formby

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