

PART A

Report to: Licensing Sub-Committee
Date of meeting: 20 December 2013
Report of: Head of Community and Customer Services
Title: Application for a New Premises Licence:
111 Leavesden Road, Watford WD24 5ER
13/01344/LAPRE

1.0 SUMMARY

1.1 An application has been made by Mr Azhar Ali for a new premises licence for 111 Leavesden Road, Watford WD24 5ER. Three relevant representations have been received from local residents as interested parties.

2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines whether to grant the application (amended where necessary for the promotion of the licensing objectives) as set out in the report.

Contact Officer:

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Report approved by: Alan Gough, Head of Community and Customer Services

3.0 **APPLICATION**

3.1 Type of authorisation applied for
New premises licence

3.2 Description of premises

The applicant describes the premises as a convenience store.

3.3 A plan of the premises is attached at appendix 1.
A location of the premises is attached at appendix 2.

3.4 Licensable activities

Licensable activity	Now applied for
Plays	
Films	
Indoor sports events	
Boxing or wrestling entertainment	
Live music	
Recorded music	
Performances of dance	
Anything of a similar description to live or recorded music or dance	
Provision of facilities for making music	
Provision of facilities for dancing	
Provision of facilities of a similar description to making music or dancing	
Provision of late night refreshment	
Sale by retail of alcohol for consumption on the premises	
Sale by retail of alcohol for consumption off the premises	✓

3.5 Licensable hours

The requested hours for licensable activities and premises opening are detailed in the table below.

	Sale of alcohol*	Premises open to the public
Monday	08:00 – 21:00	08:00 – 21:00
Tuesday	08:00 – 21:00	08:00 – 21:00
Wednesday	08:00 – 21:00	08:00 – 21:00
Thursday	08:00 – 21:00	08:00 – 21:00
Friday	08:00 – 21:00	08:00 – 21:00
Saturday	08:00 – 21:00	08:00 – 21:00
Sunday	08:00 – 21:00	08:00 – 21:00

* The application as originally sought was 08:00-23:00 but the applicant has voluntarily amended the application to the hours as set out above.

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor
Azhar Ali

4.3 Current licences held
No licences are held

4.4 Closing date for representations
5 December 2013

4.5 Public notice published in newspaper
15 November 2013

4.6 Visits and Enforcement action
There have not been any visits or enforcement action.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 The applicant's operating schedule is reproduced at appendix 3.

6.0 **RESPONSIBLE AUTHORITIES**

6.1 Police
No representations

6.2 Fire and Rescue Service
No representations

6.3 Environmental Health
No representations

6.4 Planning
No representations

6.5 Trading Standards
No representations

6.6 Child Protection
No representations

7.0 **RESIDENTS OR BUSINESSES WHO MAY BE AFFECTED BY THE APPLICATION**

7.1 The following representations have been received from residents or businesses who may be affected by the application and are shown at appendix 4.

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Cllr Ian Brandon	1 Dodd Road, Constable Court	No	Crime and disorder; child protection
B	Nicola Bradford	Flat 2, 1b Garfield Street	No	Crime and disorder; public nuisance; and public safety
C	Samantha Wilson	Flat 1, 1b Garfield Street	No	Public nuisance

- 7.2 Representation A, from a ward councillor, alleges that there have been environmental health concerns in the past about these premises. Department records show that the last involvement with the premises was in 2009, and that a different individual to the current applicant was then operating a business from those premises (as indeed representation C alludes to). There is a reference to the cumulative impact of premises. The committee will be aware that there are no cumulative impact policy areas for town centres and, even if the new 2013 – 2018 statement of licensing policy were to apply to this application, it would not fall within a Sensitive Licensing Area which was developed after public consultation.
- 7.3 Representation B is based on the original hours that were applied for, but nevertheless it's reasonable to assume that the same concerns still exist despite the now shorter hours being sought. It refers to problem levels being created for the police, but the police – who are the experts in the prevention of crime and disorder – have not made any representations. There is comment about the number of alternative licensed premises nearby but the committee is aware that each case must be decided on its own merits. Concerns about noise nuisance and anti-social behaviour may be legitimately taken into account based on the interested party's evidence of the current situation, but again the committee is aware of the alteration made to the application which may curtail some of that potential nuisance.
- 7.4 The final representation is, like the one before it, made by someone living in a neighbouring property to the applicant's and therefore carries some weight. The interested party's concerns about shutters closing late at night are too some extent now redundant in light of the amended application. References to other premises in the vicinity are, as the committee knows, irrelevant insofar as they relate to the need for another alcohol outlet.
- 7.5 The interested party's comments relating to public safety are, in her own words, melodramatic and the committee's thoughts should be concentrated on what is reasonable and appropriate. There is no evidence to suggest that the scenarios presented are likely or that there would be a "significant" change in the number of people who will shop there, leading to a "significant" increase in anti-social behaviour. Whilst each application is assessed on its individual merits the committee might want to take into account that the experience of the licensing authority is that anti-social behaviour does not automatically follow with the grant of a new licence, particularly where the

premises has strong management and compliance with licence conditions. Nor does public urination become a problem in relation to off-licences. If the committee feels that it is appropriate, they may impose a condition requiring provision of a litter bin but this again would be exceptional for this type of premises.

7.6 Finally, Ms Bradford comments that she writes on behalf of other residents in her property and residents of Garfield Street and Leavesden Road. As there is no evidence to suggest she has authority to speak on behalf of anyone else the committee is invited to disregard that suggestion.

8.0 POLICY CONSIDERATIONS

8.1 The following provisions of the Licensing Act 2003 apply to this application:

- Section 17, 18 (application for a premises licence):
Section 17 details the process which the applicant must have followed for the application to be considered valid. Section 18 describes the process by which an application for a premises licence is determined, including where relevant representations have been made as in this case.
- Sections 19, 21 (mandatory conditions):
Section 19 details the mandatory conditions that would apply to this premises licence if granted to include the supply of alcohol. Section 21 details the mandatory conditions that would apply if the sub-committee was minded to impose a condition requiring the premises to have door supervisors.

8.2 The following provisions of the Secretary of State's guidance apply to this application:

- Paras 8.33 - 8.36
These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in light of this guidance whether the measures offered by the applicant are adequate and likely to promote the licensing objectives. It is equally important to use the same measure when looking at any steps requested by a party making representation against an application.
- Chapter 10:
This chapter looks at best practice in relation to conditions that may be attached to a premises licence by the Sub-Committee, should they believe that these are necessary to promote the licensing objectives. Any additional conditions requested by the responsible authorities should be considered with reference to this chapter.

8.3 This application was received on 7 November 2013 and therefore the licensing authority's statement of licensing policy 2011 – 2013 is applicable. The following paragraphs of the policy apply to this application:

- Policy LP1 (Premises Definitions):
Under this policy the premises is defined as an “Off-licence”.
- Policy LP2 (Location and Operation of Premises):
This policy sets out the approach to licensing premises when relevant representations are received, notwithstanding that each application is considered on its own merits. The premises which are the subject of this application fall within the residential area and as such this policy states that off-licences will generally be allowed alcohol sales in accordance with the normal opening hours of the shop.
- Policy LP6 (Prevention of Crime and Disorder)
This policy sets out factors the committee can consider where representations have been raised relating to the prevention of crime and disorder.
- Policy LP7 (Public Safety)
The committee’s discretion is engaged in relation to this policy where there are relevant representations relating to public safety.
- Policy LP8 (Prevention of Public Nuisance)
Under this policy the committee will consider any necessary measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.
- Policy LP9 (Protection of Children From Harm)
The committee may exercise its’ discretion under this policy where there are relevant representations to consider that relate to protection of children from harm.
- Policy LP11 (Representations against Applications)
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

8.4 The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority’s responsibility to co-operate in the reduction of crime and disorder in the Borough.

8.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

9.0 **RELEVANT TRADE OR OTHER GUIDANCE**

None

10.0 **CONDITIONS**

- 10.1 Consistent with operating schedule
A draft licence showing those conditions which would be consistent with the operating schedule is produced at appendix 5.
- 10.2 The operating schedule refers to the installation of CCTV on the premises. The authority should not be minded to make this a licence condition. The statutory CCTV code of practice and advice from the Information Commissioner suggests that such conditions should only be included on licences where there is evidence of problems making it appropriate to do so.
- 10.3 No conditions can be imposed relating to fire safety, due to the operation of the Regulatory Reform (Fire Safety) Order 2005.
- 10.4 Conditions should not be imposed setting out that people under 18 or who are drunk will not be sold alcohol, as these are already criminal offences under the Act.
- 10.4 Conditions proposed by the responsible authorities and/or interested parties
None
- 10.5 Pool of Model Conditions
The licensing authority also has its own pool of model conditions. Officers have not suggested any further conditions from the pool that would help to address the concerns of the interested parties.
- 10.6 It is for Members to decide, in light of the representations and evidence, whether any of the conditions from the pool of model conditions (amended or otherwise) are necessary, proportionate and reasonable to promote the licensing objectives. In undertaking this exercise Members should take into account the harm that the condition would prevent and the applicant's resources in being able to comply with it.
- 11.0 **OFFICERS' OBSERVATIONS**
- 11.1 If the sub-committee is minded to restrict the hours of the premises beyond those detailed in this report then regard should be given to Policy LP2 and Policy LP3. The application is already within the hours detailed in LP2 so to restrict them further would be to depart from the Licensing Policy.
- 11.2 The committee ought to strongly take into consideration the lack of representation from any of the responsible authorities when considering the representations. It should be remembered that unless there are good reasons to refuse an application because of risks to the licensing objectives, the licence ought to be granted and any subsequent breaches addressed through the licence review and/or enforcement process.
- 11.3 Before making its determination, the committee may wish to take account of the size of the premises, and the location of the alcohol displays in relation to the sales counter which allows staff to monitor who is buying alcohol and which may therefore address some of the interested parties concerns.

- 11.4 The committee has a duty to have regard to the policy but is not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.

Appendices

Appendix 1 – plan of the premises

Appendix 2 – location of the premises

Appendix 3 – operating schedule

Appendix 4 – representation from interested parties

Appendix 5 – draft licence

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 (Home Office June 2013)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy 2011

Surveillance Code of Practise (Home Office, June 2013)

Regulatory Reform (Fire Safety) Order 2005

File Reference

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