

REPORT TO: LICENSING SUB COMMITTEE

DATE: 18 APRIL 2023

TITLE: APPLICATION FOR A PREMISES LICENCE -
IMRAN NEWSAGENTS & GENERAL STORES
1 THE MARRIOTS, THE HOO, HARLOW, CM17
0HT

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RECOMMENDED that:

- A** The Licensing Sub Committee consider an application made by Balgees Akhtar under section 17 of the Licensing Act 2003 (“The Act”) for a premises licence in respect of Imran Newsagents & General Stores, 1 The Marriots, The Hoo, Harlow, CM17 0HT. This application has received relevant representations during the consultation period and therefore the Sub Committee is requested to determine what steps, if any, it considers are appropriate to promote the Licensing Objectives for the overall interests of the community.
- B** In carrying out its licensing functions, the Sub Committee should give appropriate weight and consideration to:
- i) The Licensing Act 2003 (“The Act”),
 - ii) Secondary regulations issued under the Act,
 - iii) The Section 182 guidance issued to local authorities under the Act,
 - iv) The Harlow Council Licensing Policy 2019 – 2024,
 - v) The steps that are appropriate to promote the licensing objectives,
 - vi) The application for the premises licence, and
 - vii) Relevant representations (and any supporting evidence) submitted by each party.

BACKGROUND

1. Acting in the capacity of the Licensing Authority, Members must seek to promote the Licensing Objectives. Where Members consider that matters have engaged one or more of the Objectives, they may exercise their discretion. The Licensing Objectives are:
 - a) The prevention of crime and disorder
 - b) Public Safety
 - c) The prevention of public nuisance

- d) The protection of children from harm
2. Where appropriate, options available to Members under section 18(4) of the Act in relation to an application for a premises licence are:
 - a) Grant the application, subject to conditions consistent with the operating schedule;
 - b) Grant the application, subject to modified conditions consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives;
 - c) Reduce the hours sought during which licensable activities may take place;
 - d) Reject one or more requested licensable activity;
 - e) Reject the whole application.

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

3. Imran Newsagents and General Stores is a convenience store located in The Marriots, a small area located within The Hoo in Old Harlow. The Marriots consists of 9 residential premises, and 1 business premises (the applicant). There is a parking bay to the front of The Marriots for up to 3 vehicles. Appendix A to the report shows two photographs of the street and Appendix B to the report shows a location area plan.

Application

4. A valid application for a new Premises Licence was made on 20 February 2023 for the following licensable activities, days, and timings. A copy of this is set out in Appendix C to the report.

Sale or Supply of Alcohol (Off-Sales)	
Monday to Sunday	10:00 - 23:00

5. A copy of an internal plan of the premises is set out in Appendix D to the report.
6. In accordance with the Licensing Act 2003 regulations, public notices have been displayed and published. Responsible authorities were notified of the application. The consultation period ended on 20 March 2023.

ISSUES

Consultation

7. No representation has been received from any of the Responsible Authorities.
8. Essex Police proposed additional conditions during the consultation, the applicant has agreed for these to be added to the premises licence. A copy of this is set out in Appendix E to the report.
9. The Licensing Team received four relevant representations from other persons during the consultation. These are set out in Appendices F1-4 to the report.
10. The three representations that disclosed their address all live close to the applicant's business. The representations focus on the Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm.
11. The applicant and all parties that made representations have been sent the statutory Notice of Hearing, inviting them to attend the hearing with or without representation.

PROPOSALS

Determine the Application

12. Any decision is to be made with regard to the Licensing Act 2003, the Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003, and the Council's adopted Statement of Licensing Policy. Some points of reference are included in this report.
13. Members are reminded that should any conditions be added or modified, they should be practical, enforceable, and appropriate to promote the Licensing Objectives.

Statement of Licensing Policy

14. Prevention of Public Nuisance –

*Para 5.2 "The Council intends to interpret "**public nuisance**" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area."*

Para 5.3 "Applicants need to be clear that the Council will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated effective measures planned to prevent public nuisance are in place, may be suitable for longer opening hours."

Para 5.4 “In the case of shops, stores and supermarkets selling alcohol, the Council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.”

Secretary of State’s Section 182 Guidance for the Licensing Act 2003

15. The Sub Committee’s attention is directed towards Chapter 9 ‘Determining applications’ and Chapter 10 ‘Conditions attached to premises licences and club premises certificates’ in the Section 182 Guidance.
16. *Para 2.16 “**Public nuisance** is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning...”*
17. *Para 2.21 “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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.”*
18. *Para 2.22 “The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.”*
19. *Para 9.4 “...There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.”*
20. *Para 9.12 “Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective. ...”*
21. *Para 9.37 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.

22. *Para 9.42 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.*
23. *Para 9.43 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.*
24. *Para 9.44 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... 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."*
25. *Para 10.8 "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations."*
26. *Para 10.9 "It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives."*
27. *Para 10.13 "...licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application."*

Legal Considerations

28. Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.
29. In addition to determining the application in accordance with the legislation, the Sub Committee must have regard to the:
 - a) Common rules of natural justice
 - b) Provisions of the Human Rights Act 1998
 - c) Considerations in Section 17 of the Crime and Disorder Act 1998
30. The Human Rights Act 1998, which requires authorities to take into account the rights of individuals to respect for their private and family life (Article 8), a right to a fair trial/hearing (Article 6) and to protection of their property (Article 1, Protocol 1).
31. There is a statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1988 to exercise its various functions doing all that it can to prevent Crime and Disorder, and Anti-Social Behaviour, behaviour adversely affecting the environment as well as the misuse of drugs, alcohol and re-offending in the Local Environment.
32. Under section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal for the applicant or a party to the hearing against a decision of the Licensing Sub-Committee to the Magistrate's Court within 21 days of being notified.

IMPLICATIONS

Strategic Growth and Regeneration

As set out in the report.

Author: Tanusha Waters, Assistant Director Planning and Building Control

Finance

In the event of an appeal being lodged against the Committee's decision then should that appeal be successful costs could be awarded against the Council. In such circumstances costs would in the first instance be met from within existing budgets.

Author: Simon Freeman, Deputy Chief Executive and Director of Finance

Housing

None specific.

Author: Andrew Murray, Director of Housing

Communities and Environment

As outlined in the report.

Author: Norah Nolan, Interim Assistant Director Environment

Governance and Corporate Services

Members must have due regard to the application for a new Premises Licence and the proposed licensable activities, the representations received and determine the application in accordance with the promotion of the licensing objectives. Further legal advice in relation to any aspect of this application may be provided by an Officer at the Sub-Committee hearing to enable the process to be fair to all parties.

Author: Simon Hill, Director of Governance and Corporate Services

Appendices

Appendix A - Two Street Photographs

Appendix B - Location Area Plan

Appendix C - Premises Licence Application Form

Appendix D - Premises Licence Application Premises Plan

Appendix E - Essex Police Proposed Conditions Agreed by Applicant

Appendix F1-4 - Representations from Other Persons

Background Papers

[Crime and Disorder Act 1998 section 17](#)

[Harlow Council Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Licensing Act 2003 Councillor's Handbook](#)

[Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003 \(December 2022\)](#)

Glossary of terms/abbreviations used

None