

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

Committee	Licensing Sub-Committee (North)
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Papers with report NOT FOR PUBLICATION The appendices contain confidential or exempt information and are included in Part 2	<ul style="list-style-type: none">• Appendix 1 – Inspection report by Ian Meens, Licensing Service• Appendix 2 – Further statement from Ian Meens, Licensing Service• Appendix 3 – Statement from PC Chris Troughton• Appendix 4 – Submissions made by the Licence Holder for consideration by the Licensing Sub-Committee

Ward(s) affected	South Ruislip
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SUMMARY

The Licensing Sub-Committee are being reconvened to conclude the hearing to consider an application for a Review of a premises licence in respect of **Ruislip Superstore, 67 Station Approach, South Ruislip, HA4 6SD**.

RECOMMENDATION

That the Licensing Sub Committee conclude the review of the premises licence and make a determination.

INFORMATION

1. The Licensing Sub-Committee is being reconvened to conclude the Ruislip Superstore Review application.
2. The original hearing took place on 22nd October 2014 and the full report is available online at <http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=300&MId=2221>
Hard copies are available from Democratic Services.
3. At the meeting of the Licensing Sub-Committee on Wednesday 22nd October 2014, Members deferred determination of the review application in order for further information to be received and verification checks to take place at the premises.
4. A number of checks have taken place including a full compliance visit carried out by Ian Meens of the Licensing Service and a technical appraisal of the installed CCTV system by the Metropolitan Police Service.

5. Ian Meens carried out a full Licensing Compliance inspection on 23rd October 2014. A number of compliance issues were noted and statement giving details of the inspection is annexed as **APPENDIX 1**.
6. A further statement from Ian Meens is attached as **APPENDIX 2**,
7. On Tuesday 28th October 2014, Acting Police Sergeant Wares visited the premises accompanied by PC Chris Troughton, a visual images specialist from the Metropolitan Police Service.
8. The Licence Holder, Ms Reeni Eguine, has also been given an opportunity to submit any relevant documents to be considered by the Licensing Sub-Committee. These are annexed as **APPENDIX 4**
9. Ms Eguine has also provided the Authority with the CCTV hard drive from the premises. An Officers report giving the findings of the CCTV footage, once viewed, will be available to the Licensing Sub-Committee at the meeting.

LEGAL IMPLICATIONS

10. The licensing authority must review the premises licence where it is alleged in an application for review by a Responsible Authority or other persons that any of the licensing objectives are being undermined.
11. "Relevant representations" are those which :—
 - Are relevant to one or more of the licensing objectives;
 - Are made by a Responsible Authority or other persons within the prescribed period;
 - Are made by the holder of the premises licence in response to an application for a review of the said premises;
 - Have not been withdrawn; and
 - If made by other persons, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

The four licensing objectives are –

- The prevention of crime and disorder;
- Public safety;
- The prevention of nuisance and
- The protection of children from harm

Each objective must be considered to be of equal importance

12. The Licensing Sub-Committee must also consider the London Borough of Hillingdon's Licensing Policy when what action, if any, to instigate. The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act must prevail.

13. Members are required to have regard to the Home Office Guidance in carrying out the functions of Licensing Authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.
14. The sub-committee may decide to: –
 - Take no action
 - Modify the conditions of the licence by altering, omitting or adding any condition;
 - Issue a formal warning, recommending an improvement within a specified time frame;
 - Exclude a licensable activity from the scope of the licence;
 - Remove the designated premises supervisor;
 - Suspend the licence for a period not exceeding three months; or
 - Revoke the licence.

For this purpose the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

15. The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

In deciding what remedial action if any it should take, the Sub-Committee must direct its mind to the causes or concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response.

It is of particular importance that any detrimental financial impact that may result from a Licensing Authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

16. **Conditions**

Conditions will not be necessary if they duplicate a current statutory requirement.

Members are also referred to the Home Office guidance on conditions, specifically section 10 which states that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardized conditions which ignore these individual aspects should be avoided. Licensing Authorities and other Responsible Authorities should be alive to the indirect costs that can arise because of conditions.

Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

17. **Notification of Determination**

Where the Licensing Authority determines an application for review it must notify the determination and reasons for making it to: –

- The holder of the licence;
- Any person who made relevant representations;
- The chief officer of police for the area (or each police area) in which the premises are situated

18. **The Role of the Licensing Sub-Committee**

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety, public health and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of the Licensing Authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from Responsible Authorities and other persons. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Responsible Authorities, other persons and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days

beginning with the day on which the applicant was notified by the Licensing Authority of the decision to be appealed against.

19. **FINANCIAL IMPLICATIONS**

Members should be aware that the Residents Services does not have a budget for provision for costs, should the applicant be successful in appealing to the Court against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.