

APPLICATION FOR THE GRANT OF A PREMISES LICENCE: NORTHWOOD NEWS

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| Committee | Licensing Sub-Committee |
| Officer Contact | Jhini Mukherjee, Licensing Officer |
| Papers with report | Appendix 1 - Application for the grant of a new premises licence Appendix 2 - Recommended Conditions Appendix 3 - Representation from Northwood Residents' Association Appendix 4 - Representation from Gatehill Residents' Association Appendix 5 - Representation from local resident Appendix 6 - Letter of support from Resident Appendix 7 - Letter from Met Police Appendix 8 - Map of the area Appendix 9 - Photos of the shop |
| Ward name | Northwood |

1.0 SUMMARY

To consider an application for a premises licence as seen in **Appendix 1** in respect of Northwood News, 46 Green Lane, Northwood, HA6 2QB which has attracted representations from three interested parties, two of which are Residents' associations.

2.0 RECOMMENDATION

To grant the licence consistent with the operating schedule conditions, in addition to the proposed conditions in Appendix 2.

3.0 APPLICATION

The new premises licence application has been made by Kandasamy Sivanathan for an off-licence shop, situated at 46 Green Lane, Northwood, HA6 2QB. The application submitted is for a licence to sell alcohol, Monday to Sunday, from 06.00 hours to 23.00 hours.

3.1 Type of application applied for

New Premises Licence application under Licensing Act, 2003

3.2 Description of the premises

The premises is a local newsagent and convenience store who would also like to start selling alcohol.

3.3 Licensable Activities

| <u>Activity</u> | | <u>Proposed for new premises licence</u> |
|-----------------|------------------------------|--|
| Sale of alcohol | Consumption off the premises | x |

3.4 Opening Hours and proposed hours for licensable activity

| | Opening hours of the premises | Proposed hours for sale by retail of alcohol |
|------------------|-------------------------------|--|
| Monday | 06:00 - 23:00 | 06:00 - 23:00 |
| Tuesday | 06:00 - 23:00 | 06:00 - 23:00 |
| Wednesday | 06:00 - 23:00 | 06:00 - 23:00 |
| Thursday | 06:00 - 23:00 | 06:00 - 23:00 |
| Friday | 06:00 - 23:00 | 06:00 - 23:00 |
| Saturday | 06:00 - 23:00 | 06:00 - 23:00 |
| Sunday | 06:00 - 23:00 | 06:00 - 23:00 |

3.5 Other licensed premises on Green Lane between Waitrose and Misty Moon

| Premises | Activities Authorised | Times Authorised |
|---|--|---|
| Waitrose, 52 Green Lane, Northwood, HA6 2XW | Sale by retail of alcohol | Monday to Sunday - 07.00 hours to 23.00 hours. |
| Regal Kebab & Fish Bar, 63 Green Lane, Northwood, HA6 3AD | Late night refreshment | Monday to Thursday - 23.00 hours to 00.00 hours; Friday and Saturday - 23.00 hours to 01.00 hours |
| Lomito, 41 Green Lane, Northwood, HA6 3AE | Sale by retail of alcohol Regulated Entertainment Late Night Refreshment (LNR) | <u>Sale of alcohol</u> Monday to Sunday - 10.30 hours to 00.00 hours; <u>Regulated Entertainment</u> Monday to Sunday - 23.00 hours to 00.00 hours; <u>LNR</u> Monday to Sunday - 23.00 hours to 00.00 hours |
| ASK Restaurant, 35 A Green Lane, Northwood, HA6 2PX | Sale by retail of alcohol Provision of recorded music Late Night Refreshment (LNR) | <u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 23.30 hours; <u>Regulated Entertainment</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours; <u>LNR</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours |

| | | |
|---|---|---|
| <p>Brisa 36 (Caffe Casa Mia), 36 Green Lane, Northwood, HA6 2QB</p> | <p>Sale by retail of alcohol</p> | <p>Monday to Sunday - 11.00 hours to 22.00 hours</p> |
| <p>Melisi, 29 Green Lane, Northwood, HA6 2PX</p> | <p>Sale by retail of alcohol Regulated Entertainment Late Night Refreshment</p> | <p><u>Sale of alcohol</u> Sunday to Wednesday - 11.30 hours to 23.00 hours; Thursday - 11.30 hours to 00.00 hours; Friday and Saturday - 11.30 hours to 01.00 hours; <u>Regulated Entertainment</u> Sunday to Thursday - 23.00 hours to 23.30 hours; Friday and Saturday - 23.00 hours to 00.00 hours <u>LNR</u> Thursday - 23.00 hours to 00.00 hours; Friday and Saturday - 23.00 hours to 01.00 hours</p> |
| <p>Northwood Piazza, 28 Green Lane, Northwood, HA6 2QB</p> | <p>Sale by retail of alcohol Regulated Entertainment Late Night Refreshment</p> | <p><u>Sale of alcohol & Regulated Entertainment</u> Monday to Thursday - 10.00 hours to 00.00 hours; Friday and Saturday - 10.00 hours to 01.00 hours; Sunday - 12.00 hours to 23.30 hours <u>LNR</u> Monday to Thursday - 23.00 hours to 00.30 hours; Friday and Saturday - 23.00 hours to 01.30 hours; Sunday - 23.00 hours to 00.00 hours</p> |
| <p>Maharaja Restaurant, 24 Green Lane, Northwood, HA6 2QB</p> | <p>Sale by retail of alcohol Regulated Entertainment Late Night Refreshment</p> | <p><u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 23.30 hours <u>Regulated Entertainment</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours <u>LNR</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours</p> |
| <p>Misty Moon, 27 Green Lane, Northwood, HA6 2PX</p> | <p>Sale by retail of alcohol Regulated Entertainment Late Night Refreshment</p> | <p><u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 00.00 hours; <u>Regulated Entertainment</u> Monday to Sunday - 23.00 hours to 00.30 hours; <u>LNR</u> Monday to Sunday - 23.00 hours to 00.00 hours</p> |

3.6 Operating Schedule and Conditions

Section 18 of the operating schedule of the Application demonstrates the steps the applicant proposes to take in order to promote the licensing objectives.

The Prevention of crime and disorder

1. A CCTV system shall be installed and maintained at the premises to cover the entrance and internal public areas, recorded images shall be kept for 31 days and provided to Police or Council Officers, in a useable form, upon request.
2. Ensure an incident book is maintained at the premises to record details of any incidents the nature of which may have compromised any of the licensing objectives under the Licensing Act 2003. CCTV recording dates & times shall be linked to incident book entries.

Public Safety

3. The store will follow general health and safety and fire safety law.

The prevention of public nuisance

4. The Management will maintain the area clean and tidy at all times.

The protection of children from harm

5. Ensure that a Challenge 25 policy is operated at the premises with appropriate signage displayed inside and outside the premises.
6. Ensure that all staff are given regular training in relation to the Licensing Act 2003. Training records will be kept at the premises and refresher training will be given to all staff every year.
7. Ensure a 'refusals register' is in use at the premises to record age related and other refused sales in electronic form or in a hard copy.

4.0 **CONSULTATION**

4.1 Closing date for representations
30 January 2019

4.2 Public Notice published in local newspaper
10 January 2019 - Harrow Times

5.0 **REPRESENTATIONS**

5.1 We have received three representations, two of which are from Residents' associations

| Interested Parties | Ground for Representation | Appendix |
|--|--|-------------------|
| Trevor Shirling for and on behalf of Northwood Residents Association | Prevention of Public Nuisance | Appendix 3 |
| Susan Howells for and on behalf of Gatehill Residents' Association | Prevention of Crime and Disorder, Prevention of Public Nuisance | Appendix 4 |
| Valery Rees | Prevention of Public Nuisance, Protection of Children From Harm | Appendix 5 |

5.2 We have also received letters of support from one local resident and one from Metropolitan Police, both of which are appended as **Appendices 6 and 7**.

6.0 BACKGROUND INFORMATION

6.1 Designated Premises Supervisor

The proposed designated Premises Supervisor is Kandasamy Sivanathan, a personal licence holder under number 01765 with London Borough of Ealing. Mr Sivanathan has held the personal licence for the last twelve years.

6.2 Map of the area and photos of the premises and the surrounding area are attached as **Appendices 8 and 9**.

6.3 There have been no recorded Members' Enquires for this premises.

7.0 OFFICER'S OBSERVATIONS

7.1 This is an application from a local newsagent and convenience store who also wants to start selling alcohol from the shop. The proposed hours for sale of alcohol are Monday to Sunday, 06.00 hours until 23.00 hours. The applicant had previously applied for Temporary Events Notice (TEN) to sell alcohol from the premises and we did not receive any complaints about the premises during that time. Rather, the premises passed a test purchase operation carried out by Metropolitan Police soon after the expiry of their TEN. There were no alcohol on display and the staff and the licence holder displayed a considerable awareness of the licensing objectives. The letter from Metropolitan Police, appended as Appendix 7, highlights the good management competency at the premises at the time. The premises is located on a stretch of road which is not associated with a high degree of antisocial behaviour and where there are a mix of other licensed premises which have similar terminal hours as seen in paragraph 3.5.

7.2 The representations received mainly raise the following issues:

- a) **The prevention of crime and disorder**- The representation from Gatehill Residents' Association addressed the crime and disorder objective as there are concerns over the sale of alcohol leading to a rise in antisocial behaviour and other crimes such as littering and vandalism to the area. S. 182 of the Home Office published guidance refers to the Police as being the main source of advice on crime and disorder but in this case the Police have supported the application and have not raised any objection to this. Furthermore, our Council's Licensing Policy and the Guidance, both indicate that the hours that shops could generally be allowed to sell alcohol was to reflect the trading hours unless there was a good reason to restrict this. The applicant has proposed a couple of important conditions in his operating schedule to demonstrate the steps which he will take to uphold this licensing objective which the licensing department is satisfied with.
- b) **The prevention of public nuisance** - Three of the representations received from interested parties refer to the public nuisance objective. The main concerns raised were directly connected to the proposed hours of sale of alcohol. The main view was that the hours of operation were excessive for the location and would cause noise disturbance for residents in the surrounding area along with litter and a nuisance being caused by additional traffic outside the premises. In accordance with the Council's Licensing Policy, arbitrary restrictions that would undermine the principle of flexibility are always avoided by the licensing department and each case is judged on its individual merits. There is no fixed restriction on terminal hours for any particular areas of the borough. In addition to the condition proposed by the applicant in his operating schedule to uphold this licensing objective, Appendix 2 contains a couple of additional recommended conditions as further measures to avoid any public nuisance arising from the property.
- c) **The protection of children from harm** - One representation refers to the protection of children from harm objective. The applicant has proposed three important conditions in his operating schedule which we think are robust enough for a shop in that location and of that size and sufficient to promote and uphold this licensing objective.

8.0 Relevant sections of S.182 Guidance

Determining actions that are appropriate for the promotion of the licensing objectives

At paragraph 9.42 it 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".

At paragraph 9.43 it states 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".

At paragraph 9.44 it states 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 76 | Revised Guidance issued under section 182 of the Licensing Act 2003 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. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. 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".

Proportionality

At paragraph 10.10 it states that "The 2003 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".

Hours of trading

At paragraph 10.13 it states "The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, 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"

At paragraph 10.15 it states "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for

shopping unless there are good reasons, based on the licensing objectives, for restricting those hours".

Licensing hours

At paragraph 14.51 it states "With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, 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".

At paragraph 14.52 it states "Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so".

The need for licensed premises

At paragraph 14.19 it states "There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of Revised Guidance issued under section 182 of the Licensing Act 2003 I 109 licensing policy".

9.0 Relevant sections of the Licensing Policy

Licensing Hours

At Paragraph 21.1 it states that "Prior to the introduction of the Licensing Act 2003, it was believed that fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large number of customers were required to leave the premises simultaneously".

At Paragraph 21.2 it states that "The aim through promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times".

At Paragraph 21.3 it states that "Arbitrary restrictions that would undermine the principle of flexibility will therefore be avoided. The four licensing objectives will be paramount at all times and the Council will always consider the individual merits of each case".

At Paragraph 21.4 it states that "In accordance with guidance there is no fixed restriction on terminal hours for any particular areas of the borough. Such a restriction could cause the migration of patrons from one area to another and create the circumstances that the legislation is attempting to avoid. Each application will be dealt with on its merits. It is for the applicants to detail in their Operating Schedule exactly what times they intend to open and close the premises and what measures they will take to ensure that they do not cause nuisance or disturbance to their neighbours in the vicinity. The later the terminal hour applied for, the greater will be the need to address the issues of disturbance and nuisance".

At Paragraph 21.5 it states that "Shops, stores and supermarkets licensed to sell alcohol will normally be allowed to do so for the full duration of their trading hours. Restrictions may be applied, for example where representations are made indicating the particular premises or patrons of the premises are linked to disorder and or disturbance".

Licence Conditions

At Paragraph 17.1 it states that " Conditions on premises licences and club certificates are determined by:

- a) The measures put forward on the Operating Schedule
- b) Mandatory conditions within the Act
- c) Measures decided at a hearing by the Licensing Sub Committee"

At Paragraph 17.2 it states that "Any conditions attached to licences following relevant representations will focus on matters within the control of the Premises Licence Holder or Club Management Committees. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity, as well as patrons of the licensed premises. They will not be used as a means of attempting to attach responsibility to Premises Licence Holders or Club Management Committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity".

At Paragraph 17.3 it states that "The Licensing Authority will not impose standard conditions upon every licence issued, however it may have regard to model conditions produced by the Government and/or the Institute of Licensing and it may choose to impose these in appropriate circumstances".

10.0 LEGAL CONSIDERATIONS

LEGAL COMMENTS

When considering licence applications the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder;
- Public Safety;
- Prevention of public nuisance; and,
- Protection of children from harm.

The Sub-Committee must ensure that all licensing decisions:

- Have a direct relationship to the promotion of one or more of the four licensing objectives;
- Have regard to the Council's statement of licensing policy;
- Have regard to the Secretary of State guidance; and,
- Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded.

The Sub-Committee is advised that when considering applications for a new premises licence, regard must be had to any relevant representations that are made before taking such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps are:

- grant the application;
- grant the application subject to conditions the Sub-Committee considers necessary to promote the licensing objectives;
- exclude from the scope of the licence any licensable activity(ies) to which the application relates;
- refuse to specify a designated premises supervisor; or,
- reject the application.

Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so. The Sub-Committee is advised that such departures could give rise to an appeal or judicial review.