

# Application for the grant of a Premises Licence: The Fone & Vape Off Licence, 21 Station Road, Hayes, UB3 4BD

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	David Reed – Licensing Officer
<b>Papers with report</b>	<b>Appendix 1</b> - Application Form <b>Appendix 2</b> - Representations from Interested Party <b>Appendix 3</b> - Representations from Interested Party <b>Appendix 4</b> - Representations from Interested Party <b>Appendix 5</b> - Map of the area <b>Appendix 6</b> - Photos of the premises
<b>Ward</b>	Hayes Town

## 1.0 SUMMARY

To consider an application for the grant of a new Premises Licence in respect of The Fone & Vape Off Licence, 21 Station Road, Hayes, UB3 4BD. The application form is appended as **Appendix 1** and has attracted three representations from interested parties objecting to the application. There have been no representations received from ward councillors or any of the Responsible Authorities.

## 2.0 OPTIONS AVAILABLE FOR DETERMINATION OF THE APPLICATION

Following a hearing, the Sub-Committee must consider all relevant representations, and having taken into account the promotion of the licensing objectives, under s.18(3(b) and (4) Licensing Act 2003, a decision can be taken:-

- i. To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
- ii. To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
- iii. To exclude any of the licensable activities to which the application relates;
- iv. To amend the times for all or some of the licensable activities;
- v. To refuse to specify a person in the licence as the premises supervisor;
- vi. To reject the application.

## 3.0 APPLICATION

### 3.1 Licensable Activities

A new Premises Licence application has been made by Kuljit Kaur, the application is to authorise the sale of alcohol for consumption off the premises, Monday to Sunday from 0800 hours to 2300 hours.

Opening times Monday to Sunday from 0800 hours to 2300 hours.

### 3.2 Proposed Hours for Licensable Activity

<b>Monday</b>	08:00 – 23:00
<b>Tuesday</b>	08:00 – 23:00
<b>Wednesday</b>	08:00 – 23:00
<b>Thursday</b>	08:00 – 23:00
<b>Friday</b>	08:00 – 23:00
<b>Saturday</b>	08:00 – 23:00
<b>Sunday</b>	08:00 – 23:00

### 3.3 Type of Application Applied For

New Premises Licence application pursuant to s.17 Licensing Act 2003.

### 3.4 Description of The Premises

The premises is a mid-terrace shop in a parade, surrounded by other shops including chemists, betting shops and food businesses. Above the shops are a row of flats.

### 3.5 Other Licensed Premises Nearby and Licensable Activity Times

<b>Premises</b>	<b>Address</b>	<b>Licensable Activities and Hours</b>
Hari News	17 Station Road, Hayes UB3 4BD	Sale of Alcohol (Off sales only) Monday – Sunday 07:00 – 23:00
World Wines	Liquor 38, 38 Station Road, Hayes UB3 4DD	Sale of Alcohol (Off sales only) Monday – Sunday 09:00 – 21:30 Good Friday 08:00 – 22:30 Christmas Day 12:00-15:00 and 19:00-22:30
Iceland	25-37 Station Road, Hayes UB3 4DX	Sale of Alcohol (Off sales only) Monday – Sunday 07:00 – 23:00 Good Friday 08:00 – 22:30 Christmas Day 12:00-15:00 and 19:00-22:30
Best Food and Wine	25 Botwell Lane, Hayes UB3 2AB	Sale of Alcohol (Off sales only) Monday – Saturday

		08:00 – 23:00 Sunday 10:00 – 22:30 Good Friday 08:00 – 22:30 Christmas Day 12:00-15:00 and 19:00-22:30
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### 3.6 Operating Schedule and Conditions

Section 18 of the Operating Schedule of the Application demonstrates the steps the Applicant proposes to take to promote the Licensing Objectives, which are as follows:

#### **General**

1. Strict implementation of 'Challenge 25' Policy.
2. CCTV to be installed and a 31-day recording system.
3. All staff to be trained in responsible alcohol retailing.
4. Training manual will be available at the premises.

#### **The Prevention of Crime and Disorder**

1. CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition. Recordings shall be kept for 31 days and shall be made available to the police and authorised Officers from the Council.
2. The CCTV system shall be capable of obtaining clear facial recognition images and a clear image of the head and shoulders of every person entering or leaving the premises.
3. The CCTV system shall display on any recordings, the correct date and time of the recording.
4. A member of staff trained in the use of the CCTV system shall be available on the premise at all times that the premises are open to the public.
5. A CCTV camera shall be installed to cover the entrance of the premises and further cameras installed to cover the internal area and servery counter.
6. A suitable intruder alarm, complete with panic button, shall be fitted and maintained.
7. An incident log shall be kept at the premises, and made available for inspection on request to an authorised officer of the Council or the Police, which will record the following:
  - i) all crimes reported to the venue
  - ii) all ejections of patrons
  - iii) any complaints received
  - iv) any incidents of disorder
  - v) all seizures of drugs or offensive weapons

- vi) any faults in the CCTV system
  - vii) any refusal of the sale of alcohol
  - viii) any visit by a relevant authority or emergency service
8. Staff training must be documented and based on legislation and operating procedures. All training shall be signed and dated, and a copy of such records will be available for inspection by the Police and local authority enforcement officers.
  9. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.

### **Public Safety**

1. Installation of appropriate safety equipment.
2. Fire exit signs displayed.
3. CCTV working at all times.

### **The Prevention of Public Nuisance**

1. Notice displayed asking customers to leave quietly from premises, also customers will be told in person to leave quietly and not to disturb the local neighbourhood.
2. Strict policy in place to tell all staff not to serve alcohol to drunks at all.
3. Appropriate signage will be displayed, in prominent position informing customers they are being recorded on CCTV.

### **The Protection of Children from Harm**

1. A 'Challenge 25' policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters will be displayed where alcohol is sold.
2. The only acceptable ID will be those with photographic identification documents, including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
3. A refusal book shall be kept at the premises and updated as and when required and made available for inspection on request to a Licensing Officer, Police or other responsible authority.
4. The licensee will ensure that staff are trained regularly as appropriate in respect to the Licensing Act 2003 legislation, staff to be trained regularly in underage sales prevention.
5. All staff authorised to sell alcohol will be trained in the Challenge 25 scheme and this training will be documented to include the date the training was given, the name of the person who gave the training, the person who received the training and signatures by both trainer and trainee.
6. A sign stating "No proof of age - No sale" shall be displayed at the point of sale.

## 4.0 CONSULTATION

### 4.1 Closing Date for Representations

Friday 29 July 2022.

### 4.2 Public Notice published in local newspaper

Wednesday 13 July 2022 – The Gazette.

## 5.0 REPRESENTATIONS

5.1 Three representations were received from Interested Parties:

<b>Interested Parties</b>	<b>Grounds for Representation</b>	<b>Appendix</b>
Terry S	Prevention of Public Nuisance	<b>2</b>
Camy Dhillon	Prevention of Public Nuisance Prevention of Crime and Disorder Public Safety	<b>3</b>
Faz Ghori	Prevention of Public Nuisance	<b>4</b>

5.2 No Members' Enquiries have been received by the Licensing Service for this premises.

No complaints have been received by the Licensing Service regarding this premises.

There have been no representations received from any of the Responsible Authorities.

## 6.0 BACKGROUND INFORMATION

### 6.1 Designated Premises Supervisor

The proposed Designated Premises Supervisor is Kuljit Kaur, who does not currently hold a Personal Licence.

6.2 Map of the area and photos of the surrounding area are attached as **Appendices 5 and 6.**

## 7.0 OFFICER'S OBSERVATIONS

7.1 The premises proposes to operate as a hybrid of three types of business: a phone/phone accessory shop, a vape shop and an off-licence.

7.2 The representations received raise the following issues:

## **The Prevention of Crime and Disorder and The Prevention of Public Nuisance**

These are the main grounds of the representations received. Interested parties' state that they feel granting the premises licence applied for will increase anti-social behaviour in the form of street drinking and public drunkenness.

### **Public Safety**

One interested party states that they believe granting the licence will increase alcohol-related violence and will make the area less safe for women, particularly at night.

7.3 Attempts at mediation with the Interested Parties have not proven successful, as they have maintained their opposition.

## **8.0 RELEVANT SECTIONS OF S.182 GUIDANCE**

### **8.1 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, the Revised Guidance issued under section 182 of the Licensing Act 2003 informs that 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.

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".

## 8.2 Proportionality

**At paragraph 10.2** it states, "Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question.

Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided."

**At paragraph 10.8** it states, "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."

**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".

### 8.3 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** 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.

### 8.4 Licensing Hours

**At paragraph 14.51** 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** 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.

### 8.5 The Need for Licensed Premises

**At paragraph 14.19** 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 licensing policy.

## **9.0 RELEVANT SECTIONS OF HILLINGDON'S LICENSING POLICY**

### **9.1 Licensing Objectives – The Prevention of Crime and Disorder**

**At paragraph 10.1** Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment, can be a source of crime and disorder. The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business. Applicants are recommended to seek advice from the Police Licensing Officer and Licensing Authority Officers prior to making any application as early advice can alleviate representations being made once an application is submitted. Full contact details for both are contained within the Responsible Authorities contact in appendix B.

**At paragraph 10.3** Where a number of premises may be in close proximity it may be difficult to attribute the disorder to patrons of particular premises, however there is a duty on Premises Licence Holders or Club Management Committees to act responsibly to ensure their own customers do not contribute to crime and disorder whilst in their premises and in the vicinity of their premises.

**At paragraph 10.6** Applications referred to the Licensing Sub-Committee where relevant representations have been received will be determined on the individual merit of each case. The Licensing Sub-Committee has the power to impose specific conditions when considered appropriate in respect of the Crime and Disorder objective.

### **9.2 Licensing Objectives – Public Safety**

**At paragraph 11.5** Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Public Safety objective.

### **9.3 Licensing Objectives – The Prevention of Public Nuisance**

**At paragraph 12.1** Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. This may also include patrons outside a premises and the dispersal of customers. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues.

## 9.4 Licensing Hours

**At paragraph 25.1** 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 25.2** 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 25.3** 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 25.4** 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 25.5** 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.

## 9.5 Licence Conditions

**At paragraph 20.1** Conditions on premises licences and club certificates are determined by:

- The measures put forward on the Operating Schedule
- Mandatory conditions within the Act (current list included as Appendix G)
- Measures decided at a hearing by the Licensing Sub Committee

**At paragraph 20.2** Conditions attached to licences by the Licensing Authority that have been proposed by the applicant in their operating schedule should be consistent with the steps set out in the operating schedule. This means that the effect of these conditions should be substantially the same as that intended by the terms of the operating schedule.

**At paragraph 20.3** 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. Conditions imposed by the Licensing Authority shall be appropriate, reasonable, and proportionate and should be determined on a case-by-case basis.

**At paragraph 20.4** 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**

10.1 When considering an application for a grant of a new Premises Licence, 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
- Protection of children from harm

10.2 Members should note that each objective is of equal importance. There are no other licencing objectives, and the four objectives are paramount considerations at all times.

10.3 An application for a new premises licence may be made pursuant to s.16 and s.17 of the Act, and with regard to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42 and the licensing Act 2003 (Fees) Regulations 2005/79.

10.4 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
- 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

10.5 Where relevant representations are made, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing is unnecessary s.18(3)(a) Licencing Act 2003.

10.6 Relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested

party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licencing authority, frivolous or vexatious s.18(7) Licensing Act 2003.

- 10.7 The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live within the vicinity of the premises. All applications will be decided on a case-by-case basis.
- 10.8 Conditions will not be necessary if they duplicate a current statutory requirement. The licencing Authority may therefore only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 10.9 If the Sub-Committee determines that it is necessary to modify the conditions, or to refuse the application for a Premises Licence application, it must give reasons for its decision.
- 10.10 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under s.149 of the Equality Act 2010. In summary s.149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
  - i. Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - iii. Foster good relations between persons who share relevant protected characteristics and persons who do not.
- 10.11 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics these are:
  - i. age
  - ii. gender reassignment
  - iii. being married or in a civil partnership
  - iv. being pregnant or on maternity leave
  - v. disability
  - vi. race including colour, nationality, ethnic or national origin
  - vii. religion or belief
  - viii. sex
  - ix. sexual orientation
- 10.12 Interested parties, Responsible Authorities and the Applicant have the right to appeal the decision of the Licensing 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.