

## GUILDFORD BOROUGH COUNCIL

<b>LICENSING ACT 2003</b> <b>RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE</b>	
<b>DATE OF HEARING</b>	Monday 12 February 2018
<b>SUB-COMMITTEE MEMBERS PRESENT:</b>	Councillor Mike Hurdle (Chairman) Councillor Mike Parsons Councillor David Quelch
<b>OFFICERS PRESENT:</b>	Mark Adams (Licensing Officer) Sophie Butcher (Committee Officer) Bridget Peplow (Senior Lawyer Litigation)
<b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>	None.
<b>PREMISES:</b>	32 Stringers Avenue, Jacobs Well, Guildford
<b>TYPE OF APPLICATION:</b>	Application for a new premises licence
<b>DETAILS OF APPLICATION SOUGHT:</b>	<p>The premises is a Post Office and general store, selling a range of food, drink and other goods. A small Hairdressing Salon is located at the rear of the building currently accessed via both the front and rear of the shop.</p> <p>The application is for a Premises Licence, allowing the sale of alcohol for consumption off the premises, between the hours of 07:00 and 20:00 Monday to Friday, 08:00 and 20:00 Saturday and between 08:00 and 16:00 on Sunday.</p> <p>Alcohol sales would commence once a refit of the Post Office has been completed.</p>
<b>PROPOSED PREMISES USER:</b>	Mr Leelaratnam Barathy
<b>WARD COUNCILLOR:</b>	Councillor David Elms
<b>OTHER PERSONS:</b>	Mr Jonathan Cutting

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	Mr and Mrs Ian Craigie Ms Gemma Kavanagh Mr and Mrs Roger Jean Sims
<b>IN ATTENDANCE</b>	Mr Mike Smith

### DETAILS OF DECISION TAKEN AND REASONS THEREFORE:

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted in writing. The Sub-Committee was also made aware that the following were relevant:

Guildford Borough Council's Statement of Licensing Policy

- Section 4 – (Fundamental Principles)
- Section 11 – 11.1 – 11.8 (Licensing Hours)
- Section 12 – 12.2.1 – 12.2.14 (Crime and Disorder)
- Section 12: 12.4.1 – 12.4.6 – (Public Nuisance)
- Section 13 – (Licence Conditions)

National Guidance Issued on 6 April 2017 by the Secretary of State under Section 182 of the Licensing Act 2003:

- Paragraphs 2.1 – 2.6 – Crime and Disorder
- Paragraphs 2.15 – 2.21 – Public Nuisance
- Paragraphs 9.31 - 9.41 – Hearings
- Paragraphs 9.42 - 9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1 - 10.66 – Conditions attached to premises licences

The Sub-Committee received a report from the Licensing Officer who stated that the application was for a new premises licence to permit the sale of alcohol for consumption off the premises. The applicant would implement a number of steps to ensure the promotion of the four licensing objectives. A public consultation had been held from 22 December 2017 – 18 January 2018 and advertised in accordance with regulations. No objections had been received from any of the Responsible Authorities. One letter of support had been submitted by a local resident and twenty-three letters of objections, primarily on the grounds of the prevention of crime and disorder and public nuisance. The concerns were that the sale of alcohol would increase the likelihood of disorderly behaviour and cause drinkers to congregate on the green

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immediately outside the Post Office. The Sub-Committee was reminded that they must consider the application for the grant of a premises licence on its merits. Having regard to the relevant representations received, the Sub-Committee must take such steps (if any) as it considered appropriate for the promotion of the licensing objectives.

The Chairman invited the applicant to address the Sub-Committee. The applicant made the following points:

- There had been a grocer in the same parade of shops that previously sold alcohol.
- A large number of Post-Offices were at risk of closing due to lack of business and they were therefore looking to diversify to ensure the long-term viability of their business. Alcohol was part of the goods they would sell but it was not their intention to turn the business into a bargain booze shop. The primary business was the Post Office.
- An alarm was already installed on the building but would be improved as part of the forthcoming refurbishments. CCTV would also be installed and complied with RIPA Standards to ensure that it was not intrusive.
- Alcohol above a strength of 6.5% would not be sold at their shop.
- Regular litter inspections would be conducted outside the store.
- Only one delivery was anticipated per week from the Cash and Carry.
- The Challenge 25 Scheme would be in operation and all staff trained to identify child exploitation.
- Adults would not be permitted to purchase alcohol for children.
- The applicants lived locally and valued being part of the local community and did not want to do anything that contravened the law.

The Chairman invited the other persons present who wished to speak to make their representations:

Mr John Cuttings stated the following:

- In support of the application. He had lived in Jacobs Well for seventeen years and felt that there always had been a gap in the market with no local shops selling alcohol. It meant that he had to drive for fifteen minutes to the nearest Sainsbury's store.
- The additional lighting would give the area a sense of security and that research to date had not proven a link between lighting and an increase in crime and disorder.
- Given that the local hairdresser's was open once a week until 8pm he did not perceive that the extended opening hours would cause public nuisance problems.

Mr Martin Jones stated the following:

- Noted that his email had been included in the Licensing Sub-Committee agenda papers but that an attachment sent with the email had not been included. The Chairman therefore agreed to let him refer to a copy he had to hand.

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- Confirmed that there was a newsagent's in the parade of shops that used to sell alcohol. At least 1-2 robberies had taken place in the Parade including the Post-Office. By permitting, a licence to the Post-Office to sell alcohol it would increase the likelihood of another robbery.
- Of concern was an overall increase in traffic that would be further exacerbated by the application. People using the shopping parade were already parking across people's driveways and in some instances in people's driveways and driving at speed down the road. Mr Jones wanted to receive clarification as to why these highways issues were not considered a public nuisance under licensing legislation.

The Chairman and Senior Litigation Lawyer confirmed that the application was for a premises licence allowing the sale of alcohol. A clear link had to be established between the nuisance being alleged and the sale of alcohol. The Sub-Committee had a limited remit, and did not have any control over the extended opening hours of the shop. Unless it could be established that the nuisance parking and increased traffic was due to customers visiting the shop to purchase alcohol, the Sub-Committee was unable to act. In addition, a degree of self-regulation was expected and the guidance made it clear that the licence holder was not responsible for the actions that customers may take away from their premises.

Ms Gemma Kavanagh stated the following:

- She lived directly opposite the Post-Office and suffered with customers parking across her driveway who were using the parade of shops.
- She worked within the public sector and knew from her work that there was a direct correlation between the sale of alcohol and an increase in crime and disorder. The illumination of the premises would attract people to commit crimes rather than deter them.

The Chairman invited Councillor David Elms, Ward Councillor for Jacobs Well to make his representation on behalf of the residents:

- He referred the Sub-Committee to the site map shown on page 5 of the agenda, which showed that the Post Office was located in a residential area. The shops that formed the Parade were a hairdressers, dog parlour, computer repair shop and a nuts and bolts shops and had normal working hours as opposed to 07:00 – 20:00 as per the Post Office.
- A number of older generation residents lived in the local area and were concerned about the additional vehicles that might use the Post Office owing to the longer opening hours.
- He confirmed that it was not an offence to park across someone's driveway unless there was a car in the drive.
- He asked the Sub-Committee to consider an amendment to the hours of operation of the shop particularly on a Sunday.

Mrs Jean Sims stated:

- The off licence in the parade of shops closed some thirty-five years ago and they had lived in their house for forty-three years.

In response to the representations made, the Applicant stated the following:

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- The Post-Office opened at 7am so that members of the public could buy newspapers. It similarly opened on Sundays for sale of the Sunday papers.
- Alcohol was only a small part of the groceries and other products available at the Post Office.
- They had received positive feedback from local residents about the application.
- They did not believe that crime and disorder would be encouraged by the sale of alcohol. Lighting would be provided but would not shine onto the green and the CCTV to be implemented would not be invasive.

The Council's Lawyer confirmed that the Sub-Committee had to consider whether the proposed licensable activity of the sale of alcohol would cause nuisance to local residents in order for the public nuisance objective to be met. The proposed opening hours on their own were not a reason to refuse the licence, because the shop could remain open for non-licensable sales even if a licence was refused.

Having considered the application and the submissions from the applicant as well as those made by other persons, the Sub-Committee;

RESOLVED: That the application for a new premises licence for Jacobs Well Post Office, 32 Stringers Way, Jacobs Well, Guildford be granted in the following terms (insert table of hours) and subject to the following conditions:

a. Additional conditions as laid out in the application operating schedule:

### **Protection of children**

All staff to be trained and actively Challenge 25 policy enforce. All refusals to sell alcohol with entered into refusal book.

Sale of super strength alcohol (Beer) above a strength of 6.5% will not be sold in the shop.

Have a policy on preventing harm to children to include documented staff training, which will include the awareness of Child Sexual Exploitation and how to make a referral if any concerns are raised for children or any suspected perpetrator.

### **CCTV**

The licence holder will ensure that the premises benefit from a CCTV system that operates at all times when licensable activities are taking place.

The System will incorporate a camera covering each of the entrance doors and main alcohol display area and will be capable of providing and image, which is regarded as identification standard. The precise position of the cameras may be agreed, subject to compliance with data protection legislation, with the Police from time to time.

The system will incorporate a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of 30 days and will be made available, subject to compliance with data protection legislation, to the Police for inspection on request.

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The system must be able to export recorded images to a removable means e.g. CD/DVD and have its own software enable to allow playback / review.

A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises are open to the public. The system will display, on any recording, the correct time and date of the recording.

### b. Mandatory conditions

#### **A: Sales of alcohol**

1. No supply of alcohol may be made under the premises licence –

- a. at a time when there is no designated premises supervisor in respect of the premises licence, or
- b. at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### **Mandatory Licensing Conditions (Off Sales)**

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- a. a holographic mark, or
- b. an ultraviolet feature.

#### **B: Permitted price for alcohol**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price, which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(1);
- b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where —

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- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.  
 (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol, which take place before the expiry of the period of 14 days beginning on the second day.

Activities	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
<b>Sale of alcohol</b>							
<b>For consumption off the premises</b>	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	08:00 – 20:00	08:00 – 16:00
Times premises are open to the public							
	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	07:00 – 20:00	08:00 – 20:00	08:00 – 16:00

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### REASON FOR DECISION:

In reaching their decision to grant the application subject to the above conditions, the Sub-Committee considered both written and oral representations from the applicant, residents and ward councillor.

The Sub-Committee was mindful of the concern that the application had caused to local residents and was sympathetic. However, the opening hours of the Post Office were not within the Sub-Committee's control and it could only consider issues arising from the sale of alcohol. There was no evidence to suggest that by permitting the sale of alcohol an increase in crime and disorder or public nuisance was likely to occur. The Sub-Committee noted that the guidance stated that shops should normally be free to sell alcohol at any time when the outlet was open for shopping, unless there were good reasons, based on the licensing objectives, to restrict the hours. The Sub-Committee did not consider it likely that the premises would attract people to the area solely to purchase alcohol given there were supermarkets and other premises selling alcohol nearby. The Sub-Committee noted that many of the concerns related to the opening hours and these concerns would remain regardless of the Sub-Committee's decision regarding the licence. The Sub-Committee therefore agreed that there was insufficient reason to refuse the licence or limit the licensing hours. The Sub-Committee noted that should crime and disorder or public nuisance occur that was directly associated with the sale of alcohol from the Post Office, a review of the licence could be called for.

Signature of Chairman: .....

Dated: .....