

SUBJECT:	APPLICATION FOR A PREMISES LICENCE at: 8 Bridge Street, High Wycombe, Buckinghamshire, HP11 2EL
REPORT OF:	Application under section 17, Licensing Act 2003
Responsible Officer	Kerryann Ashton – Licensing Officer
Report Author	Kerryann Ashton – Licensing Officer
Ward/s Affected	Abbey

1. Purpose of Report

To provide Members with information to enable the determination of an application for a Premises Licence, in respect of which relevant representations have been received.

The Application has been submitted by Mr Harriram Raveendran of 36 Underwood Road, High Wycombe, Buckinghamshire, HP13 6YB (“the applicant”) on his behalf by his Licensing Agent, Gill Sherratt of Licensing Matters, 54 Fairfield Drive, Clitheroe, BB7 2PE (“the agent”) in respect of Best One Express, 8 Bridge Street, High Wycombe, Buckinghamshire, HP11 2EL (“the premises”).

2. Background

The premises is located adjacent to the High Wycombe bus terminal and is within a mixed commercial and residential area. The premises has benefited from an authorisation to conduct the retail sale of alcohol under The Licensing Act 2003 (“the Act”) since April 2011 for off sales only.

The premises licence was transferred in December 2021 from Mr Shanthakumar to the applicant, whilst under appeal. The premises licence held by Mr Shanthakumar had been revoked by the Licensing Sub-Committee in January 2020. This authorisation was revoked on appeal at Wycombe Magistrates Court on the 11 March 2022. A copy of the revoked premises licence is attached to this report marked **Appendix 1**.

The premises is located within a defined public space protection order (PSPO) area. This Order was made by Wycombe District Council, now Buckinghamshire Council (‘The Council’) under the Anti-Social Behaviour, Crime and Policing Act 2014, marked **Appendix 2**.

A location plan showing the premises location is attached to this report marked **Appendix 3**.

3. The Application

3.1 This application is made under section 17 of 'The Act' for a Premises Licence. A copy of the application is attached to this Report marked **Appendix 4**.

3.2 The requested permitted licensable activities are as follows:

<u>Licensable activity</u>	<u>Standard days and timings</u>
Supply of alcohol (Off sales only)	Every day 09:00 – 00:00
Hours premises are open to the public	Every day 09:00 – 00:00

3.3 A plan of the relevant licensable area has been provided and is attached marked **Appendix 5**.

4. Relevant Representations

4.1 Responsible Authorities:

4.1.1 **The Chief Officer of Police:** Response received in relation to the prevention of crime and disorder licensing objective. **Appendix 6**.

4.1.2 **The Fire and Rescue Authority:** No Response received: No comment

4.1.3 **The Local Planning Authority (Head of Sustainable Development):** No Response received: No comment

4.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** No Response received: No comment

4.1.5 **Weights and Measures Authority (Trading Standards Officer):** No response received. No comment

4.1.6 **The Safeguarding and Child Protection Unit:** No response received. No comment

4.1.7 **The Licensing Authority:** Response received in relation to the prevention of crime and disorder licensing objective. **Appendix 7**.

4.1.8 No responses were received from any other Responsible Authority or **Any Other Person**.

4.1 No letters in support of the application have been received.

4.2 The applicant has complied with the requirement to advertise the application in accordance with the regulations both at the premises and in the local newspaper.

5. Relevant Policy Considerations:

- 5.1 Regard must be given to the Council's Statement of Licensing Policy (published 7 March 2022) when determining this application. Of particular relevance (but not limited to) are the sections relating to licence conditions (page 25) and the Council's approach to licensing hours (page 23).
- 5.2 In relation to licence conditions, the policy confirms that any conditions should be proportionate and appropriate to both the specific premises and the proposed activities. The applicant is responsible for demonstrating, through their operating schedule, how they intend to uphold the licensing objectives and prevent any harm, crime or disorder through the operation of their business.
- 5.3 In relation to the prevention of crime and disorder licensing objective, section 3.27, applicants are expected to demonstrate in their operating schedule how they intend to promote the crime prevention objective in relation to the licensable activities provided. Applicants should also consider local circumstances, for example such as the terminal hour of other licensed premises in close proximity, local crime and anti-social behaviour 'hot spots' and the position of taxi ranks and other transport hubs
- 5.4 The Council's policy confirms at section 3.28 that. The Licensing Authority will treat the police as the main source of advice on conditions to be applied in order to promote the crime prevention objective. Conditions imposed on licences will, so far as possible, reflect any local crime prevention strategies and the local Police and Crime Plan published by the Police and Crime Commissioner for Thames Valley.
- 5.5 Regard must also be had to the national Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as amended.

In relation to the Prevention of Crime and Disorder the Statutory Guidance states:

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with

particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

6. Off Licences and PSPO's Considerations:

- 6.1 The Council's policy confirms at 3.59, that the street drinking of alcohol has found to be associated with crime and disorder and anti-social behaviour in certain areas of Buckinghamshire. Street drinking can also be associated with public nuisance. To help tackle the issue the Council has introduced PSPOs (Public Space Protection Orders) in some parks and town centres which prohibit drinking alcohol or possessing alcohol in open containers.
- 6.2 The policy states that experience shows that enforcement of the PSPO alone is not sufficient to deter would be offenders from consuming alcohol in breach of current PSPOs. Enforcement is only part of the solution and it is important that locally licensed businesses also play their part. Not only does this demonstrate a commitment to the promotion of the licensing objectives, the removal of anti-social street drinking enhances the area and contributes to greater prosperity.

7. Resources, Risk and Other Implications

- 7.1 **Resource:** The only resource implications to date have been officer time however if the applicant or persons making relevant representations appeal against the decision of the Licensing Sub-Committee this would result in legal fees to defend the appeal and further costs. In the event of a successful appeal the Council may also have to pay the applicant/other party's costs.

Human Rights:

- 7.2. The Panel should consider its responsibilities under the Human Rights Act when considering the fair balance between the interests of the applicant and the rights of local residents. Any decision taken must be appropriate and proportionate to the objective being pursued. In particular, the following should be taken onto consideration: Article 6 - the right to a fair hearing Article 8 - respect for private and family life Article 1, First Protocol - peaceful enjoyment of possessions (which can include the possession of a licence).
- 7.3. Interference with these rights is acceptable within the terms of the Human Rights Act 1998 if it safeguards the rights of others, is legitimate, proportionate and balanced in that there is a need to find a fair balance between the protection of individual rights and the interests of the community at large – other than rights under Article 6 and 14 which are absolute rights and cannot be interfered with.
- 7.4. Therefore, if Members refuse to grant the application for a new Premises Licence in whole or part or grant it subject to conditions, this will be a breach of the rights of the Applicant unless such refusal (in full or part) is, and/or the conditions imposed are, appropriate, proportionate and can be justified, on balance, by being outweighed by the rights of the community at large to peaceful enjoyment of their property/possessions. Any restriction placed upon the Premises Licence must not go beyond what is strictly necessary to achieve

its legitimate purpose in order to mitigate the interference with the community at large's enjoyment of their property/possessions.

7.5. By taking into consideration all the material considerations relating to this application and balancing the interests/rights of all parties involved it is considered that the Licensing Sub-Committee's decision will be both proportionate and justified having had regard to the Human Rights Act 1998.

7.6 The Equality Act 2010, including the Council's Public Sector Equality Duty, must be taken into account when making decisions in relation to licensing applications.

8. Determination by the Licensing Sub-Committee

8.1 The Sub Committee is obliged to determine applications in the light of the above and any other material considerations with a view to promoting the four licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Regard must also be had to the Council's Licensing Policy, Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended, relevant representations received and the evidence presented at the Hearing.

8.2 Each application must be considered on its own merits and any conditions attached to premises licences must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to promote the licensing objectives in any individual case.

8.3 The Sub-Committee must avoid duplication of other legal requirements and should only impose conditions on a premises licence which are appropriate and proportionate for the promotion of the licensing objectives and where additional and/or supplementary measures are required in order to promote the licensing objectives.

8.4 The following options are available to the Licensing Sub Committee in determining the application:

8.4.1. Grant the Premises Licence -subject to any conditions which are consistent with the Operating Schedule and which are considered appropriate and proportionate for the promotion of the four licensing objectives in response to relevant representations received - and any relevant mandatory conditions.

8.4.2. Refuse to specify a person in the Premises Licence as the premises supervisor.

8.4.3. Reject the whole of the Application

- 8.4.4. Grant the Premises Licence subject to different conditions for different parts of the premises or for different /reduced licensable activities if it is considered appropriate and proportionate to promote the four licensing objectives and in response to the representations received.
- 8.5 The Sub-Committee is asked to note that it may not reject the whole or part of the application or attach conditions - merely because it considers it desirable to do so. It must actually be **appropriate and proportionate** in order to promote the 4 licensing objectives and be in response to the representations received and full reasons must be given for the Sub-Committees decision.

9. Conditions

Mandatory Condition – s19 of the Licensing Act 2003

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 his personal licence is suspended.

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

THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010 (SI2010/860)
AS AMENDED BY THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER
2014 (SI2014/2440)

Mandatory Condition 1

- (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

THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) (AMENDMENT)
ORDER 2014 (SI2014/1252)

Mandatory Condition 2

- 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;
 - (b) "permitted price" is the price found by applying the formula—

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

where—

- (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

9.1 Conditions offered in the Operating Schedule

The prevention of crime and disorder

- A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA (or alternative police wording).

Public safety

- An incident register will be maintained at the premises and made available to the authorities on request.

The prevention of public nuisance

- A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority
- Signs asking customers to leave quietly will be displayed at the entrance/exit.
- There will be no sales of beer, lager or cider with an alcohol content above 7.0% ABV in metal or plastic containers. This restriction shall not apply in respect of specialist branded premium priced products, for example Craft ales, local or micro-brewery specialist products, boxed gifts or national celebratory/commemorative beer, lager or cider.

The protection of children from harm

- The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older.
- Posters will be on display advising customers of the 'Challenge 25' policy.
- The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID & cards bearing the 'PASS' hologram.

Informative/s -

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Background Papers:	Application Ref 22/00084/LAPREN Licensing Act 2003, as amended Licensing Policy –Published March 2022 Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended