

SUBJECT:	APPLICATION FOR A NEW PREMISES LICENCE at: New Hub & Off Licence, 25a High Street, Chesham, HP5 1BG
REPORT OF:	Application under section 17, Licensing Act 2003
Responsible Officer	Stacey Bella – Licensing Officer
Report Author	Stacey Bella – Licensing Officer
Ward/s Affected	Chess Valley Ward

1. Purpose of Report

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

The Application has been submitted by Karanjeet Singh Khurana (“the applicant”) in respect of New Hub & Off Licence, 25a High Street, Chesham, HP5 1BG (“the premises”) by Personal Licence Courses UK, 145 Station Road, West Drayton, UB7 7ND (“the agent”).

2. Background

2.1 The premises consists of unit 25a High Street which is located within a central location in the built-up area of Chesham Town Centre.

2.2 The premises is located within a Public Spaces Protection Order (“PSPO”) area. This is defined in the 2019 order made by Chiltern District Council, later extended in 2022 by Buckinghamshire Council (“The Council”) under the Anti-Social Behaviour, Crime and Policing Act 2014. Marked **Appendix 1**.

2.3 A location plan showing the premises location is attached to this report marked **Appendix 2**.

3. The Application

3.1 This application is for a new Premises Licence to commence with immediate effect upon the decision to grant by this licensing authority. A copy of the application is attached to this Report marked **Appendix 3**. A plan of the “premises” is attached **Appendix 4**.

3.2 The licensable activities sought are as follows:

<u>Proposed activity</u>	<u>Proposed hours</u>
Supply of alcohol Off the premises only	Every Day 08:00 - 23:00
Hours premises are open to the public	Every Day 08:00 - 23:00

4. Relevant Representations

4.1 Responsible Authorities:

4.1.1 **The Chief Officer of Police:** No objection. **Appendix 5.**

4.1.2 **The Licensing Authority:** No objection. **Appendix 6.**

4.1.3 **The Fire and Rescue Authority:** No objection, **Appendix 7.**

4.1.4 **The Local Planning Authority (Head of Sustainable Development):** No response received.

4.1.5 **The Local Environmental Health Authority (Head of Environmental Health):** No response received.

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

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

4.1.8 **The Primary Care Trust:** No response received.

4.2 **Any other persons:** **Nine (9)** valid objections were received during the 28 day consultation period on the grounds of prevention of crime and disorder; Prevention of Public Nuisance; and protection of children from harm licensing objectives. **Appendix 8 and 9.**

4.3 A further submission of supporting evidence was made by one of the objectors after the consultation period had closed. Marked **Appendix 10.**

5. Licensing Officer's Observations:

5.1 The Relevant Representations received raise the following issues:

- Representations mention concerns regarding anti-social behaviour and drunkenness leading to an increase in crime within the area and making the area unsafe for children. As well as concerns regarding a potential increase in litter and noise nuisance as a result of the application being granted.
- Some representations mention concerns regarding business competition and commercial need. However, it should be noted that these are not relevant considerations under the Licensing Act 2003.

5.2 In addition to the Mandatory Conditions, the Licensing Sub-Committee should consider those conditions offered in the operating schedule and decide whether they are appropriate for the promotion of the licensing objectives and address any valid representations made by Interested Parties.

6. Policy Considerations

6.1 Regard must be had to the Council's adopted Licensing Policy published February 2022 when determining this application. Of particular relevance (but not limited to) the following:

Anti-social behaviour

2.36 Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the direct control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to the management of the evening and night time economy in town and city centres as well as rural areas and to some extent during the daytime too. Therefore, this Policy acknowledges the contribution of individual premises and, in certain circumstances, groups of premises to anti-social behaviour.

Prevention of crime and disorder

3.26 Section 17 of the Crime and Disorder Act 1998 places a legal duty on the Council to consider the reduction of crime and disorder, including the reduction of anti-social behaviour, in all its activities. The Licensing Authority will look to the police as the main source of advice on crime and disorder matters and will also seek to involve the local Community Safety Partnership for advice on anti-social behaviour.

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'.

3.32 In considering licence applications, where a relevant representation has been made, or if advice is sought from a potential applicant regarding the crime and disorder objective, the Licensing Authority will particularly consider the following:

Responsible sale and supply of alcohol. It is expected that all premises licensed to sell and supply alcohol will have measures in place to prevent:

- The sale and supply of alcohol to children
- Serving alcohol to customers who are drunk
- Permitting drunkenness on the premises
- Encouraging irresponsible drinks promotions
- Spiking of drinks
- Anti-social street drinking in the local vicinity.

The expected measures include written policies and procedures, documented staff training and refresher training, the use of refusal logs and incident reports and use of appropriate signage.

Prevention of a public nuisance

3.36 In considering all licence applications, the Licensing Authority will consider whether the measures proposed to deal with the potential for public nuisance having regard to all circumstances of the application, are adequate. Much weight will be placed on recommendations made by Environmental Health Officers in terms of preventing public nuisance.

3.37 Particular measures include:

Litter. Measures should be in place to manage the risk of littering associated with the premises. This includes having sufficient waste receptacles to avoid overflowing refuse containers and litter sweeps in the immediate vicinity to clear cigarette butts, food receptacles and flyers associated with the premises. Sometimes problems arise about litter from takeaways and, to a limited extent, from off licences. Licensees should consider distinctive wrapping, packaging or bags, so that litter can be traced back to particular premises and also periodic litter collection patrols and the provision of additional bins.

Street drinking. Street drinking can cause nuisance as well as crime and disorder. Where there is a history of public nuisance associated with street drinking in an area, the Licensing Authority may impose additional restrictions on licences for the sale of alcohol for consumption off the premises. Additional restrictions may include not selling high strength beer and cider, not selling cans and bottles in single cans and discouraging the sale of alcohol to known street drinkers.

Off Licences and PSPO's Considerations

3.59 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.

3.60 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.

3.61 To assist address, the problematic street drinking, premises licensed for the sale of alcohol for consumption off the premises in areas where relevant PSPOs have been introduced are expected to adopt the following measures:

- No single cans or bottles of beer or cider will be sold.
- No high strength beer or cider products with 7.5% ABV or higher will be sold.
- Alcohol shall not be sold to any person who is reasonably expected to consume it on the street in the vicinity of the premises.
- Alcohol shall not be sold to customers in an open container.
- All alcohol sold from the premises will be marked in a way that can be used to identify that the alcohol has been purchased from the shop.
- Staff training shall include training on awareness of local alcohol related issues of concern and the actions required by staff to avoid contributing to these concerns.
- A log of refusals to sell alcohol shall be maintained at the premises and include a record of refusals of persons known to consume alcohol in breach of the local PSPO.

6.2 Regard must also be had to the national Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as amended.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.
- 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.

Prevention of a public Nuisance

- 2.21 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.22 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.24 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.27 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

7. Links to Council Policy Objectives

- 7.1 The Authority regards existing and future environmental qualities and character of the District to be important when consideration is given to granting licences for any

purpose. When considering licensing applications where relevant representations have been made, the Authority will consider its effect on the licensing objectives and in particular the effect the licence will have on the public nuisance objective. In order to consider these matters, it is necessary to consider the environment of the area in which the premises are or will be situated.

8. Resources, Risk and Other Implications

- 8.1 **Resource:** The only resource implications to date have been officer time however if the applicant or persons making relevant representations appeals 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.
- 8.2 **Human Rights:** The Licensing Sub-Committee's decision regarding this application will have Human Rights implications in respect of both the Applicant and the persons making relevant representations which also need to be considered equally and fairly so that the decision is proportionate and the right balance is met. The referral of this matter to the Sub-Committee is laid down in the Licensing Act 2003, as amended and is also in accordance with Article 6 of the Human Rights Act 1998, the right to a fair hearing, which is an absolute right. The Applicant and the persons making relevant representations have been notified of the Hearing and invited to make representations. A statutory right of appeal to the Magistrates Court and the right (if it arises) to challenge the Sub- Committee's decision by way of Judicial Review to the High Court also ensure a fair hearing to both the Applicant and the persons making relevant representations.
- 8.3 Article 8 and Article 1 of the First Protocol - the right to respect for private/family life and peaceful enjoyment of property/possessions (including Licences) - also needs to be considered. The persons making relevant representations have a right to respect for their private and family life and their home. They are entitled not to be disturbed by unreasonable noise and/or nuisance. However, this is a qualified right and has to be balanced against the rights of others including the rights of businesses in the area to operate.
- 8.4 Article 14 of the Human Rights Act 1998 - the right to freedom from discrimination (which is an absolute right) also needs to be considered. The human rights provided under the Human Rights Act 1998 must not be subject to discrimination under various headings, including race, national or social origins, association with a national minority group or other status.
- 8.5 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 can not be interfered with.
- 8.6 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.

- 8.7 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.
- 8.8 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.

9. Determination by the Licensing Sub-Committee

9.1 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.

9.2 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.

9.3 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.

9.4 The following options are available to the Licensing Sub Committee:

9.4.1 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.

9.4.2 Exclude from the scope of the Premises Licence granted under Para 9.4.1 above any of the licensable activities to which the application relates.

9.4.3 Refuse to specify a person in the Premises Licence granted under Para 9.4.1 as the premises supervisor.

9.4.4 Reject the whole of the Application.

9.4.5 Grant the Premises Licence subject to different conditions for different parts of the premises or the different /reduced licensable activities if this is

considered appropriate and proportionate to promote the four licensing objectives and in response to the representations received).

- 9.5 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.

10. Conditions offered in the Operating Schedule

General Licensing Objectives

1. All staff responsible for selling alcohol shall receive regular training in the promotion of the licensing objectives as are relevant to their duties (including the Challenge 25 scheme) 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. The training shall be recorded in a training record which shall not be removed from the premises, except in case of emergency or for the purposes of copying, until a period of 12 months has expired since the last entry that has been recorded. The training record shall be made available to Police and authorised council officers on request.

The prevention of crime and disorder

2. The premises shall install and maintain a comprehensive CCTV system which records 24 hours a day.

All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.

All CCTV recordings shall be stored for a minimum period of 31 days and all recordings will be stamped with the correct date and time.

Viewing of recordings shall be made available, subject to Data Protection legislation, immediately upon the request of Police or an authorised council officer.
3. Licensable activities shall only be carried out at the premises at times when the CCTV system is fully operational.
4. A staff member from the premises who is conversant with the operation of the CCTV system shall always be on the premises at times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the minimum of delay when requested.
5. Appropriate signage will be displayed at the premises, in a prominent position, informing customers that CCTV is in operation.
6. An incident logbook will be maintained at the premises. It must be completed within 24 hours of the incident and will record the following at a minimum:
 - a. Any refusal of the sale of alcohol (entries must include the date and time of the refused sale and the name of the member of staff who refused the sale)
 - b. Any incidents of crime and disorder
 - c. All ejections of patrons
 - d. Any faults in the CCTV system

The logbook shall be kept on the premises, for a minimum of one year from each entry, and be available for inspection, at all times the premises is open. Management shall regularly check the book to ensure all staff are using it.

7. The Premises Licence Holder shall only buy tobacco and alcohol products from cash and carry wholesalers. The cash and carry wholesalers providing alcohol will be registered with the Alcohol Wholesalers Registration Scheme (AWRS). All receipts for purchases of alcohol and tobacco purchased in the preceding 12 months will be kept at the premises and be available for inspection upon request of an authorised officer so as to be able to identify from where any items of alcohol or cigarettes were purchased.
8. All staff employed at the premises will have UK right to work status checked before being offered employment. The premises licence holder or nominated representative shall keep and maintain copies of all right to work documents for all staff members at the premises and these shall be made available upon request to an authorised officer of the council and Thames Valley Police.

Public Safety

9. Fire exit signs shall be displayed at the premises.

The prevention of public nuisance

10. Notices, at least A4 in size, will be prominently displayed at the premises asking customers to respect the needs of local residents and businesses and leave the area quietly. Staff will also encourage customers to be considerate to neighbours and limit noise when leaving the premises.

The protection of children from harm

11. A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
12. Signage shall be displayed at the premises advising customers that a Challenge 25 proof of age scheme is in place.

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Background Papers:	Application Ref PR202401-339919 Licensing Act 2003, as amended. Licensing Policy – As adopted March 2022. Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended.