

EAST HERTS COUNCIL

LICENSING SUB-COMMITTEE – 13 JULY 2018

REPORT BY JONATHAN GEALL – HEAD OF HOUSING AND HEALTH

APPLICATION FOR VARIATION OF THE PREMISES LICENCE FOR THE
GRAPEVINE OFF LICENCE, UNIT 1, 18/20 PARLIAMENT SQUARE,
HERTFORD. SG14 1EZ

WARD(S) AFFECTED: HERTFORD - CASTLE

Purpose/Summary of Report

- An application to vary the hours for licensable activity at the above premises has been received. An objection to that variation has been received so the decision falls to a Sub-Committee of the Licensing Committee. The report is to inform that decision.

<u>RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE: That:</u>	
(A)	The application be decided

1.0 Background

1.1 Under the Licensing Act 2003 an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.

1.2 Where valid representations are received the Licensing Authority's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new

and varied Licences and Certificates. This decision must be made whilst having regard to the Licensing Objectives, the Licensing Authority's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

1.3 The Licensing Objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the Protection of children from harm.

1.3 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps available to the Sub-Committee are:

- a) grant the application in full
- b) modify the conditions of the licence volunteered by the applicant in the operating schedule, by altering or omitting or adding them
- c) reject the whole or part of the application.

2.0 Report

2.1 The valid variation application submitted by the licence holder, Mr Ali Conbolat, was received by the licensing authority on 22nd May 2018. The application was correctly advertised and consulted upon as required.

2.2 The application seeks to vary the hours for the sale of alcohol and opening hours on a Thursday through to Saturday. The table below shows the currently granted hours for licensable activity on a Thursday through to Saturday and those requested as part of the variation:

Activity	Granted	Requested
Sale of alcohol	08:00 – 00:00	08:00 – 02:00 (+2:00)
Opening times	08:00 – 00:00	08:00 – 02:00 (+2:00)

- 2.3 Part M of the application form asks the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the variation. The applicant has stated a number of controls that will be put in place. These controls include an extra employee and security during the new opening hours. The applicant states there shall be 4 CCTV cameras recording inside and out 24 hours a day and the use of a "Red Care" Alarm system that is connected to the Police for rapid response if necessary. A redacted copy of the application form is attached as **Essential Reference Paper 'B'** and a redacted copy of the current premises licence is attached as **Essential Reference Paper 'C'**.
- 2.4 During the 28 day statutory public consultation three valid representations were received. A representation was received from Hertfordshire Constabulary acting as a Responsible Authority. This representation is attached as **Essential Reference Paper 'D'**.
- 2.5 This representation raises concerns by Hertfordshire Constabulary of the application and the impact of having alcohol sales off the premises at this specific location until 2am. These concerns are raised as it thought that the application will have an impact on "The crime and disorder", "The prevention of public nuisance" and "Public Safety" licensing objectives.
- 2.6 The constabulary have given statistics specifically on Friday and Saturday (and Sundays where there has been a Bank Holiday).
- 2.7 The representation received provides a summary of concerns of the Constabulary under Section 3 of the representation.

3.0 Policy and Guidance

- 3.1 Section 4 of the East Herts Statement of Licensing Policy details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the policy the operation of The Grapevine off licence best fits the definition of an off licence:

The sale of alcohol for consumption away from the premises

- 3.2 The premises fall within what is considered in section 6 of the Statement of Licensing Policy to be Hertford Town Centre. The table at 4.3 of the policy details this authorities approach to licensing premises when it has received relevant representations to an application. Notwithstanding that each application is considered on its own merits the following hours would normally be granted to this style of premises in this location when valid and relevant representations have been received:

Will generally be allowed alcohol sales to Midnight only

- 3.3 The current hours for The Grapevine off licence on a Thursday to Saturday night are within this policy but the requested variation would take the licensable hours outside of the authority's policy.

- 3.4 Section 6 of the Statement of Licensing Policy details the authority's aspiration to create family friendly Town Centres. The approach to this is detailed in paragraph 6.4 of the policy:

1. Where relevant representations have been received, we will consider granting applications which limit the hours of operation to those set out in this policy unless the exceptions detailed below can be demonstrated.

2. N/A

3. Where relevant representations have been received against the sale of alcohol after 10 pm and exceptions can be shown, we will consider whether premises shall be required to demonstrate they have an effective dispersal management plan in place; to install a closed-circuit television system that meets the reasonable requirements of Hertfordshire Constabulary; installing an electronic identification entry system; and to have use of a Pubwatch radio.

3.5 Paragraph 6.6 of the policy details matters that will be taken into account under this part of the policy where relevant representations have been received against an application. Does the application:

(1) contribute to the family-friendly development of the town centres; or

(2) effect a real reduction in the capacity for alcohol sales in that premises (for example by replacing a vertical drinking establishment with seated consumption and waiter/waitress service).

3.6 Where an applicant wishes an exception to this policy to be considered it is their responsibility to evidence this.

3.7 Paragraph 9.37 and 9.38 of the revised Guidance issued under section 182 of the Licensing Act 2003 states:

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Revised Guidance issued under section 182 of the Licensing Act 2003 ;
- its own statement of licensing policy.

3.8 Paragraphs 9.42-9.44 deal with how to determine actions that are appropriate for the promotion of the licensing objectives.

3.9 If Members are minded to impose conditions to mitigate concerns regarding the undermining of the licensing objectives then Chapter 10 of the guidance deals with conditions attached to premises licences. Paragraph's 10.8-10.10, 10.13-10.15 would be particularly relevant.

4.0 Officer observations

4.1 As stated in the Guidance the authority's decision should be evidence based, justified as being appropriate for the promotion of the licensing objective's and proportionate to what it is intended to achieve.

4.2 Members should consider if they believe the applicant has provided evidence that the proposed variation would promote and not undermine the licensing objectives. This evidence should be balanced against the evidence given by those making representations against the application that the licensing objectives would be undermined.

4.3 Members should consider the conditions that are already present on the licence and whether these are adequate to

promote the licensing objectives during the extend hours of operation. The applicant believes this is the case as they have not offered any additional steps to help promote the licensing objectives.

- 4.4 To help establish whether this is the case Members are free to question those in attendance from both sides. If Members believe that the representations are evidence that the operation of the premises already undermines the licensing objectives then it is appropriate to believe that this will, without further measures being put in place, continue into the extended period.
- 4.5 If Members believe that the evidence shows that the variation will promote the licensing objectives then the application should be granted in full.
- 4.6 If Members believe that there is evidence that the granting of the variation would not promote the licensing objectives then it is within their remit to take the action they believe is appropriate and proportionate to address their concerns. Put in its simplest terms what are the minimum measures that can be put in place to address the concerns? Refusal of the application should be the last option considered.
- 4.7 If the applicant has not demonstrated that there should be an exception to the Family Friendly Town Centre Policy then Members may think it appropriate to limit the hours to those within the policy (see paragraph 3.2 above).
- 4.8 However if simply limiting the hours to those within the policy does not mitigate Members' concerns regarding the promotion of the licensing objectives then the option to impose appropriate and proportionate conditions is available.
- 4.9 Additional conditions could only be imposed during any additional hours granted as part of this application and could

not be applied to the hours the premises already benefits from.

- 4.10 In considering additional conditions Members should decide whether these steps would in fact address their concerns if the decision was made to grant hours beyond those within policy? Members are free to depart from the policy but should clearly explain why this has been done when giving detailed reasons for their decision.
- 4.11 If Members believe that there is evidence that shows that there are no steps that can be taken to ensure that any variation in hours would promote the licensing objectives then the application should be refused.
- 4.12 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence Members have relied upon when reaching their decision.

5.0 Implications/Consultations

- 5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

East Herts Statement of Licensing Policy 2016

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