

Wednesday, 13 December 2023

Report of the Portfolio Holder for Environmental Health and Community Partnerships /
Assistant Director - Growth & Regeneration

**CONSIDERATION OF AN APPLICATION FOR GRANT OF A PREMISES LICENCE
ENGINE LANE STORES, 26 ENGINE LANE, GLASCOTE, TAMWORTH B77 2DH UNDER
THE LICENSING ACT 2003**

Exempt Information

None

Purpose

To consider the application submitted for a new premises licence in respect of Engine Lane Stores, 26 Engine Lane, Glascote, Tamworth. B77 2DH

Recommendations

Members are asked to determine the application for a new premises licence in respect of Engine Lane Stores, 26 Engine Lane, Glascote, Tamworth, B77 2DH having due regard to the Council's Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The options available are set out in the section below.

Executive Summary

An application for a new premises licence under the Licensing Act 2003 was received on the 20 October 2023 from JL Licensing on behalf of the applicant Thavarajah Nisokanth. A copy of the application is attached at Appendix 1. The proposed operating schedule is attached at Appendix 2.

The Plan of the premises is attached at Appendix 3.

The proposal is to licence the premises:-

The sale of alcohol Monday - Sunday 0600 hours to 2300 hours

Hours premises open to the public Monday – Sunday 0600 hours to 2300

Conditions have been agreed between the applicant and Staffordshire Trading Standards, a Responsible Authority under the Act. These are attached at Appendix 4.

Representations have been received from 'other persons', objecting to the application on the grounds that all of the licensing objectives would be undermined. These representations are attached at Appendix 5 & 6.

Where relevant representations are received, a hearing must be arranged for Members to determine the application.

Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy.

Options Considered

- Grant the Application subject to any condition which must under the Act be included in the licence and with or without additional conditions necessary to promote the Licensing Objectives
- Grant the Application amending any of the licensable Activities from the Scope of the Licence
- Reject the application

Resource Implications

The fees for a premises licence are payable on application. They are not refundable should the application be refused.

If the application is refused, or granted with conditions, the applicant has the right of appeal to the Magistrates' Court against the decision.

Similarly a person who made relevant representations has a right of appeal against a decision to grant a licence, or the conditions imposed upon it.

Legal/Risk Implications Background

Under section 18 Licensing Act 2003 (as amended), following receipt of an application for a premises licence if relevant representations are received, unless all parties agree that a hearing is unnecessary, the Licensing Authority must hold a hearing.

At the hearing the Sub Committee shall, having regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives.

The relevant options are outlined above. The Licensing Sub Committee should be mindful of the requirements and responsibilities placed on it by other legislation in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2020, the Human Rights Act 1998 and the Crime and Disorder Act 1998.

Under section 181 and Schedule 5 Licensing Act 2003 there is a right of appeal to the Magistrates' Court in respect of application for new premises licences. This right of appeal is open both to the applicant and to any person who has made relevant representations. The appeal application must be made within 21 days of the written notification of the Sub Committees decision to the appellant.

Equalities Implications

Article 6 of the Human Rights Act 1998, states that in determination of a persons civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.

Part II, Article 1 states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law and by the general principles on international law.

Environment and Sustainability Implications (including climate change)

There are no sustainability and/or carbon reduction implications associated with this report.

Background Information

Members may not refuse applications in whole or in part or attach conditions to licences (other than those proffered by applicants in their operating schedules), unless it is appropriate to do so in order to promote one or more of the four licensing objectives;

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

Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged.

Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- should be written in a prescriptive format. 3.12 The licensing authority should give its decision within 5 working days of the conclusion of the hearing and provide reasons to support it.

Report Author

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List of Background Papers

The background papers used in compiling this report were as follows:

Section 182 Statutory Guidance to the Licensing Act 2003
Tamworth Borough Council Licensing Statement 2023-2025
Licensing Act 2003

Appendices

Appendix 1 - Application for a new premises licence under the Licensing Act 2003

Appendix 2 – Operating Schedule

Appendix 3 - Application Plan submitted for Premises Licence Application.

Appendix 4 - Trading Standards agreed conditions

