

Licensing Act 2003 – Application for a new Premises Licence

**‘Ideal Supermarket’
55-57 Rowlands Road, Worthing, BN11 3JN**

Report by the Director for Sustainability and Resources

1. Recommendation

- 1.1 That a Sub Committee of the Licensing & Control Committee considers and determines the application made by:

Ali’s Supermarket Ltd.

for a new Premises Licence to authorise the sale of alcohol at the above convenience store.

2. Reasons for Hearing

- 2.1 The application has been the subject of formal representation by two responsible authorities and another party and it therefore falls to this sub-committee to determine.

3. Background

- 3.1 An application was made by Ali’s Supermarket Ltd. to the Licensing Authority, Worthing Borough Council, on 18 May 2023 for the grant of a new premises licence to allow licenseable activity in the form of alcohol ‘off sales’ at the above store.
- 3.2 Mr Shaswar Ranjbari is listed as the sole director of Ali’s Supermarket Ltd.
- 3.3 Mr Ranjbari previously applied for a premises licence in his own name on 16 August 2022 but the application was rejected after the applicant failed to advertise the application in accordance with the regulations.

- 3.4 Mr Ranjbari reapplied on 07 September 2022 but withdrew his application on 09 November 2022 during the Licensing & Control Sub-Committee hearing that had been convened to consider the application.
- 3.5 It is confirmed that Ali's Supermarket Ltd.'s application has been properly made.
- 3.6 Ideal Supermarket occupies a double fronted commercial unit in Rowlands Road which had formerly been used as an art studio. The property has residential accommodation above. The shop has been trading as a convenience store, without alcohol sales, since August 2022.
- 3.7 Rowlands Road is a busy mixed commercial/residential street running east to west from Montague Street to Heene Road. It contains a large and varied selection of small independent shops, salons, galleries, cafes, restaurants, bars and offices. The southern side of the street is mainly commercial at this location with controlled on street parking and some residential flats above the commercial units. The north side of the road at this location is mainly residential houses, flats and bedsits.
- 3.8 Attached to the report are:
- A map & photos of the area (Appendix A)
 - A plan of the site (Appendix B)
 - A copy of the application (Appendix C)
 - The representations made by the Responsible Authorities (Appendix D)
 - The representation made by an interested party. (Appendix E)

4. The Application

- 4.1 The Application is attached at Appendix C. However, in summary, the application is seeking authorisation for:

The sale of alcohol for consumption off the premises:

- Sale of alcohol:
 - 08:00 hrs to 23:00 hrs Monday - Sunday
- Opening to the Public:
 - 08:00 hrs to 23:00 hrs Monday - Sunday

- 4.2 The Guidance issued under section 182 of the Licensing Act 2003 recommends the applicant completes an operating schedule as to how it is intended to address the Licensing Objectives if this application were granted. The application contains a very brief description of how the applicant will comply with the licensing objectives.

- 4.3 The proposed designated supervisor (DPS) is Mr Shaswar Ranjbari who has a Personal Licence issued by Worthing Borough Council.

5. Promotion of the Licensing Objectives

- 5.1 The Licensing Act 2003 and regulations require that the Council, as the local licensing authority, carries out its functions with a view to promoting the four licensing objectives:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 5.2 In carrying out its licensing functions, the licensing authority must also have regard to the Guidance issued by the Secretary of State and its own Statement of Licensing Policy. Members are advised that the following sections of the Worthing Borough Council's Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:

Prevention of Crime & Disorder

- 4.8 *The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over licensed premises.*
- 4.10 *In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made, including those from interested parties and the responsible authorities, particularly the Police.*
- 4.11 *In their role as a responsible authority, Sussex Police are an essential source of advice and information on the impact and potential impact of licensable activities in the borough, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and usually have good working relationships with those operating in the local area. The council recognises that Sussex Police are the licensing authority's main source of advice on matters relating to the promotion of crime and disorder, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The Council will accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.*

- 4.16 *The Licensing Authority recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.*

SPECIFIC CONSIDERATIONS

Alcohol – On & Off Sales

- 7.1 *It is now a mandatory condition that all licence holders selling alcohol put in place an age verification policy for the premises. In some circumstances the Licensing Authority will impose, where necessary to promote the Licensing Objectives, implicit conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18 years of age.*
- 7.2 *Licence holders need to have sufficient day to day control of operations at their premises. They will be held responsible for breaches of the licence and ensuring there is adequate staffing and training. The authorities will continue to use young people for the ‘test purchasing’ of alcohol and CCTV evidence, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of a Review of licence for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder, licence suspensions and in some cases revocation to act as deterrence.*

6. Consultation

- 6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which relevant representations were received from the following:
- Responsible Authorities
 - Sussex Police
 - West Sussex Trading Standards Service
 - Other Persons
 - A&W Wellbeing - Contextual Safeguarding Team

7. Relevant Representations

- 7.1 Detail of the relevant representation received is reproduced at Appendix D & E. They are considered to relate to the statutory licensing objectives as follows:
- Prevention of Crime & Disorder
 - Public Safety
 - Protection of Children from Harm
- 7.2 West Sussex Trading Standard Service provided a detailed representation that concludes that, as a result of its ongoing criminal investigation regarding illicit tobacco storage and supply at the premises, it is objecting to the granting of this licence stating that the service does not have confidence that the licensing objectives will be promoted

if licensable activities are permitted at the store. To help limit further criminal activity at these premises the service deems it both proportionate and necessary to invite the Licensing Authority to refuse the application. (The representation in full can be found at **Appendix D**)

- 7.3 Sussex Police made a number of comments and invites the Sub-Committee to refuse the application referring to the ongoing investigations being carried out by Trading Standards. The Police representation reiterates Trading Standards stance in that they do not have confidence the licensing objectives will be promoted if licensable activities are permitted.

However, if members were of a mind to grant a licence Sussex Police have listed a number of conditions in their representation that they consider are the minimum required to enable this premises to meet the licensing objectives. (The representation in full can be found at **Appendix D**)

- 7.4 The A&W Councils' Wellbeing - Contextual Safeguarding Team have made a representation highlighting an issue with large groups of men queuing at the premises and alleged incidents of the handling of stolen goods.(The representation in full and accompanying photos can be found at **Appendix E**)

- 7.5 The applicant and all those that made relevant representations have been formally notified of this hearing and invited to attend.

8. Mediation

- 8.1 The Licensing Act 2003 encourages mediation.

- 8.2 I am unaware of any mediation being conducted between the applicant and any of the responsible authorities at the time this report was drafted but members will be informed if there are any developments.

9. Consideration

- 9.1 Members must take into consideration the following when determining this application:

- The four statutory licensing objectives.
- Worthing Borough Council's Statement of Licensing Policy
- Guidance issued by the Home Secretary
- The relevant representations from all parties and any mediated agreements reached.

- 9.2 These are the only matters to be addressed by the authority when considering this application. The statutory Licensing objectives are the only grounds on which representations can be made, and the only grounds on which an authority will be able to refuse an application or impose conditions in addition to statutory conditions and those proposed by the applicant in the Operating Schedule.

- 9.3 When considering this application for a premises licence the following options are available to the Sub-Committee:
- Grant the licence, as requested,
 - Grant the licence, as requested, with additional conditions appropriate to the promotion of the specific licensing objectives on which relevant representations have been received.
 - Reject the whole or part of the application.

Members may also:

- Grant the licence but exclude certain licensable activities from the licence,
- Refuse to specify a particular person as a premises supervisor,
- Approve different parts of the premises for different activities.

- 9.4 Members are required to give reasons for their decision.

10. Legal Implications

- 10.1 Under Section 181 and Schedule 5 of the Act, the following rights of appeal to the Magistrates' Court in respect of applications for a premises licence includes:

- (1) The applicant may appeal against any decision to modify the conditions of the licence.
- (2) The applicant may appeal against a rejection in whole or part of an application.
- (3) A person who has made relevant representations may appeal against a licence being granted, or against the modification or lack of modification of any conditions.

- 10.2 The Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police or the fire authority, or any other party, such as a resident living in the vicinity of the premises. The government's guidance states:

The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with licensing objectives are occurring after the grant or variation of a premises licence.

At any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

- 10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.

- 10.4 Members must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 10.5 All applications, before the Sub-Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from interested parties and the responsible authorities particularly the Police.

11. Other Implications

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account. There are no significant direct race relations or equal opportunity implications that have been identified.

12. Recommendation

- 12.1 Members are requested to determine the application for a new Premises Licence made by Ali's Supermarket Ltd. for the convenience store known as the 'Ideal Supermarket' situated at 55-57 Rowlands Road, Worthing and give reasons for that determination.**

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Background Papers:

- Licensing Act 2003
<https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Guidance issued under section 182 of the Licensing Act 2003
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003/revised-guidance-issued-under-section-182-of-the-licensing-act-2003-december-2022-accessible>

- Worthing Borough Council's Statement of Licensing Policy
<http://www.adur-worthing.gov.uk/licensing-and-permits/consultations-policy-forum/policy-and-forum/>

Appendices:

- Appendix A - Plan & photos of the area
- Appendix B - Plan of the site.
- Appendix C - The Application Form.
- Appendix D - Representations received from the Responsible Authorities
- Appendix E - Representations received from an interested party.

Town Hall, Worthing

Ref: SJ/Lic.U/LA03/NEW – Ideal Supermarket

Date: 26 June 2023.