



Licensing Act 2003 – Application for a New Premises Licence at:

**One Stop
135-137 South Street
Lancing
BN15 8BD**

Report by the Director for Communities

1. Recommendation

- 1.1.1 That the Licensing Committee consider and determine the application made on behalf of :

TKS Mini Market Ltd

for a New Premises Licence which authorises the sale of Alcohol (Off Sales) at the above premise.

2. Reasons for Hearing

- 2.1 The application has been the subject of formal representation by Sussex Police (which has been mediated) and eight members of the public and it therefore falls to this committee to determine.

3. Background

- 3.1 An application was made on behalf of TKS Mini Market Ltd by Licensing Matters Ltd to the Licensing Authority, Adur District Council, on the 28th May 2021 for the grant of a new premises licence.
- 3.2 135-137 South Street, Lancing, is within a parade of shops with flats above. The premises was previously a car showroom. The area is a mixture of retail and residential premises.
- 3.3 Attached to the report are:
- A plan of the area (Appendix A)
 - A plan of the premises (Appendix B)
 - A copy of the application (Appendix C)
 - The representation & mediation made by Sussex Police (Appendices D & E)
 - The representations received from local residents (Appendices F1 – F8)

4. The Application

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

- o Sale of Alcohol for consumption off the premises:
 - 07:00hrs to 00:00hrs Monday & Sunday
- o Opening to the Public:
 - 07:00hrs to 00:00hrs Monday & Sunday

5. Promotion of the Licensing Objectives

5.1 The Licensing Act 2003 and regulations require that the Council, as the local licensing authority, to carry 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 Adur District 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

4.9 *The Licensing Authority is committed to further reducing crime and disorder within the Adur District and to helping people feel safe.*

4.11 *The promotion of the Licensing Objective to prevent crime and disorder places a responsibility on licence holders to work together in partnership to achieve this objective, and are strongly recommended to become members of any relevant Pubwatch scheme. Applicants will be expected to demonstrate, in their Operating Schedule, that suitable and sufficient measures have been identified and will be implemented and maintained to minimise or prevent crime and disorder in and around the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.*

4.12 *When addressing the issue of crime and disorder, an applicant must demonstrate that those factors that impact on crime and disorder have been considered. These specifically include:-*

- *Underage drinking*
- *Drunkenness on premises*
- *Public drunkenness*
- *Drugs (especially through an agreed Venue Drugs Policy)*
- *Violent behaviour*
- *Anti-social behaviour*
- *Lewd and offensive behaviour*

Prevention of Public Nuisance

- 4.16 *Licensed premises have a significant potential to impact adversely on communities through public nuisances which can arise from their operation. The Licensing Authority recognises the need to maintain and protect the amenity of residents, visitors and other businesses from the potential consequence of the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential.*
- 4.17 *The Licensing Authority understands ‘public nuisance’ to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.*
- 4.18 *Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing public nuisance, relevant to the individual style and characteristics of their premises and events.*

Protection of Children from Harm

- 4.23 *The protection of children is a most important issue. It is hoped that family friendly premises will thrive, but the prevention of harm to children remains of paramount importance when determining applications.*
- 4.26 *Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.*

Demand, Saturation & Licensing Hours

- 6.1 *In accordance with the Government’s guidance the Licensing Authority recognises that demand is not a relevant criterion in considering an application under the Act.*

Stores and Supermarkets – Off Sales

- 7.3 *Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons for restricting those hours.*

Accordingly, if the law permits the shop to open for 24 hours or limits such opening, for example, on Sunday's, the authority will generally permit the sale of alcohol during those hours.

SPECIFIC CONSIDERATIONS

Alcohol – On & Off Sales

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.

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 - 1 X Representation -
 - Sussex Police
 - Other Persons
 - 8 X Letters objecting to the application from local residents

7. Relevant Representations

- 7.1 Detail of the relevant representations received is reproduced at Appendices D and E. They are considered to relate to the statutory licensing objectives as follows:

Prevention of Crime & Disorder

Prevention of Public Nuisance

Protection of Children from Harm

- 7.2 Sussex Police suggested a number of new and revised conditions that they consider are required to enable this premise to meet the licensing objectives if members were of a mind to grant the application.
- 7.3 Eight representations were received from local residents expressing concerns regarding possible crime & disorder, anti-social behaviour and public nuisance implications related to the extended hours sought for alcohol sales. The representations have been provided in full but also contain complaints regarding the pavements, congestion, parking etc. which whilst serious matters are not issues this committee can consider. **See Appendices E1 – E8**
- 7.4 The applicant, and those that have made representation have been formally notified of this hearing and invited to attend.

8. Mediation

- 8.1 The Licensing Act 2003 encourages mediation.

Sussex Police sought some new and revised conditions to address the licensing objectives and these have now been successfully mediated with the applicant. As a result Sussex Police have withdrawn their objections. **(Appendix D)**

9. Consideration

- 9.1 Members must take into consideration the following when determining this application:
- The four statutory licensing objectives
 - Adur District Council's Statement of Licensing Policy
 - Guidance issued by the Home Secretary
 - The relevant representations from all parties and any mediated agreement 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 new application, pursuant to s 35 of the Act the following options available to the Committee:
- a. To grant the application, as requested,
 - b. To grant the application as requested but with additional conditions appropriate to the promotion of the specific licensing objectives on which relevant representations have been received.
 - c. Reject the whole or part of the application.
- 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:
- a. The applicant may appeal against any decision to modify the conditions of the licence.
 - b. The applicant may appeal against a rejection in whole or part of an application.
 - c. 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, trading standards or the fire authority etc., 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 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 at One Stop Store situated at 135-137 South Street, Lancing and give reasons for that determination.**

Director for Communities

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Background Papers:

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003
<https://www.gov.uk/government/publications/licensing-act-2003-amended-guidance-issued-under-section-182>
- Adur District 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 of area.
- Appendix B - Plan of the building.
- Appendix C - The Application Form.
- Appendix D – Police Representation
- Appendix E – Police Mediation
- Appendices F1 - 8 - Representations received from members of the public

Portland House, Worthing
Ref: TC/LA03/141198 – One Stop, Lancing
Date: 26 July 2021.