

**MAIDSTONE BOROUGH COUNCIL**

**LICENSING ACT 2003 SUB COMMITTEE**

**MINUTES OF THE MEETING HELD ON THURSDAY 9 FEBRUARY 2023**

<b>Committee Members:</b>	<b>Councillors Coates, Joy, and Trzebinski (Chairman)</b>
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35. APOLOGIES

There were no apologies for absence.

36. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no substitute members present.

37. ELECTION OF CHAIRMAN

**RESOLVED:** That Councillor Trzebinski be elected as Chairman for the duration of the meeting.

38. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Joy disclosed that she personally knew one of the interested parties and that she would approach the hearing with an open mind with consideration to all the officer's advice and presentations made.

39. DISCLOSURES OF LOBBYING

There were no disclosures by Members and Officers.

40. EXEMPT ITEMS

**RESOLVED:** That item 7 be taken in public as proposed. However, it was agreed that the sub-committee would retire to closed session to consider the application when the decision would then be announced in public.

41. APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE GREEN CONVENIENCE STORE, 4 THE PARADE, THE GREEN, BEARSTED, KENT, ME14 4DN

The persons participating at the hearing were identified as follows:

Chairman – Councillor Ziggy Trzebinksi  
Sub-Committee Member – Councillor Patrick Coates  
Sub-Committee Member – Councillor Denise Joy  
Senior Licensing Officer – Lorraine Neale  
Legal Advisor – Helen Ward  
Democratic Services Officer – Oliviya Parfitt

The Applicant and their Representative – Engarshal Sinnarasa and Frank Fender.

Interested Parties – Cllr Val Springett & Graham Barrett

The Chairman explained that:

The Sub-Committee would allow all parties to put their case fully and make full submission within a reasonable time frame.

The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination within a reasonable timeframe.

Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this was not possible, they may be permitted to speak at the Chairman's invitation.

The Senior Licensing Officer outlined the application and introduced the applicant Engarshal Sinnarasa. The Senior Licensing officer stated that members had been asked to consider the application for a new premises licence under the Licensing Act 2002 for the Green Convenience Store, 4 The Parade. The Green, Bearsted, Kent, M14 4DN.

The Senior Licensing Officer also stated that the application was made for the sale and supply of alcohol of sales only Monday to Sunday 06:00 to 23: 00 hours. There were no comments received from any of the responsible authorities.

The applicant's representative gave their opening statement on behalf of the application and explained that:

- Between the years 2004 – 2009 the applicant worked at Budgens supermarket which was licensed to sell alcohol.
- Between 2009 – 2010, the applicant worked in a petrol station which was licensed to sell alcohol.
- In February 2010, the applicant took over a convenience store which was licensed to sell alcohol between 6 am to 11 pm.
- In 2014, the applicant took over another convenience store in Bearsted on Ashford Road and held the premises license.
- In 2019, the applicant took over another shop and became the premises license holder.

The applicant's representative stated that the applicant had never caused any concerns for any of the authorities through the operation of his other licensed premises and had an excellent track record. The measures proposed to meet the licensing objectives, such as 'Challenge 25', were outlined. It was reiterated that no representations had been made by the responsible authorities, with no evidence provided to support the concerns expressed by the interested parties' representations.

The applicant's representative stated that the premises was unlikely to remain open until 11p.m., particularly during the winter where the likely closing time would be around 8-9 p.m., but that this would provide the flexibility needed to sell alcohol later into the evening.

In response, the panel enquired about the applicants' other premises and whether they were near any village greens or recreational grounds. The applicant responded that the post office in Loose has a playground called St Georges which is in front of the Loose Infant School.

The interested party (Councillor Val Springett) was invited to make their case and in doing so mentioned that generally the application was welcomed, as the shop had been very old-fashioned and outdated for a very long time.

However, the application had divided opinion given the late opening hours, which might encourage young individuals to gather on Bearsted Green and consume alcohol late into the evening. The area was generally a quiet area, although the other licensed premises in the area generated noise, with the junction near the premises as incredibly busy. The sub-committee was being asked to consider adjusting the operating hours as applied for, as opposed to rejecting the application.

The applicant responded by stating that customers would be asked not to litter the green or cause disruption or noise late at night, as otherwise they wouldn't continue to be served.

In response to a question from the sub-committee, the applicant stated that they would expect the premises to be open for an extra hour in the summer months, with additional staff members on site.

The interested party Graham J Barrett was invited to make their case and stated that in the last 18 months there had been an increase in vandalism in the surrounding area, with the local road network to the premises as being busy and dangerous. It was felt that the premises staff could be vulnerable post 7 p.m. due to the antisocial behaviour in the area.

In response to the comments on the road network, the Legal Advisor stated that no weight could be given to the comments unless it related to the licensing objectives.

In response to the interested party's comments, the applicant's representative stated that the applicant would maintain a working relationship with the local ward Member and that they would not give a definitive premises closing time, as this could be included in the license and reduce the flexibility available to the applicant.

The applicant's representative summarised their case by stating that the applicant had a good track record of running convenience stores and asked the committee to attach considerable weight to the fact that no other responsible authority had made a representation. In saying that, the representative asked that the committee to grant as applied for.

The interested parties summarised their case by requesting that the applicant liaise with the local Ward Member and community.

The chairman advised that the sub-committee would retire for deliberation with the legal advisor present. The meeting was adjourned between 11.08 a.m. to 11.45 a.m.

Following the Sub-Committee's return, the legal advisor outlined a proposed condition that had been discussed in closed session; that a second member of staff be on duty if the shop was open beyond 7 pm. The interested parties agreed with this condition and stated that it would also improve the safety of the shop and the staff inside.

The applicant's representative strongly objected to the proposed condition and responded by stating that the applicant had one member of staff working at all his other stores up until closing time. However, the condition would be acceptable if the time proposed was amended to 9.30 p.m. as the applicant would rarely be open beyond that time in the first instance.

The Sub-Committee adjourned again between 12 p.m. And 12:15 p.m. to deliberate the proposed condition.

The Sub-Committee returned, and the Chairman stated that having considered the report, evidence provided, representations made and the relevant legislation and guidance, the decision made was to grant the application as applied for with the addition of one condition; that where the premises is open for the sale of alcohol beyond 9:30 pm a minimum of two staff would be on duty on the premises until close. The reasons contributing to the decision were outlined in further detail.

It was confirmed that a written decision notice would be provided. Parties were reminded of the right of appeal to the Magistrates Court.

The hearing closed at 12.16 p.m.

**RESOLVED:** That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the minutes.



**LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION**

Application Ref No: 22/04808/LAPRE

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Applicant: Mr Engarshal Sinnarasa

Regarding The Green Convenience Store, 4 The Parade, The Green, Bearstead, Kent ME14 4DN

Date(s) of hearing: 9 February 2023

Date of determination: 9 February 2023

Committee Members: Councillor Trzebinski (Chair)  
Councillor Coates  
Councillor Joy

Legal Advisor in attendance at hearing(s): Helen Ward, Lawyer (Contentious), MKLS

Democratic Services Officer in attendance at hearing: Oliviya Parfitt

Senior Licensing Officer for application: Lorraine Neale

This was an application for:

- Variation       Grant
- Provisional Statement     Review     Other .....

for a

- Premises Licence     Club Premises Certificate     Personal Licence
- Temporary Event Notice

**A: Representations, evidence and submissions:**

The Committee considered the representations, evidence and submissions of the following parties:

**Applicant**

Mr Engarshal Sinnarasa (Applicant)  
Mr Frank Fender (Applicant's Representative)

**Responsible Authorities**

N/A

**Interested Parties**

Cllr Val Springett  
Graham Barrett

**Witnesses and legal representatives in support of interested parties**

N/A

**Representations considered in the absence of a party to the hearing:**

Those contained within the Report prepared for the Licensing Sub Committee

**B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council**

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives  
Sections 16-24 which relate to the grant of a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives  
Chapters 8 & 9 which relate to premises licences & determinations  
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account its Statement of Licensing Policy.

## **C: Determination:**

### **The Committee has decided to:**

- Grant the application as applied for with an additional condition that reads:  
*Where the premises is open for the sale of alcohol beyond 9.30pm, a minimum of two staff will be on duty at the premises from 9.30pm until close.*

### **Reasons for determination:**

#### **■ Prevention of Crime and Disorder**

The Licensing Sub Committee welcomed the investment that the applicant had made to the premises and recognised their experience in operating similar businesses. The applicant explained that he operated three other convenience stores which, although licensed until 10pm or 11pm, generally did not operate beyond 8pm in the winter or 9pm at weekends in the summer. On questioning from the Licensing Sub Committee the applicant confirmed that there would be another member of staff on duty in the summer when they trade later at the other premises.

The Licensing Sub Committee welcomed the contact the applicant had made with the interested parties and local councillors regarding the application.

The Licensing Sub Committee noted that the operating schedule that had been offered was robust in terms of CCTV and staff training and they considered that this would help ensure the premises would promote licensing objectives.

The Licensing Sub Committee recognised that the Police had not made any objection to the application and noted their policy at paragraph 4.5 that the Police are the main source of information on crime and disorder matters. The Licensing Sub Committee also considered the evidence provided concerning anti social behaviour during later hours from the interested parties. The Licensing Sub Committee heard that the applicant did not know what hours he would definitively operate to, which would be dictated by market forces. On questioning, he explained that he operated with extra staffing at his other shops when they operate later hours. They welcomed his commitment made during the hearing to work closely with the community to deal with concerns regarding trading in the later hours. The Licensing Sub Committee queried the inclusion of an additional condition regarding staffing levels and noted the comments made by all parties, in particular by the applicant that they would be in agreement to a condition that an additional member of staff be on duty beyond 9.30pm when the premises was trading later than 9.30pm, as if he were to be open that late it would be due to other circumstances in the area which would likely dictate the need for further staff on duty. The Licensing Sub Committee recognised that a number of the concerns raised in representations were already occurring and could not be apportioned to the premises. They balanced that with their duty to promote the

licensing objectives and in particular that they were required to consider the prevention of crime and disorder.

The Licensing Sub Committee noted that a number of representations raised the issue of an earlier closing hour. They did not feel that the evidence supported any intervention in the hours sought by the applicant for the sale of alcohol, subject to it being supported by the operating schedule proposed and the additional condition agreed at the hearing. They noted in particular their policy at paragraph 3.6, whereby hours will generally only be restricted in comparison to the opening hours of a premises where the premises has become the focus of crime and disorder.

The Licensing Sub Committee recognised that in the event that the concerns raised in representations were made out, the applicant had offered to work with his community and in addition the Licensing Act 2003 allowed a process for Review of the premises licence if the licensing objectives were undermined.

Accordingly, the Licensing Sub Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective subject to the addition of a condition requiring an additional member of staff to be on duty beyond 9.30pm, when the premises traded for the sale of alcohol beyond that time.

#### ■ **Public Safety**

The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

#### ■ **Prevention of Public Nuisance**

The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

The Licensing Sub Committee noted that a number of representations made reference to an increase in noise, however they did not feel that the evidence provided supported any intervention to promote this licensing objective.

#### ■ **Protection of Children from Harm**

The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

### **D: Appeal**

Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

An appeal has to be commenced by the giving of a notice of appeal to the Magistrates' Court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against. Parties should be aware that the Magistrates' Court may make an Order as to costs in any Appeal.

PRINT NAME (CHAIR):

Signed [Chair]:

A copy of the original document is held on file

Date: 9 February 2023