

Agenda Item No: 1 - Summary of Report

Licence Reference 22/04802/LAPRE

Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 23RD JANUARY 2023

Report Title: THE GREEN CONVENIENCE STORE, 4 THE PARADE, THE GREEN,
BEARSTED, KENT, ME14 4DN

Report Author: Lorraine Neale

- Summary:**
1. The Applicant – Mr Engarshal Sinnarasa
 2. Type of authorisation applied for: A premises licence under the Licensing Act 2003.
 3. Proposed Licensable Activities and hours:

M	Supply of Alcohol (Off Sales)	Mon – Sun	6:00 – 23:00
O	Opening Hours	Mon – Sun	6:00 – 23:00

Affected Wards: Bearsted

Recommendations: The Committee is asked to determine the application and decide whether to grant the premises licence.

Policy Overview: The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

Financial Implications: Costs associated with processing the application are taken from licensing fee income.

Other Material Implications: **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended
Maidstone Borough Council Statement of Licensing Policy

Contacts: Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602528

Agenda Item No. 1

Report Title: THE GREEN CONVENIENCE STORE, 4 THE PARADE, THE GREEN, BEARSTED, KENT, ME14 4DN

Application: For a premises licence under the Licensing Act 2003. (Appendix 1).

Purpose of the Report

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003 (Appendix 1), made by Mr Engarshal Sinnarasa, in respect of the premises The Green Convenience Store, 4 The Parade, The Green, Bearsted, Kent, ME14 4DN (Appendix 2) in respect of which 10 objections and 2 comments of support have been received from other parties (Appendix 3 – TO FOLLOW).

Issue to be Decided

Members are asked to determine whether to:

- 1) grant as applied for
 - 2) grant with conditions
 - 3) exclude any licensable activity
 - 4) reject the DPS
 - 5) or reject the application.
- 2** The relevant sections are Part 3 S16 -24 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:
- The prevention of crime and disorder.
 - Public Safety
 - The prevention of public nuisance; and
 - The protection of children from harm
- 3.** The application has been correctly advertised in the local press and notices displayed at the premises for the required period.
- 4.** There were no representations received from a responsible authorities.
- 5.** There are 12 representations from other parties, 10 objections and 2 in support (Appendix 3 – TO FOLLOW).
- 6.** The table below illustrates the relevant representations which have been received.

Responsible Authority/Other Party	Licensing Objective	Associated Documents	Appendix
Captain Mark Mills	Public Nuisance	e-mail	3
Cllr Val Springett	Public Nuisance	e-mail	3
Mrs Susan Wood	Public Nuisance	e-mail	3
Graham J Barrett	Crime & Disorder Public Nuisance	e-mail	3
Mark Clilverd	Crime & Disorder Public Nuisance	e-mail	3
Anthony Gooden	Public Nuisance	e-mail	3
Cllr David Hall – Chairman to Bearsted Parish Council	Public Nuisance	e-mail	3
Roy and Carolyn Christie	Public Nuisance	e-mail	3
Chris Colwell	Public Nuisance	e-mail	3
Judith Ming	Crime and Disorder Public Safety Public Nuisance	e-mail	3
Barbara Long	Support	e-mail	3
Mrs Judy Buckley	Support	e-mail	3

The concern appears that granting a licence at these premises for the hours requested would increase the level of anti social behaviour in the neighbourhood. The premises could encourage people to buy alcohol late and to remain in the area because of the nearby Bearsted Green. They could potentially use the green to consume their alcohol and ultimately cause disturbance and noise, there is also the potential for criminal activity, criminal damage and drug taking.

The store could also increase the volume of traffic to the area and to a later time which would increase the danger for residents in the area due to the unenforced parking on double yellow lines to the blind spot leading up Thurnham Lane close to the parade of shops . It would also be detrimental to residents with regard to traffic noise continuing later into the evening and increased vehicle parking causing nuisance to residents.

The general view appears to be that a 6 or 7pm closing time would be more appropriate for the area.

Mr Ian Rushton, the agent acting on behalf of the applicant, Mr Sinnarasa has contacted all the parties that submitted comments and his correspondence to them is attached as Appendix 4.

7. Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.

8. The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:

a) General – all four licensing objectives:

This is a small and well established shop currently trading as a general convenience store selling a range of goods including newspapers, magazines, groceries, soft drinks, etc. The applicant would like to develop the business by offering some alcohol sales to allow the business to offer the complete all-round convenience service. The focus of the shop will continue as convenience store with the proposed alcohol sales just being a part of the overall business. The applicant is a personal licence holder and has plenty of retail experience

b) The prevention of crime and disorder:

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs.

Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request.

The premises licence holder must ensure that the DPS or a member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.

All staff selling alcohol shall be authorised to sell alcohol in writing and a record of the authorisation will be kept in the shop for inspection.

Any incidents of crime and disorder at or immediately outside the premises, witnessed by staff, will be recorded in an incident book(s) kept at the premises. This book will be kept available for inspection.

Spirits will be kept behind the counter

c) Public Safety:

Appropriate fire safety equipment to be available;

The PLH shall comply with other legislative requirements to ensure that the shop is safe for customers and staff

d) The prevention of public nuisance:

The DPS and staff will be vigilant and monitor the area immediately outside the shop to check that youths are not causing annoyance by congregating.

Deliveries to the premises will be arranged so as not to cause any public nuisance.

Notices will be on display in the premises asking customers to leave the premises quietly.

Staff will monitor the area immediately outside the premises on a regular basis to check for, and to properly dispose of, any litter from the premises..

e) The Protection of children from harm:

The premises will adopt the "Challenge 25" Scheme which will be advertised within the premises by way of sufficient posters to make the public aware.

Only Home Office approved ID of proof of age will be accepted by staff. This will include photographic driving licence, a passport or a 'PASS' marked proof of age card.

All staff involved in the sale or supply of alcohol will be trained in the "Challenge 25" Scheme and such training will be recorded

Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place. Refresher training shall be provided every 12 months or earlier if required due to changes of legislation.

Training records must be kept on the premises and shall contain the nature, content and frequency of all training. Records must be made available for inspection (either electronically or hard copy) by Police and other Authorised Officers.

A refusal recording register will be in operation at the premises. All staff, including any delivery drivers, involved in the sale of alcohol will be fully trained in the system and it will record the following:

Date and time of refusal
Item refused
Name of description of the person refused
Reason for refusal
Name of staff member making the refusal.

The refusal register will be available for inspection to any Police Officer and other Authorised Local Authority Officers at any reasonable time.

Notices shall be displayed in the premises where they can be seen clearly to advise customers that it is unlawful for persons under 18 to purchase alcohol or for any persons to purchase alcohol on behalf of a person under 18 years of age.

9. Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003;

Chapters 8 & 9 Premises Licences & Determining Applications

Chapter 10 Conditions NB: There is Home Office Supporting Guidance on Pools of Conditions but this is not statutory guidance.

Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:

17.10 Crime and Disorder
17.19 Public Safety
17.22. Prevention of Public Nuisance
17.26. Children from Harm

CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

17.10 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

17.11 Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.

17.12 Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.

17.13 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.14 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

17.15 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

17.16 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.17 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.18 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

CONDITIONS TO PROMOTE PUBLIC SAFETY.

17.19 The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

17.20 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

17.21 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol.
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres.
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.

17.22 The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.23 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

- 17.24 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.
- 17.25 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

10 Options

Legal options open to members –

1. Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application.
2. Grant the licence with modified conditions
3. Exclude a licensable activity
4. Refuse to specify the DPS
5. REJECT the whole or part of the application

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

11. Implications Assessment

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

12. Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

13. Conclusion

Members must ensure that the application is considered on its merits, as well as against the

relevant guidance, policy and statutory framework.

14. List of Appendices

Appendix 1	Application Form
Appendix 1a	Proposed Conditions
Appendix 2	Plan of Premises
Appendix 3	Representations. – TO FOLLOW
Appendix 4	Letter from applicants agent to objectors
Appendix 5	Plan of area
Appendix 6	Human Rights Articles
Appendix 7	Order of Proceedings

15. Appeals

The applicant or any other party may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified of the decision. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.

Contact: Email:	Senior Licensing Officer lorraineneale@maidstone.gov.uk
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