



Licensing (Liquor and Gambling) Panel

Application for Variation of the Premises Licence at Asda Store, Washbrook Road, Rushden

Purpose of report

Application to vary the Premises Licence at Asda Store, Washbrook Road, Rushden

Attachment(s)

Appendix 1 - Application Form

Appendix 2 - Map of Area

Appendix 3 - Representations

Appendix 4 – Current licence

1.0 Summary

- 1.1 An application to vary the premises licence at the Asda Store in Rushden was received on 28 June 2012. The appropriate Blue notice was displayed on the premises during the required consultation period.

2.0 Application details

- 2.1 Those matters for which a variation to the premises licence is sought are listed below with the relevant timings, (current timings are in brackets):-

Changes to supply of alcohol hours

Monday – Sunday 06:00 – 24:00 (Monday – Saturday 08:00 – 22:00, Sundays 10:00 – 16:00)

To include the provision of late night refreshment

Monday – Sunday 23:00 – 24:00 (not currently licensed)

To remove certain conditions

1. Embedded conditions apply (the licence is granted on the conditions that the restrictions contained within the enactments specified under the Licensing Act 2003 schedule 8 (6) are adhered to)
2. You must be an active member of the Rushden and Higham Pubwatch scheme.

3.0 Consultations

The following Consultations have been undertaken:

Child Protection	No representation
Fire	No representation
Police	No representation
Trading Standards	No representation
Revenues and Customs	No representation
Health Authority	No representation
Town/Parish Council	Representation
Environmental Protection	No representation
Environmental Health	No representation
Licensing	No representation
Planning	No representation
Public	No representation

- 3.1 There was one representation received from Rushden Town Council and a summary is shown under the relevant licensing objectives.

Crime and Disorder, Public Nuisance and Protection of Children from Harm

Members felt that 06:00 was too early to be selling alcohol and this would contribute to the above licensing objectives. They also mentioned the proximity of the site to residential properties and the extended opening hours would result in loss of quality of life for the residents. The late night refreshment element members were concerned about the impact this would have on residents living in close proximity to the store. Members also considered it critical to retain the condition relating to pubwatch as this contributes to the four licensing objectives.

See Appendix 3 for full representation.

4.0 Determination

- 4.1 The Panel must carry out its functions to promote the licensing objectives having regard to:

- Licensing Policy
- S182 Guidance

- 4.2 The Act states that following a hearing the Panel may take the following actions if they deem them necessary to promote the licensing objectives:

- Grant the variation subject to operating schedule and mandatory conditions only
- Grant the full variation subject to further conditions necessary for the promotion of the licensing objectives
- Grant elements variation subject to further conditions necessary for the promotion of the licensing objectives
- Refuse elements of the variation application
- Refuse the whole of the variation application

5.0 Policy Considerations

This section highlights the elements of the licensing policy that are most relevant with respect to this application. This is not exhaustive and the policy should be considered fully prior to making decisions with respect to applications:-

- 2.13 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.14 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions relevant to the operating plan will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. Health and Safety at Work and Fire Safety legislation).
- 5.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is appropriate to reduce the friction

at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.

- 5.2 However, when issuing a licence with hours beyond 2300 hours, higher standards may be expected to be included in Operating Schedules to address the licensing objectives especially in premises which are situated near to residential properties.
- 9.1 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates.

6.0 Section 182 Guidance Considerations

This section highlights the elements of section 182 Licensing Guidance that are most relevant with respect to this application. This is not exhaustive and guidance should be considered fully prior to making decisions with respect to applications:-

6.1 Committee Consideration

- Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style 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 necessary for the promotion of the licensing objectives in any individual case (para 1.16).
- As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation (para 9.33).

6.2 Conditions

- The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both (para 10.4).
- The 2003 Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. The conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. (para 10.14).

Hours of trading

- Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the Licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested. (para 10.21).

7.0 Equality and Diversity Implications

7.1 There are no equality and diversity implications

8.0 Financial Implications

8.1 There are no financial implications at this stage.

9.0 Staff

9.1 There are no staffing implications

10.0 Risk Management

10.1 There are no material risks

11.0 Corporate Outcomes

11.1 The following corporate outcomes would be delivered

- Good quality of life
- Effective partnership working
- Good reputation
- Strong community leadership
- Knowledge of our customers and communities

12.0 Invitation to determine

The panel is asked to consider the information detailed above and determine the variation application.

Legal	Power: Licensing Act 2003				
	Other considerations: Section 182 Guidance, April 2012; Statement of Licensing Policy				
Background Papers: None					
Person Originating Report: Julia Smith Commercial Health Manager jsmith@east-northamptonshire.gov.uk 01832 742066					
Date: 01 August 2012					
CFO		MO		CX	

(Committee Report Normal Rev. 22)