



Licensing (Liquor and Gambling) Panel - 25 August 2010

Application for a Premises Licence - Jazz Off Licence, 61A High Street South, Rushden

Summary

Application for a Premises Licence at Jazz Off Licence, 61A High Street South, Rushden, NN10 0RA

Attachment(s)

Appendix 1 - Application Form

Appendix 2 - Map of Area

Appendix 3 - Representations

Appendix 4 - Police representation agreed with applicant

1.0 Summary

1.1 We received a new application from Mr Sandeep Singh for a premises licence at Jazz Off Licence and Convenience Store, 61A High Street South, Rushden, on 7 July 2010.

2.0 Licensable Activities

2.1 The licensing activities and the timings requested for the premises licence are listed below:-
Sale of Alcohol (off sales only) from 07.00 hours until 00.00 hours Monday to Sunday.

3.0 Consultations

3.1 The following Consultations have been undertaken:

3.2	Child Protection	No Representation
	Fire	No Representation
	Trading Standards	No Representation
	Revenue and Customs	No Representation
	Parish Council	No Representation
	Environmental Protection	No Representation
	Environmental Health	No Representation
	Planning	No Representation
	Public	11 Representations
	Police	No Representation

3.3 The correspondence received by the Council has been analysed. Eleven of these letters are considered to be representations under the Licensing Act 2003. In addition, a petition signed by 19 people was received but did not relate to any licensing objectives and has been included for information only. A summary of these representations are shown under the relevant licensing objective below.

(a) Prevention of Crime and Disorder

3.4 The representations from the public refer to concerns about anti social behaviour and

criminal damage being caused by customers. Their letters refer to existing antisocial behavioural issues in the area and the concern is that the off licence will exacerbate the problems already experienced. There are concerns that CCTV will not be allowed externally as suggested in the application due to the premises being in a conservation area. There is a concern about vandalism, drunken behaviour and damage to properties.

(b) Public Safety

- 3.5 The representations refer to the potential for persons to loiter in the vicinity for the purposes of smoking and drinking. Also many of the representations raised concerns about the gardens opposite being used as a toilet. There were also concerns expressed about the vulnerable people being dealt with by the night shelter, many of which are being helped to deal with addictions such as alcohol and the effect the off licence will have on those people.

(c) Prevention of Public Nuisance

- 3.6 The representations refer to possible litter, obstruction of footway, noisy and aggressive customers. Many of the representations suggest an earlier finish time would be appropriate as midnight is too late.

(d) Protection of Children from Harm

- 3.7 This representation refers to the possibility of children passing on their way to school witnessing anti-social behaviour or being tempted to buy alcohol.

4.0 Determination

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

- East Northamptonshire Council's Licensing Policy Statement
- Section 182 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 subject to operating schedule and mandatory conditions only
- Grant subject to further conditions necessary for the promotion of the licensing objectives
- Exclude a licensable activity
- Reject the application

5.0 Policy Considerations

- 5.1 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 – 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 necessary, 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).

5.0 Licensing Hours – relates to higher standards being included within an operating schedule to address licensing objectives, the need to consider the adequacy of

measures proposed to deal with nuisance and/or public disorder and demand stricter conditions with regard noise control near denser residential accommodation.

9.0 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates. However to ensure consistency, when it is necessary to apply conditions, the Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. (Pages 148 – 170 of Section 182 Guidance).

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 1.15).

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 interested party 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 9.24).

6.2 Control of Licensee

Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within their control (para 1.26).

6.3 Conditions

Under former licensing regimes, 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 Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues. For example, charities, community groups, voluntary groups, churches, schools and hospitals which host smaller events and festivals will not usually be pursuing these events commercially with a view to profit and will inevitably operate within limited resources (para 10.13).

6.4 Opening Hours

In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of

nuisance and disorder may arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises (para 10.19).

However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested (para 10.20).

6.5 Reviews

It is advisable that Members refer to Section 11 in the Section 182 Guidance which covers the review process.

7.0 Invitation to Determine

7.1 The Panel is asked to consider the application for a new Premises Licence, taking account of any representations made and determine whether to grant or refuse the Licence.

Implications:	
Corporate Outcomes or Other Policy/Priority/Strategy	
Good Quality of Life	<input type="checkbox"/> Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/> Strong Community Leadership <input type="checkbox"/>
Effective Management	<input type="checkbox"/> Knowledge of our Customers and Communities <input checked="" type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input type="checkbox"/>
Other:	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval	<input type="checkbox"/>
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - <input type="checkbox"/> residual risk score - <input type="checkbox"/>
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
Legal	Power: Licensing Act 2003
	Other considerations:
Background Papers: Section 182 Guidance	
Person Originating Report: Julia Smith - Commercial Health Manager jsmith@east-northamptonshire.gov.uk 01832 742066	
Date: 6 August 2010	

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(Committee Report Normal Rev. 21)