

LICENSING ACT 2003 HEARING TUESDAY 8 DECEMBER 2020 @ 0930HRS
APPLICATION FOR THE GRANT OF A PREMISES LICENCE

1. Premises:

Oxford Road Supermarket
267-271 Oxford Road
Reading
Berkshire
RG1 7PY

2. Applicant:

Oxford Road Supermarket LTD

3. Background:

There is currently no licence in force at the premises. The premises were previously a Motorcycle dealer. Records show no Planning permission has been granted for these premises.

The current application in front of the Licensing Sub-Committee is for a premises licence for the sale by retail of alcohol (Off the premises). The application has been submitted on behalf of Oxford Road Supermarket LTD and is attached as

Appendix DF-1

4. Proposed licensable activities and hours:

The application is for the grant of a premises licence for the following Licensable activity:

Sale by Retail of Alcohol (Off the Premises)

Monday to Sunday from 0700hrs until 0000hrs (midnight)

Hours Open to the Public

Monday to Sunday from 0700hrs until 0000hrs (midnight)

5. Temporary Event Notices

In considering any application the Licensing Authority should be aware of the possible use of Temporary Event Notices to extend entertainment activities or hours of operation. A premises may extend the hours or scope of their operation by the use of Temporary Event Notices. Up to 15 events per year can be held under this provision at a particular premises. These events may last for up to 168 hours provided less than 500 people are accommodated and provided the total number of days used for these events does not exceed 21 per calendar year.

6. Date of receipt of application: 14 October 2020

7. Date of closure of period for representations: 11 November 2020

8. Representations received:

During the 28-day consultation period for the application, representations were received from:

Reading Borough Council Licensing team (attached at Appendix DF-2)

Thames Valley Police (attached at Appendix DF-3)

Oxford Road Safer Neighbourhood Forum (attached as Appendix DF-4)

9. Powers of the Authority in determining an application for the grant of a premises licence

The Licensing authority, when determining an application for the grant of a premises licence may:

- Grant the application as applied for
- Grant the application with modifications
- Refuse the application

10. Licensing Objectives and Reading Borough Council's Licensing Policy Statement

In considering representations received the Licensing Authority has a duty to carry out its functions with a view to promoting the four licensing objectives, which are as follows:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Any conditions that are placed on a premises licence should be appropriate and proportionate with a view to promoting the licensing objectives. The Licensing Authority can amend, alter or refuse an application should it be deemed appropriate for the promotion of the licensing objectives.

In determining this application, the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities.

11. Amended Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

Licensing Objectives and Aims:

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises

Steps to promote the licensing objectives:

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate

an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Licensing Act 2003

The Licensing Act 2003 under Section 18 (6) also states that any relevant representation should be considered in the context of:

(a) the likely effect of the grant of the premises licence on the promotion of the licensing objectives.

Therefore in the context of the grant of a licence, it is reasonable for the Licensing Authority to base its decision on an application on what the likely effects of granting a licence would have on the promotion of the licensing objectives.

The Council's Licensing Policy Statement (2018):

3. Licensing and integration with other legislation

3.1 Many other pieces of legislation impact directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following when it discharges its responsibilities under the Licensing Act 2003 and in relation to the promotion of the four licensing objectives:

Crime and Disorder Act 1998

3.2 This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti social and other behaviour) adversely affecting the local environment. This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.

5.6 During the 28 day consultation period, the authority will scrutinise the application along with all of the other Responsible Authorities to judge whether it undermines the promotion of the licensing objectives. The application will be made available to any person who requests to see it. As per Section 18 (6) of the Licensing Act 2003, it will consider the likely effect of granting any licence on the promotion of the licensing objectives. The authority will expect all applicants to have taken cognisance of the Secretary of State's Guidance; local strategies and initiatives; this policy and any other known local issues before submitting their application and that these matters are addressed within the operating schedule of the application.

5.7 Whilst many applications will be resolved without the need for a committee hearing, any matters or representations that are not resolved will trigger a hearing before the properly constituted Licensing Applications Committee for determination.

General Approach

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims.

Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid

duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.2 The operating schedule within an application should contain an assessment from the proposed licence holder of what they believe are appropriate and proportionate measures to enable them to carry out their proposed licensable activities. This assessment should be arrived at by taking cognisance of this policy and the Secretary of State's guidance which outlines the matters that an applicant should take into account such as issues in the locality and why their proposed measures are suitable for their proposed operation.

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

Off licences - General Approach to conditions

6.11 Shops selling alcohol for consumption off the premises can be the focus of antisocial behaviour, crime and disorder and public disturbance. In the town centre and Oxford Road area, for example, there are significant issues with street drinking and the associated anti social behaviour this causes.

6.12 Any applications for off licences shall be considered in the light of all relevant matters that may undermine the licensing objectives such as street drinking in that locality as well as the availability of high strength beers, lagers and ciders and the detrimental effect those products have on health outcomes. This approach will apply to the whole Borough of Reading and the authority will seriously consider any representation made to it by Thames Valley Police, Public Health or other responsible authorities which indicate that the availability or sale of high strength beers, lagers and cider are likely to be detrimental to the promotion of the four licensing objectives.

6.13 When considering applications for off licences, the authority would expect applicants to acknowledge the above issues within their operating schedule.

6.14 The authority, whilst taking all applications on their own merits, will not generally grant applications for the 24 hour sale of alcohol for consumption off the premises. The authority will expect proactive measures to be included within the operating schedule that prohibits or restricts the sale of high strength beers, lagers and ciders above 6.5% in order to assist with preventing street drinking, preventing anti social behaviour and to actively promote the licensing objectives.

6.15 Applications for off licences would also be expected to contain evidence of

appropriate staff training, the utilisation of a Challenge 25 age verification policy and the use of CCTV to cover the entire proposed licensable area. This is not an exhaustive list and conditions should be appropriate and proportionate to the style of operation and taking into account the issues in the locality.

6.16 All licence holders will be expected to actively participate in initiatives set up in Reading which aim to tackle the issues of alcohol related anti social behaviour and the proliferation of high strength beers, lagers and ciders above 6.5%. Initiatives such as 'Reducing the Strength' are proven to reduce alcohol related anti social behaviour in the Borough.

6.17 The Council has introduced a controlled drinking zone across Reading which allows the police to seize alcohol and receptacles. Applicants and current licence holders will be expected to take cognisance of this and put measures in place that avoid alcohol being purchased and then consumed on the street.

6.18 The sale of alcohol to underage young people is an offence under the Licensing Act and can severely undermine the prevention of crime and disorder and the protection of children from harm licensing objectives. The excessive consumption of alcohol by young people is also likely to impact negatively on health outcomes. Applicants for off licences will be expected to include robust measures to ensure that alcohol is sold responsibly and that any staff are trained to a high level to achieve this. Evidence of best practice in terms of recording refusals of age restricted products will be expected within all applications.

10. Administration, Exercise and Delegation of Functions

10.1 The powers of the Licensing Authority under the Licensing Act 2003 may be carried out by the Licensing Committee; by a Sub Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10-15 members and the committee may establish one or more sub-committees consisting of two or three members.

10.3 A Licensing Sub-Committee shall hear all applications where relevant representations have been received and applications for the review of a premises licence that may have been submitted by Responsible Authorities or any other persons.

11. Relevant Case law for consideration:

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005]

(R) on the application of Hope and Glory Public House v Westminster City Council (2011) EWCA Civ31

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) (2016)

12. Appendices

Appendix DF-1: Application and plan

Appendix DF-2: Representation from Licensing Team

Appendix DF-3: Representation from Thames Valley Police

Appendix DF-4: Representation from Oxford Road Safer Neighbourhood Forum