

**LICENSING ACT 2003 HEARING TUESDAY 19 MARCH 2019 @ 1700 HOURS**

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE**

**1. Premises:**

Norcot Post Office  
852 Oxford Road  
Reading  
RG30 1EL

**2. Applicant:**

Shreeji Krupa Limited  
\_ Vicarage Farm Road  
Wellingborough  
Northants  
NN8 5BY

**3. Premises Licence:**

There is currently no premises licence in place.

The application was submitted by on behalf of Shreeji Krupa Limited and seeks to apply for the licensable activity and opening hours to the times stated below.

A plan showing the location of the premises and surrounding area is shown at Appendix LIC-5

**4. Proposed licensable activities and hours:**

The application is for the following activities:

Sale of Alcohol (Off the premises)  
Monday to Sunday from 0800hrs until 2330hrs

Hours open to the public  
Monday to Sunday from 0800hrs until 2330hrs

**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 year.

**6. Date of receipt of application: 23 January 2019**

A copy of the application form is attached as Appendix LIC-1

**7. Date of closure of period for representations: 20 February 2019**

**8. Representations received:**

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

Reading Borough Council Licensing Team. A copy of the conditions is attached at Appendix LIC-2

Trading Standards team. A copy is attached at Appendix LIC-3

A representation was received from Thames Valley Police, but was withdrawn as the applicant agreed to the suggested conditions. A copy for information is attached at Appendix LIC- 4

## **9. 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.

*The Council's licensing policy also places an onus on applicant's who wish to open past 11pm to demonstrate how they will mitigate the issues of crime and disorder and potential public nuisance*

### **Amended Guidance issued under section 182 of the Licensing Act 2003 (April 2018)**

#### **Licensing Objectives and Aims:**

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.

#### **Relevant, vexatious and frivolous representations**

9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

#### **The role of responsible authorities**

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local areas. The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority’s interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **Licensing authorities acting as responsible authorities**

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

### **Hours of trading**

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

### **Integrating strategies**

14.63 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

### **Planning and Building Control**

14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

### **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.

## **Reading Borough Council Statement of Licensing Policy 2018**

### **2. Integrating Strategies**

2.1 The Secretary of State's Guidance to the Licensing Act 2003 states that the licensing authority should outline how it will secure proper integration between its

licensing policy with policies and strategies concerned with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other policy or plan introduced for the management of town centres and night time economies. The Licensing Authority agree that such co-ordination and integration is crucial to achieve the Council's aims for a safe and vibrant night time economy.

#### **Licensing and Planning integration**

2.2 The planning authority of Reading Borough Council is a responsible authority under the Licensing Act 2003. It can make representations on applications or call for reviews of existing licences based upon any of the four licensing objectives. The prevention of crime and disorder and prevention of public nuisance are shared concerns of the planning and licensing authorities.

2.3 The planning authority have a number of policies that impact on Reading's night time economy. The Licensing authority recognises that licensing applications should not be a rerun of the planning application process. The planning authority remains the regime that is directed at development of land and the use of premises upon it. The licensing authority remains the regime that is directed at the licensable activities and responsible management of said premises upon that land.

2.4 Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping considerations. In order to secure proper integration across the Council's range of policies, the Licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act.

2.5 Where the planning authority has granted planning consent to a specific time, the Licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.

2.6 Where the planning authority has granted a planning consent that contains conditions that may undermine the promotion of the licensing objectives (such as a restriction in the opening hours based on potential public nuisance issues), the licensing authority would expect applicants to demonstrate how they will mitigate those issues within any application. Failure to do so could lead to representations being made against an application.

2.7 Whilst acknowledging that planning and licensing are separate regimes and that licensing authorities are not bound by the decisions of planning committees (and vice versa), the licensing authority shall aim for the proper integration between licensing and all other Council policies, strategies and initiatives in order to actively promote the licensing objectives.

2.11 The Council recognises the link between high strength alcohol products, anti-social behaviour and poor health outcomes. In 2017, the Licensing Authority in conjunction with partners at Thames Valley Police and the Community Alcohol Partnership launched a voluntary initiative to try and reduce the availability and sale of high strength beers and cider above 6.5% ABV.

2.12 There is a significant issue in the town centre and Oxford Road with persons identified as street drinkers purchasing single cans of high strength beers and ciders from licensed off licences. This has led to issues of anti social behaviour in

local communities. Most off licences in the town centre and Oxford Road areas have voluntarily agreed to stop selling single cans of high strength beers and ciders. Some have agreed to only sell packs of four whilst others have agreed not to sell these products at all. This has led to a reduction in the number of incidents of street drinking.

2.13 We would expect all licence holders and potential applicants to have regard to this initiative and include measures to restrict the sale of high strength products in single quantities or to not sell them at all. Failure to do so could lead to representations being made against applications for licences or applications to review licences that may be undermining the licensing objectives by selling these products in an irresponsible way.

2.14 The Licensing authority, in conjunction with relevant partners, will be expanding this initiative to include all off licences in Reading and would expect all applicants and current licence holders to take cognisance of this fact. Current licence holders are also expected to take steps to prevent any irresponsible retailing of these products.

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 is 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.

#### **The Anti-social Behaviour, Crime and Policing Act 2014**

3.3 This Act gives a wide range of powers to local authorities and the police to tackle incidents of crime, disorder and nuisance that may be impacting on residents. The Act introduced public spaces protection orders which allows the local authority to designate areas in the borough where anti social behaviour such as street drinking will be prohibited. The Council has designated areas where street drinking is prohibited and is in the process of introducing a new public space protection order. The Act also gives powers to the local authority and police to close licensed premises where nuisance and anti social behaviour is taking place or likely to take place. This Act therefore clearly supports and actively promotes the licensing objectives contained within the Licensing Act 2003.3.4 The Council's Licensing policy is therefore clear and unchallenged on the matter of the planning permission - particularly when it impacts on the promotion of the four licensing objectives - in this case, the prevention of public nuisance. It should also be noted that the planning authority is a named responsible authority in the Licensing Act 2003 and can make representations in relation to applications and call review of licences if it believes it is necessary to do so.

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.

### **Off Licences and Conditions - General Approach**

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.

6.16 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.

## **9. Enforcement**

9.1 It is the responsibility under the Act for all responsible authorities; licence holders and prospective licence holders to actively promote the four licensing objectives. The Council along with partner agencies, has a wider responsibility to protect the public as a whole and prevent crime, harm or nuisance from taking place.

9.2 The Authority will carry out its licensing functions with a view to actively promoting the licensing objectives and maintaining public safety. This applies to the dual role the licensing authority has both as the administrator of the process and as a responsible authority.

9.3 The Licensing Authority has previously and will continue to work with other responsible authorities and partner agencies in order to ensure that the licensing objectives are promoted and that a consistent and joined up approach is taken to enforcement across Reading.



### **Inspections**

9.6 The Authority will carry out inspections at all premises where a premises licence is in force. Additionally, an inspection may also be carried out where an application for a grant, variation or review is received by the Authority to ascertain the likely effect of granting any application on the promotion of the licensing objectives. Inspections may also be carried out if the Authority or one of our partner agencies/responsible authorities are made aware of complaints or other incidents that undermine the promotion of the licensing objectives.

9.7 Inspections will be carried out solely by the Licensing Authority or in conjunction with other partners such as Thames Valley Police, Home Office Immigration Enforcement and Trading Standards.

### **Summary**

The Responsible Authorities object to the grant of a premises licence for Norcot Post Office, 852 Oxford Road, Reading as the application is contrary to the Council's Licensing policy and does not appear to have been made in line with the Secretary of State's Guidance.

Therefore granting this application will be inconsistent with the Authority's duty to actively promote the licensing objectives.

### **Case Law**

East Lindsey DC v Abu Hanif (2016) EWHC 1265 Admin

Hope and Glory Public House v Westminster City Council (2011) EWCA Civ31

British Beer and Pub Association v Canterbury City Council (2005)EWHC 1318(Admin)