

LICENSING SUB-COMMITTEE

Thursday, 25 May 2017

PREMISES LICENCE APPLICATION

Applicants Name	Mr Rajmoan Rajendran	
Premises Name	Kerry's Mini Market	
Premises Address	62-64 Stanley Street Lowestoft NR32 2DY	
Date Application Received	7 April 2017	Determination by 5 June 2017

SUMMARY OF APPLICATION

- This report sets out an application for a new premises licence for **Kerry's Mini Market** (attached as Appendix A).
- The application was made for the sale by retail of alcohol off the premises
- During the consultation period two objections have been received one from a member of the public (attached as Appendix B) and one from Suffolk Constabulary highlighting their concerns about the application (attached as Appendix C).

Is the report Open or Exempt?	Open
Wards Affected:	Harbour
Cabinet Member:	Cabinet Member for Community Health & Safety
Supporting Officer:	Caroline Evans Licensing Services Manager Direct Dial: 01394 444678 Email: caroline.evans@eastsoffolk.gov.uk

1. THE APPLICATION

1.1 The application seeks to allow:

Sale by retail of alcohol off the premises.

Monday to Sunday 07:00 to 23:00

Opening Hours

Monday to Sunday 07:00 to 23:00

1.2 As part of the operating schedule attached to the application, the applicant has set out a number of steps he proposes to take in order to address the licensing objectives (see appendix A).

2. REPRESENTATIONS IN OBJECTION

2.1 Representations from Responsible Authorities –

NAME	ADDRESS	STATUS
Suffolk Constabulary	Landmark House, 4 Egerton Road, Ipswich	Responsible Authority

2.2 Representations from Other Parties –

NAME	ADDRESS	STATUS
Mr T Newman	Flat 2, The Hollies, Stanley Street, Lowestoft	Member of the Public

2.3 Summary of objections

One letter of objection have been received from a resident and one from Suffolk Constabulary as a Responsible Authority, who have grave concerns that the quality of life of nearby residents and the locality would be adversely affected by the grant of this licence.

3. POINTS FOR CONSIDERATION

3.1 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

3.2 The attention of the Sub-Committee is drawn to the following:

a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:

- Guidance Issued under Section 182 of the Licensing Act 2003.
- The Council's Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

b) Human Rights Act 1998

- The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.
- It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.

Article 1 of the First Protocol deals with the protection of property, in this context a licence, if granted. This article states that no-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.

In assessing the impact of human rights the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

3.3 The relevant notices about this hearing have been served on the applicant and interested parties and they have until 17th May 2017 to confirm that they intend to attend (or not) as the case may be and give notice that they wish to call witnesses.

3.4 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

RECOMMENDATION

The Sub-Committee will be asked to determine this application by:

1. Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
2. Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place), and any condition which must be included in the licence in accordance with the Licensing Act 2003.
3. Rejecting the application.

Depending on the decision of the Sub-Committee, the applicant and the objectors have rights of appeal to the Magistrates Court.

When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES

Appendix A - Application.

Appendix B – Representations from a member of the public in objection to the application

Appendix C - Representation from Suffolk Constabulary

BACKGROUND PAPERS

None.