

Licensing Sub-Committee Report

Aldi Foodstores, London Road, Newbury, RG14 1LA (21/00705/LQN)

Type of Application:	Application to Vary a Premise Licence
Parish:	Newbury Speen
Ward Member:	Lynne Doherty, Steve Masters
Case Officer:	Emilia Matheou, Licensing Officer,
Portfolio Holder:	Councillor Hilary Cole
Service Director:	Eric Owens

1. Purpose of the Report

- 1.1 To set out the background information pertaining to this Application to vary an existing premise licence.

2. Recommendations

- 2.1 Members are asked to decide whether to:-
- a) Grant the application to vary the premises licence as made, including the changes agreed with Thames Valley Police and Environment Health, subject to any mandatory conditions;
 - b) Grant the application to vary the premises licence, including agreed changes, subject to any additional conditions and any mandatory conditions;
 - c) Exclude from the licence any of the licensable activities to which the application to vary relates;
 - d) Refuse the application to vary the premises licence;

Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.

3. Background

- 3.1 Members of the Licensing Sub-Committee are asked to determine the Application to vary the premises licence as the Licensing Authority has received representations, which have not been withdrawn, stating that granting this application would undermine the prevention of crime and disorder, the prevention of public safety, the prevention of public nuisance, and/ or the protection of children from harm licensing objectives.
- 3.2 The Licensing Authority may only consider aspects relevant to the application that have been raised in these representations.

- 3.3 Where representations have been received from a responsible authority or any other person, and the concerns have not been resolved through mediation between all parties, the Licensing Act 2003 requires that these applications should be determined by the Licensing Authority's Licensing Committee. The Licensing Act 2003 allows for applications such as this one to be delegated to a Sub-Committee. In accordance with those rules, the Scheme of Delegation set out in the Council's Constitution states that the Licensing Sub-Committee has responsibility for dealing with this application.

4. Application

- 4.1 The Licensing Authority has received an Application, from Lisa Gilligan, of Freeths LLP on behalf of Aldi Stores Limited for a variation to an existing premise licence in relation to Aldi Foodstores, London Road, Newbury, RG14 1LA. This application has been recorded under reference number 21/00705/LQN.

- 4.2 A copy of the original licence is attached at Appendix 1 and the ground floor and first floor plans are attached at Appendix 2. The application to vary the premise licence is attached at Appendix 3.

- 4.3 The application is to vary a premises licence under the Licensing Act 2003. The application sought to amend the hours for the sale of alcohol for off premise consumption and opening hours to 06:00 to 00:00 every day of the week. Following discussions with Environment Health a compromise in times has been agreed. Therefore the Applicant now seeks to amend the hours for sale of alcohol and opening hours to:

Monday to Saturday: 07h00 to 23h00

Sunday: 07h00 to 22h30

- 4.4 The Store, under its existing licence, is permitted to supply alcohol for off premise consumption during the following times:

Supply of Alcohol

Monday to Saturday: 08h00 to 23h00

Sunday: 0h00 to 22h30

Alcohol On/Off Premises: **Off Premises**

Seasonal Variations :

Good Friday: 08h00 to 22h30

Christmas Day: 12h00 to 15h00 and 19h00 to 22h30

- 4.5 The premises are located towards the edge of the commercial shopping / town centre in Newbury. The local area is mixed use with offices and residential dwellings located close to these retail premises.

- 4.6 The Applicant has confirmed that the application has been submitted as part of a nationwide programme for Aldi (circa 400 stores) where the current licence has an 08h00 start time. They have also explained that the store has opened at 07h00 over the last 12 months either by virtue of a Temporary Events Notice (TEN) or simply to achieve social distancing under Covid-19 rules. They also stated that whilst there was

no intention to change the trading hours at this store an extension to the hours in the licence operating schedule would permit the flexibility required.

5. Consultation

- 5.1 The 28 day consultation period ran from 01 September 2021 to 28 September 2021. Responsible Authorities, Ward Members and the Parish Council were advised by email on the 31 August 2021. The application has been advertised in accordance with the Regulations, with the required blue notices being placed at the premises and checked by an officer from the Public Protection Partnership on the 09 September 2021 and an advert had been placed in the Newbury Weekly News on 09 September 2021.
- 5.2 Environment Health (EH) raised concerns about the proximity to residential dwellings, particularly those located opposite the Aldi Car Park and the noise impacts that they would be subjected to. The earlier and later alcohol trading hours applied for extend into the times Officers consider to be 'night-time' i.e. 23h00 to 07h00 which are times which it is reasonable and expected that most people would wish to sleep.
- 5.3 EH noted that residents would be exposed to additional noise from vehicles (engines, car stereos, and slammed doors) and the noise arising from customer trolleys during a period when lower background noise levels should be expected. Officers noted that the application did not provide any detail in the operating schedule regarding measures to prevent public nuisance and commented that it would be difficult to put in place measures which would be reasonable or successful.
- 5.4 The Applicant had taken on board these concerns and on the 12 October 2021 confirmed that they would be willing to amend the start time to 07h00 and the terminal hour as is currently (23h00 Monday to Saturday and 22h30 Sunday). Environment Health had, on this basis, agreed to withdraw their objection, allowing for review of the premises licence should nuisance complaints subsequently be received.
- 5.5 Newbury Town Council had submitted an objection following a meeting on the 13th September 2021. The submission stated that they objected to the application on the basis of the impact that it would have on local residents. (See Appendix 4)

6. Responses Received from Responsible Authorities:

Fire Authority – None

The Chief Officer of Police Thames Valley – None

Environmental Health – see paragraphs 5.2 to 5.4

The Local Enforcement Agency for the Health and Safety at work etc. Act 1974 – None

The Weights and Measures Authority/Trading Standards – None

Children's Safeguarding Board - None

Public Health - None

Home Office Immigration - None

Planning - None

The Licensing Authority –.None

Comments from Newbury Town Council are set out in paragraphs 5.5

7. Options

- 7.1 The Home Office's Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) must be taken into account when determining this Application.
- 7.2 Members are asked to consider, after taking the representations both oral and written into account, and having due regard to the licensing objectives, whether the application to vary the premise licence should be granted or rejected. Members will need to give reasons for their decision.
- 7.3 If Members are minded to approve the application they need to consider any additional conditions, other than those contained in the operating schedule, agreed with the parties and any relevant mandatory conditions in ss19-21 of the Licensing Act 2003 that they may wish to attach to the application.
- 7.4 If Members are minded to include any additional conditions they will need to provide their reasons for doing so in the decision notice.

Background Papers:

- (1) The Licensing Act 2003, appropriate Regulations, Statutory Revised Guidance issued under section 182 of the Licensing Act 2003
- (2) The Council's Statement of Licensing Policy Licensing Act 2003
- (3) The Council's Constitution

8. Appendices

Appendix 1 – Existing Licence

Appendix 2 – Location Plan

Appendix 3 - Application to Vary Premise Licence

Appendix 4 – Representation from Newbury Town Council