

Licensing Sub-Committee	Item 5
Jan & Phil's store	FOR GENERAL RELEASE

Purpose of the Report	<p>To determine an application, made under the Licensing Act 2003, to vary the premises licence of Jan & Phil's store (83 Barrack Street), to permit the sale of alcohol for 24 hours a day and for Late Night Refreshment (23.00 until 05.00).</p> <p>In addition, the removal of non-enforceable/primary legislation conditions, relating to light levels, fire and first aid, from 'General – All Objectives':</p> <p>12. The premises licence holder shall ensure that adequate first aid equipment and fire safety materials are available on the premises.</p> <p>13. The premises licence holder shall ensure that in the absence of adequate day light suitable and sufficient artificial lighting is provided and maintained in any area to which the public have access.</p>
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1. Application

Applicant and Premises	
Application Type	Variation of premises licence (M080181)
Applicant	Mr Sundaralingam Thirulogasanthar
Premises	Jan & Phil's Store
Premises Address	83 Barrack Street, Colchester
Ward	New Town

Proposed Variation

Supply of alcohol								
Off the premises								
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	
Start	00.00	00.00	00.00	00.00	00.00	00.00	00.00	
End	00.00	00.00	00.00	00.00	00.00	00.00	00.00	
Seasonal variations								
Non-standard timings								

Late Night Refreshment							
Off the premises							
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start	23:00	23.00	23.00	23.00	23.00	23.00	23.00
End	05.00	05.00	05.00	05.00	05.00	05.00	05.00
Seasonal variations							
Non-standard timings							

Current Licence

Supply of alcohol							
Off the premises							
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start	06.00	06.00	06.00	06.00	06.00	06.00	06.00
End	00.00	00.00	00.00	00.00	00.00	00.00	00.00
Seasonal variations							
Non-standard timings							

The current premises licence does not allow for 'Late Night Refreshment' - (the sale of hot food and drink between the hours of 23.00 and 05.00).

2. Conditions

Suggested conditions
No additional conditions to mitigate changes, as conditions in place are considered sufficient by applicant.

3. Representations

Local Residents	Four objections from local residents	Appendix 3
Essex Police	No objection	
Environmental Protection	No objection	

4. Policy Context

Policy references are given for guidance only, they should not be regarded as a substitute for the Policy which contains the necessary detail for all parties in making and determining applications

2.2 The aims of this Licensing Policy are to pursue and promote the licensing objectives by encouraging:

- Desirable destinations for a wide range of age groups
- Licensed premises suitable for the area within which they are located
- Diversity of entertainment throughout the town centre that appeals to a wider audience
- A wide range of uses of premises

2.8 This Policy sets out the Licensing Authority's vision for the regulation of licensed premises throughout the Borough and outlines the minimum standards expected in order to ensure the promotion of the licensing objectives. Applicants are advised that where their application falls outside the guidance set out in the policy in relation to times and activities etc., they will be required to demonstrate that their proposals will not undermine the licensing objectives.

2.9 Every application will be treated in accordance with the Act, the Section 182 Guidance and this Licensing Policy. The applicant is expected to consider all relevant sections of the Policy and the potential impact upon the licensing objectives relevant to them.

2.10 The Licensing Policy is applicable to all premises providing any licensable activity. Applicants are expected to consider all the matters relevant to their application; these include key factors and where appropriate special guidance in relation to the Town Centre Zone.

2.12 If there is a relevant representation, the application will be considered on its own merits against the guidance contained within the policy and steps taken which are appropriate and proportionate to promote the licensing objectives.

2.14 The Licensing Authority will always consider the circumstances of the case and whether granting the application will undermine the licensing objectives.

2.15 In considering conditions to be attached to licences and certificates, the Licensing Authority will ensure that conditions must:

- be specific for the premises;
- not duplicate existing provisions;
- be capable of being met;
- be appropriate and proportionate for the promotion of the licensing objectives: and
- be tailored to the individual style and characteristics of the premises and events concerned.

2.16 It is acknowledged that conditions can only be imposed that seek to manage the behaviour of customers when they are on the premises and within the control of

the licensee or in the immediate vicinity of the premises.

2.17 Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in the Borough.

3 Key Factors

3.1 The key factors set out in the Policy are intended to address the principle issues related to licensed premises. Licensed premises and activities can play an important role in ensuring that the Borough is vibrant, prosperous, thriving and welcoming. However, if premises are not managed responsibly, they can also impact negatively on an area by causing a wide variety of problems.

3.2 Our aim is to promote an 'inclusive' evening and night time economy throughout the Borough to ensure people of all ages can participate in and enjoy a range of activities. These Key Factors are designed to ensure that all licensed premises throughout the Borough operate to promote the four licensing objectives in order to ensure they contribute positively to the Borough. The Key Factors are:

KF1 What we aim to encourage

KF2 The location of licensed premises

KF3 Hours for licensed premises

KF4 Standards to promote the licensing objectives

KF5 Off sales of alcohol

KF1 - What we aim to encourage

3.13 The aim is to ensure desirable destinations that cater to a wide range of age groups and uses. Premises that are encouraged are:

Those that will extend the diversity of entertainment and attract a wider range of participants and in particular venues that offer diversity within the night time economy such as late night cinema, without the sale of alcohol, and live music venues. Venues that offer original material, are encouraged particularly to provide a range of live performances and styles of music, provided that such entertainment does not undermine the licensing objectives.

Family friendly venues, where people with children can attend, are encouraged.

Quieter and Smaller 'local-style' venues able to promote a sense of community and familiarity for customers.

Wind down or chill out venues that enable people to begin or end their nights out in a quieter venue where customers can sit down in a relaxed environment, particularly without alcohol.

Restaurants and Cafés as well as other less alcohol-dominated venues.

Theatres and Cinemas

3.14 Subject to compliance with the other policies the types of licensed premises set out in the Matrix below will generally be considered acceptable, unless relevant representations are made and/or the Licensing Authority considers that the application will undermine the licensing objectives. The Council wishes to see wider diversity in the night time economy and in particular wishes to encourage premises whose primary purpose is not the sale of alcohol.

Primary Function	Residential	Mixed Commercial and Residential	Commercial
Off-Licence	Yes until 22:00	Yes until midnight	Yes until midnight

KF2 - The location of licensed premises

3.15 The Licensing Authority considers the following as key issues in relation to the location of licensed premises:

- The proposed operation of the premises having regard:
to the licensable activities applied for,
the size, structure and proposed capacity,
the type/nature of the business
- The proximity of the premises to local residents.
- The proximity of the premises to other local businesses that could be affected
- The general character of the surrounding area including crime and antisocial behaviour levels
- The availability of transport to and from the premises

3.18 There is the need to balance the needs of residents with that of the night-time economy. Licensees should consider how their premises could impact upon the needs of local residents and businesses. Particular consideration is expected to be given to:

- Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise.
- Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy).
- Prevention of disturbance by people outside the premises (e.g. smoking areas).

- Litter from the premises (This issue is considered particularly relevant in respect of late-night takeaways and smoking-related litter outside of licensed premises).
- Disturbance caused by deliveries and collections at the premises including waste and bottle collection.

KF3 - Hours for licensed premises

3.20 The Licensing Authority considers that measures must be taken to address the causes of crime and disorder and public nuisance linked to the night time economy.

3.21 The Licensing Authority will have particular regard to the hours applied for and considers that later hours will typically be more sensitive and higher risk in causing problems, especially related to drunkenness and particularly after midnight. Consequently, the Licensing Authority expects a higher level of control measures to be implemented at the premises when an application is made for later hours.

3.22 The Licensing Authority will have particular consideration to the location of premises and their likely effect on the locality when considering whether the hours requested are appropriate to the area and consistent with promoting the four licensing objectives (see the Matrix in paragraph 3.14). Opening hours will not generally be regulated but each application will be considered on its own merits and in particularly noise sensitive locations it may be appropriate to consider the opening hours of a premises.

3.23 Where relevant representations are made, premises that are considered to meet the criteria 'What we aim to encourage' will normally be given greater freedom to operate than premises that could be considered more likely to have a detrimental impact upon the licensing objectives, such as youth-oriented, alcohol- driven premises.

3.24 It is expected that hours for licensed premises will be particularly relevant having consideration to the location of the premises. Consequently, the hours applied for licensable activities should be appropriate with regard to the nature of the location of the premises. It is recognized that in spite of the quality of the operation of the business, where patrons are out of the control of the licensee, the lateness of the terminal hour for the premises will often be a contributory factor in the potential for disturbance.

3.25 The Licensing Authority will not consider the fact that other premises in the vicinity already have later hours as a justification for granting similar or extended hours and each application will be considered on its individual merits.

KF4 – Standards to promote the licensing objectives

3.26 An application for a new premises licence application, provisional statement, or a variation to an existing licence, must contain an operating schedule which identifies robust proposals to promote the licensing objectives.

3.27 Where no relevant representation is received against an application, conditions consistent with the steps proposed in the operating schedule will be attached to the licence (in addition to the mandatory conditions).

3.28 We have identified the standards we expect licensees to consider when preparing their operating schedules in order to promote the four objectives. However, it is a matter for them to consider and propose the measures they regard as appropriate to promote the licensing objectives with respect to the individual circumstances of their application and having regard to their comprehensive risk assessment of the operation of their premises. These measures are not exhaustive, and the Licensing Authority will have regard to any relevant issues raised in any representation that may fall outside the standards.

3.29 All relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in this Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives. They may also wish to liaise with the responsible authorities and local residents or businesses in considering whether any additional issues may be relevant.

3.30 All persons, including responsible authorities, should also consider these standards in relation to making any representation against an application.

3.31 Where there are relevant representations in respect of an application, these standards will be applied by the Licensing Authority to ensure licensed premises operate in the manner expected, where appropriate, by the Licensing Policy.

3.32 When it is considered by the Licensing Authority to be appropriate and proportionate in order to promote the licensing objectives, the policy is to attach conditions in accordance with the standards to promote the licensing objectives outlined in this Policy

3.33 While the standards have been separated under distinct titles of the four licensing objectives, many of them will be relevant for the promotion of multiple objectives. Where a measure may address more than one licensing objective it need only be included once.

KF5 Off-sales of alcohol

3.34 The Council has a Public Space Protection Orders (PSPO) in place for the Town Centre to help address and prevent numerous problems caused by public consumption of alcohol which are having a detrimental impact on the quality of life of those in the locality. Street drinking can be a major cause of antisocial behaviour, often involving underage persons, which gives rise to disorder, concerns over public safety and harm to children. Additionally, it is widely reported that consumption of alcohol by persons on the way to on-licensed premises gives rise to problems of drunken and disorderly behaviour. Licensees should ensure all staff are aware of the PSPO when situated within the designated area and reinforce the No Street Drinking warning at point of sale

3.35 In the light of the above therefore applicants are expected to demonstrate that there will be no derogation in the licensing objectives and that the operation of the premises will support the Key Factors. The Licensing Authority will give particular

consideration to the hours requested for sales of alcohol. Persons who are alcohol-dependent may be drawn to particular premises if there are licensed to sell alcohol at earlier times than other premises. Additionally, if there are issues related to late night disorder, the hours for alcohol sales from the premises may be restricted.

3.36 Other conditions may be imposed directed at avoiding problematic street drinking in the vicinity of the premises. Another particular concern will be irresponsible drink promotions that do not follow best practice, would appeal to underage drinkers or street drinkers, or encourage excessive consumption.

3.37 There has in recent years been a significant rise in applications to the Licensing Authority seeking to permit off sales from the premises before 08.00. In light of the factors set out in 3.35 above the Licensing Authority does not wish to see the sale of alcohol before 08.00.

5. Options available to the Sub-Committee

The Sub-Committee must take such of the following steps as it considers appropriate to ensure the promotion of the licensing objectives –

- Grant the application as requested
- Grant the application whilst imposing additional conditions
- Exclude or reduce the hours of operation of any licensable activities included within the application
- Reject the whole or part of the application

Appendices

Appendix 1	Location Plan
Appendix 2	Premises Licence
Appendix 3	Representations

Report Author

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