



Licensing Sub-Committee	Item 5
59-61 High Street, Wivenhoe	FOR GENERAL RELEASE

Purpose of the Report	To determine an application, made under the Licensing Act 2003, to vary the premises licence for 59-61 High Street, Wivenhoe to extend the hours for the sale of alcohol off the premises.
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1. Application

Applicant and Premises	
Application Type	Variation
Applicant	Mrs Yogaratnam
Premises Address	59-61 High Street, Wivenhoe CO7 9AZ
Ward	Wivenhoe

Supply of alcohol							
Off the premises							
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start	07.00	07.00	07.00	07.00	07.00	07.00	09.00
End	23.00	23.00	23.00	23.00	23.00	23.00	23.00
Seasonal variations							
Non-standard timings							

2. Current Licence – see Appendix 1

Supply of alcohol							
Off the premises							
Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start	12.00	12.00	12.00	12.00	12.00	12.00	12.00
End	22.00	22.00	22.00	22.00	22.00	22.00	22.00
Seasonal variations							
Non-standard timings							

Conditions attached to the Current Licence

1. The premises licence holder will ensure that a sign is clearly displayed at the front of the premises requesting that patrons of the premises do not park on the double yellow lines outside the premises.
2. Alcohol will be secured in such a manner that it cannot be accessed by the public at any time that the licence does not authorise alcohol to be sold.
3. The premises must install, operate and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points, will be covered, enabling facial identification of every person entering in any light condition. The CCTV cameras must continually record while the premises are open to the public and recording must be kept available and unedited for a minimum of 31 days with the date and time stamping. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (i.e., compact disc, flash card etc.), a secure storage system to store those recording mediums must be provided. The images must be made available on request by a Police officer or an authorised officer of the Licensing Authority.
4. All customers will be asked to leave quietly and respectfully and have regard to the neighbours.
5. The licensee and staff will ask persons who appear under the age of 25 for photographic ID such as proof of age cards, the connections card and citizen card, photographic driving licence or passport, official ID card issued by HM Forces or an EU country, bearing the photograph and DOB of the bearer. All staff will be trained for underage sale prevention regularly.
6. A log shall be kept at the premises to record all refused sales of alcohol for the reasons that the person(s) is/are, or appear(s) to be, under 18 years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be available on request by the Police or an authorised officer of Colchester Borough Council. The log shall be checked on a regular basis by the Designated Premises Supervisor to ensure that it is being used by staff and each check shall be recorded in the log.

3. Representations

Wivenhoe Society		Appendix 1
Essex Police	No objection	

The matter for determination by the Sub-Committee concerns the application to vary the premises licence at 59-61 High Street, Wivenhoe, to extend the hours for the sale of alcohol off the premises as part of its business as a convenience store. The hours sought are set out in Section 1 of this report.

A representation has been received from the Wivenhoe Society, shown at Appendix 1.

The Committee will be aware that an objection must relate specifically to the impact of the application on one or more of the four licensing objectives which are -

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Under the Licensing Act 2003, need for the premises and the impact on other businesses are not matters that can be considered when determining an application. The Revised Guidance issued under Section 182 of the Licensing Act 2003, and to which the Council must have regard, advises that need concerns commercial demand and is a matter for the planning authority and for the market.

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.

3.14 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
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		Commercial and Residential	
Off-licence	Yes until 22.00	Yes until midnight	Yes until midnight

KF3 - Hours for licensed premises

3.26 Where the Licensing Authority's discretion is engaged, premises applying for early morning daytime hours to sell alcohol will be given particular consideration in relation to their proximity to schools, play areas, nurseries, children's centres and other youth amenities to protect children from harm, as well as groups (such as persons who are alcohol-dependent) who could become more vulnerable or present a greater risk of crime, disorder and public safety issues as a result of excessive alcohol consumption or who may be drawn to particular premises if they are licensed to sell alcohol at earlier times. Where its discretion is engaged, the Licensing Authority may give consideration to the general demand for alcohol treatment in an area as a proxy indicator of problems.

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.

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 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. Section 182 Guidance

Extracts from the Section 182 Guidance are provided to assist the Committee in carrying out its functions under the Licensing Act 2003. The Section 182 Guidance contains the necessary detail for all parties in making and determining applications.

Determining actions that are appropriate for the promotion of the licensing objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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.

6. 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	Representation from the Wivenhoe Society
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