

BEFORE A LICENSING SUB-COMMITTEE OF
CAMBRIDGE CITY COUNCIL

The Premises at

Best One Express, 4 Fitzroy Street, Cambridge, CB1 1EW

SUMMARY OF PREMISES LICENCE APPLICANT'S SUBMISSIONS

v.06.12.2021

1. This is an application for a new premises licence, for a small newsagent in Cambridge City centre, which will enable the applicant to retail the sale of alcohol for consumption off the premises.
2. The premises stocks a small range of convenience products, mainly trading as a newsagent, with space preventing a large range of any particular product. This would be reflective in the range of alcohol offered for sale should this application be granted.
3. The premises is located within the Cambridge City Centre Cumulative Impact Area.
4. The applicant for the new licence is in the personal name of Dilip Bathula, with 18 Hopbine Drive Waterbeach, Cambridge, CB25 9RF listed as his home address. Dilip Bathula is also named as the proposed DPS, with his personal licence having been granted by South Cambridgeshire District Council.

5. The premises currently trades as a small newsagents at the corner of Fitzroy Street, and retails a small selection of newspapers, magazines, tobacco, confectionery, and soft drinks.

6. During the consultation period, there was extensive negotiations with the police in agreeing additional conditions for this application, given the premises sits within the Cambridge City Centre CIA. The police stressed that the conditions proposed would satisfy them that the premises would not impact the four Licensing Objectives should they be agreed. The applicant was happy to accept the police conditions, which can be found at point 9 below.

7. The police also recommended a reduction in the hours to be granted for the sale of alcohol for consumption off the premises. The applicant agreed to the hours reduction, meaning the application is now seeking the sale of alcohol between the hours of 11:00 and 20:00 Monday to Sunday.

8. There were also negotiations with Environmental Health at Cambridge who asked for an additional condition to be included on the operating schedule. Once again the applicant was happy to accept this condition. This agreed condition can be found at point 10 of these submissions.

9. The agreed Police conditions are as follows:
 - a) All alcohol to be displayed behind a secure counter (not available for self service).

- b) Only beer, cider and lager with a maximum ABV content of 5.5% to be sold, except for specialist branded premium priced products.
- c) A member of staff shall be on the shop floor at any time a customer is within the shop.
- d) Audible door chime to notify a member of staff when customer enters/exits store.
- e) There shall be no advertising of alcohol products in either the shop front windows or the exterior of the premises.
- f) Times of when alcohol can be sold will be on display within the premises.
- g) All staff shall be trained to record refusals of sales of alcohol in a refusals register.
- h) All relevant staff are appropriately, and well trained about: the requirements for persons' identification; establishing age; the adopted Nationally recognised Age Restricted Policy; not serving alcohol to intoxicated persons; asking customers to use premises in an orderly and respectful manner; and adhering to Environmental Health requirements. Records of such training must be made available, on demand, to any authorised officer.
- i) It is considered that for the nature of the operation door supervisors will not be required at all times, however a liaison system with the police licensing officer set up, whereby on certain occasions a year and where it is considered necessary a security officer/doorman will be employed by the licence holder based on a risk assessment

and having regard to advice from the police.

- j) The person nominated as the DPS will join the Cambac Nightsafe/Pub watch scheme and support its aims and objectives. This includes support of its agreed banning policy and attending meetings; personally or by sending an authorised representative of the venue. The condition is only binding whilst the Nightsafe/Pub watch scheme is in existence.
- k) A written or electronic log will be kept of all refusals including refusals to sell alcohol. The Premises Licence holder shall ensure that refusals log is checked on a regular basis. The log will be kept and maintained at the premises and will be available at all times whilst the premises are open for inspection immediately upon request by Cambridgeshire Police and any responsible authority
- l) The DPS or relevant person will actively operate "Challenge 25 Policy" This will include a voluntary agreement to only accept identity cards with the "Pass" accreditation; passports; photo ID driving licences; any National identity card as ruled by any British Court as a bona-fide recognised form of identification; or any future identification card as approved by central government; as bona-fide recognised forms of identification.
- m) No customers carrying opened bottles of alcoholic drink upon entry shall be admitted to premises at any time they are open to the public.
- n) No single cans or bottles of beer, lager, cider to be sold.

- o) Sales area to be no more than 10% of premises to be used for alcohol.
- p) Till prompts shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.

10. The agreed condition with the Environmental Health is as follows:

- a) Collections from and or deliveries to the premises, shall only take place between the hours of 07:00 and 23:00. This shall include the placing of waste, including bottles, into waste receptacles outside the premises and the emptying of waste receptacles outside the premises and the emptying of waste receptacles by a waste contractor.

11. As a result of these agreed additional conditions to the operating schedule, there are no outstanding representations from the Police or Environmental Health. No other responsible authority raised any question to the application, and therefore no representation.

12. These additional conditions are in addition to the conditions offered in the original operating schedule of the application, which can be found in the officers report.

13. As you can see from the above, the applicant has offered a number of robust responsible conditions which will ensure that the licensing objectives are not undermined in any way by the grant of this application.

14. We do however have one representation from an interested party, Cllr Tim Bick.

15. The representation focuses on the following concerns:

- 1. The premises falls within the Cambridge City Centre CIA.**
- 2. There is no offer of a uniformed guard to stand at the door of the premises.**
- 3. The premises is situated 50 metres from Willow Walk Hostel.**
- 4. The location, Fitzroy Street attracts beggars and rough sleepers.**
- 5. The nature of the business attracts children.**

16. In response to these objections the applicant would say this:

- 1. The premises falls within the Cambridge City Centre CIA.**

The applicant has always recognised the premises falls within the CIA. In an attempt to ensure the licensing objectives were not undermined by this modest application, a series of robust conditions were offered in the operating schedule. With extensive subsequent negotiation with the police, there have been a number of additional conditions added, which will ensure that the Licensing Objectives are not undermined in any way. The additional conditions as requested from the police can be found on pages 2-5 of these submissions. The police, in recognising the location of the premises say this: *acceptance of additional conditions is the only way police would not make a representation in this case.*

The police conditions have been accepted in full, and they now believe that the grant of this licence will not undermine any of the 4 licensing objectives.

- 2. There is no offer of a uniformed guard to stand at the door of the premises.**

The police, who are the primary custodians of the Prevention of Crime and Disorder Licensing Objective, do not believe the use of a permanent security guard is necessary or appropriate in this application given the size and character of the premises.

Instead they have requested the following conditions which have been accepted.

9a) All alcohol to be displayed behind a secure counter (not available for self service).

9b) Only beer, cider and lager with a maximum ABV content of 5.5% to be sold, except for specialist branded premium priced products.

9c) A member of staff shall be on the shop floor at any time a customer is within the shop.

9d) Audible door chime to notify a member of staff when customer enters/exits store.

9e) There shall be no advertising of alcohol products in either the shop front windows or the exterior of the premises.

9i) It is considered that for the nature of the operation door supervisors will not be required at all times, however a liaison system with the police licensing officer set up, whereby on certain occasions a year and where it is considered necessary a security officer/doorman will be employed by the licence holder based on a risk assessment and having regard to advice from the police.

9n) No single cans or bottles of beer, lager, cider to be sold.

9o) Sales area to be no more than 10% of premises to be used for alcohol.

Both the applicant and the police believe that by adhering to the conditions above, the prevention of crime and disorder objective will not be undermined, and therefore

given the size and nature of the premises it is not necessary to request a permanent SIA guard to be on duty at the premises. Please also note condition 9i) that this does not mean door supervisors will not be employed at any time. This condition allows for the police to work with the applicant in ensuring that during periods of the year, or specific events, that door supervision is in place to ensure the licensing objective is not undermined in any way.

It is also worth mentioning the section 182 Guidance as amended in April 2018, under 1.16 which states:

Conditions must be tailored to the individual type, location and characteristics of the premises and events concerned.

They should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.

They should be proportionate, justifiable and be capable of being met.

So to say that because Waitrose has a uniformed guard on duty, means these premises should offer the same is wrong. Waitrose and Best One Express are not comparable premises and should not be viewed as such. It is correct that conditions for both premises can be different to ensure the same licensing objective is being promoted.

In addition, under the guidance at section 10.10 we can find the following:

Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

The use of a full time uniformed guard at these premises would be prohibitive to the business in terms of cost, and as a result the applicant has offered a number of

alternative conditions, that will not be so financially damaging to the business to ensure the same result, namely the licensing objectives will not be undermined.

3. The premises is situated 50 metres from Willow Walk Hostel.

It is recognised that this hostel is home for a number of vulnerable people who may be tempted by the availability of alcohol. The restriction of hours available for sale will go a long way to ensure this does not increase the problems for these people.

Secondly no alcohol will be on offer on open sale as per police condition 9a) and 9b) which state:

All alcohol to be displayed behind a secure counter (not available for self service).

Only beer, cider and lager with a maximum ABV content of 5.5% to be sold, except for specialist branded premium priced products.

This will ensure that these vulnerable people are not served alcohol, as it will be the choice of the staff to actually hand the product over, and not be faced with self service from the customer, (which does make it more difficult to refuse a sale), or indeed theft from customers. Even if a third party is sent in to purchase on another's behalf the strength of the alcohol in terms of beer lager and cider will be limited as to minimise harm.

Due to the limited space in the premises due to the overall size of the shop, and the fact that all alcohol is to be displayed behind the counter, this store will not provide the opportunity or attraction to the vulnerable drinker that many other retailers in the city can.

Finally on this point, police condition 9n) states:

No single cans or bottles of beer, lager, cider to be sold.

The reason this condition can be so effective is it raises the bar for the vulnerable drinker and street drinker, given that a larger amount of money is required to be able to attempt to make a purchase. It is often more likely that this type of customer attempt to purchase their alcohol from premises that permit single can/ bottle sales.

4. The location, Fitzroy Street attracts beggars and rough sleepers.

Please see points made for 3 above, as the same arguments apply to this reason for objection.

5. The nature of the business attracts children.

The premises is predominantly a newsagent and so by nature sells product that may be those that children may purchase, (soft drinks, confectionery, magazines). This in itself is not a problem, and thousands of newsagents/ convenience stores operate successfully across the country offering the same products for sale alongside alcohol. There are clear conditions in place to ensure that the applicant cannot sell alcohol to those who are underage, which again can be found in the original conditions offered in the operating schedule and those requested by the police. This could only ever become a concern if the objector is offering credible evidence that the applicant will sell to the underage. As he has offered nothing in this respect, (for example, has the applicant sold cigarettes to the underage)?, we would argue that this point has no relevance at all.

17. In relation to the cumulative impact policy the applicant makes these points:

- a. The policy is not absolute. In appropriate cases the Council can, and does, grant applications as an exception to policy. District Judge Anderson had these powerful words to say in a different case:¹

“It cannot be the policy of the cumulative impact policy to bring the iron curtain clanging down... I accept that the committee and the police did their best but their application of the Policy was too rigid. They seemed to take the view that Man was made for the Policy, when the Policy should be made for the Man”

Brewdog v Leeds City Council, DJ Anderson, Leeds Magistrates’ Court (6.9.2012)

The business is not alcohol led. A maximum of 10% of the selling space can be used for alcohol display.

No alcohol is on open display for the customers. All alcohol is to be displayed behind the counter.

A number of robust conditions offered to ensure the licensing objectives are not undermined in any way.

18. Summary:

The applicant has submitted a comprehensive application with a number of offered robust conditions.

After negotiation with the police a number of additional conditions have been agreed to further ensure the Licensing Objectives will not be undermined in any way.

An additional condition was agreed with Environmental Health in terms of operational noise

¹ *Brewdog v Leeds City Council*, DJ Anderson, Leeds Magistrates’ Court (6.9.2012)

from the premises, which is a condition that doesn't exist at present, and would not exist save for the grant of this licence. The applicant was happy to agree to this.

As a result, the police who are the main custodians of the Prevention of Crime and Disorder objective support the application.

The Environmental Health Team, the main custodians of the Prevention of Public Nuisance objective, also support the application.

There are no responsible authority objections to this application.

It is plain to all that the country is currently in very difficult times. Many businesses are closing down, many jobs have been, and many more will be lost in the coming months to the detriment of local communities and major cities alike. Here we have a business that, despite the economic uncertainty, is willing to invest in the local area, and not only provide a service for the local community, but also to provide local jobs for local people. No one can predict with any certainty how long the country will suffer the effects of the COVID -19 pandemic. Businesses that are still willing to invest in the area in these difficult times are in need of support and encouragement.

The propriety of taking into account the wider economic impact of licensing decisions was explicitly recognised by the Court of Appeal in the leading case of *Hope and Glory* [2011] EWCA Civ 31, when Toulson LJ observed [at 42]:

“Licensing decisions often involve weighing a variety of competing considerations: benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.”

For these reasons, the sub-committee is invited to grant the licence as an exception to the policy.

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