

REPORT FOR: LICENSING PANEL

Date: 02 March 2016

Subject: Application for a new premises licence in respect of 'Pami News, 21 Kenton Park Parade, Kenton Road, Harrow, Middlesex, HA3 8DQ'

Responsible Officer: Tom McCourt - Corporate Director – Community Directorate

Exempt: No

Enclosures: New Application for premises licence
Plan of the premises
Location (GIS) Map
Representations

Section 1 – Summary

An application has been received for a new premises licence to sell alcohol for off-sales under the Licensing Act 2003 in respect of Pami News, 21 Kenton Park Parade, Kenton Road, Harrow, Middlesex, HA3 8DQ. Nine representations have been received from interested parties and two petitions (one with 8 signatures and the other with 26 signatures). The Licensing Panel is asked to determine whether to grant the application, with or without modifications appropriate to the promotion of the statutory licensing objectives.

Representations received

From	Relevant Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	No representations received
Trading Standards	No representations received
The Area Child Protection Service	No representations received
LFEPA	No representations received
Metropolitan Police	No representations received

Representations from other persons

From	Relevant Representations details
Other persons	Representations Received

Section 2 – Report

Current situation

- 2.1 The applicant Sinnathurai Rasaratnam, has applied for a new premises licence in respect of Pami News, 21 Kenton Park Parade, Kenton Road, Harrow, Middlesex, HA3 8DQ. The application seeks to permit the following licensable activity with the following timings:

Sale of retail alcohol

Monday - Thursday	06.00 – 24.00
Sunday	06.00 – 24.00
Friday – Saturday	06.00 – 02.00

Hours open to public

Monday – Thursday	06.00 – 24.00
Sunday	06.00 – 24.00
Friday - Saturday	06.00 – 02.00

The premises are situated in a busy area of Kenton Road, Harrow, which consists of commercial premises on the ground floor and residential properties above. A map of the area is attached to this report.

- 2.2 The application states that the premises are: “the local convenience store selling quality food items, groceries, news with retail sale of alcohol off the premises only”.

Representations

- 2.3 The application for a new premises licence has attracted nine representations from other persons and two petitions one with eight signatures and the other with 26 signatures in relation to preventing crime and disorder; public safety; preventing public nuisance; and protecting children from harm. A copy of each of the representations is attached to this report.
- 2.4 Fifteen further representations were rejected by the licensing authority as they did not address relevant matters. Each interested party was advised of the opportunity to make further relevant representations before the end of the consultation period.

Consultation

- 2.5 The application was advertised in accordance with the Regulations under the Licensing Act 2003.

Officers' observations

- 2.6 The Panel will note that the nine representations, and the prayer to both of the petitions, are identical in each case. It is for the Panel to decide how much weight to place on the representations given that individually they add no new evidence to the concerns expressed in the letter.
- 2.7 Representations from individual interested parties refer to current noise nuisance and anti-social behaviour. Paragraph 3 of the petition also refers to alcohol-related anti-social behaviour and crime. Neither the police nor Environmental Health have made representations about those issues and specifically not in relation to the applicant premises.
- 2.8 Paragraphs 1 and 2 of the petitions refer to existing premises in the vicinity; Members will be aware that the questions of need or demand are not relevant matters to be taken into consideration.
- 2.9 Paragraph 6 of the petition refers to the risk of young children buying alcohol. Whilst there is no evidence presented to this fact, (and officers have no information this is currently a concern in that locality), the applicant will be under a mandatory duty to have in place an age verification policy and has offered one within his operating schedule.
- 2.10 The Panel may note the applicant has also been named as the Designated Premises Supervisor. At the time of preparing the report he has not provided the authority with the details of his personal alcohol licence in order to authorise alcohol sales. Should the Panel decide to grant the premises licence, the applicant will not be able to authorise alcohol sales until those formalities have been completed.
- 2.11 The Panel's attention is drawn to paragraph 9.38 of the statutory guidance which states, in part:
- After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 2.12 The Panel also will want to consider paragraphs 10.1 to 10.10 of the guidance in relation to imposing conditions.

- 2.13 The Panel should also take into account paragraphs 10.13 to 10.15 of the guidance, and in particular the latter paragraph in relation to allowing shops, stores and supermarkets to be allowed to sell alcohol during the same hours as the shop is open for other goods unless there are good reasons based on the licensing objectives not to.
- 2.14 A draft licence is set out at the appendix should the Panel grant the licence as sought.
- 2.15 These comments are in no way intended to bind the Panel, who may place such weight and draw such conclusions from the evidence as it thinks appropriate.

Licensing Policy Implications

- 2.16 In relation to the Council's Licensing policy at paragraphs 8.3 and 8.8, the applicant has addressed how he intends to promote the licensing objectives.

Legal Implications

- 2.17 The Licensing Panel is required to hold a hearing to consider any relevant representations made in relation to the premises licence application unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.18 The Licensing Panel is required to give appropriate weight to the representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps that are appropriate to promote the four licensing objectives.
- 2.19 Having considered those relevant matters, the Licensing Panel is required to take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –

The steps are—

(a) To grant the licence subject to—

(i) conditions that are consistent with the operating schedule accompanying the application modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 of the Licensing Act 2003 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application

For the purposes of 2.19(a)(i) above, the conditions of the licence are modified if any of them are altered or omitted or any new conditions added.

2.20 It should be noted with all options that –

- clear reasons should be given for the decision.
- any additional or modified conditions should be practical and enforceable
- the applicant and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in Schedule 5 to the Licensing Act 2003

2.21 In addition to determining the application in accordance with the legislation, Members must have regard to the –

- common law rules of natural justice
- provisions of the Human Rights Act 1998
- considerations in section 17 of the Crime and Disorder Act 1998

2.22 By section 6 of the Human Rights Act 1998, the Panel is required to act in a way that is compatible with rights under the European Convention for the Protection of Human Rights. The following provisions of the European convention seem relevant: Article 6 (right to a fair trial) Article 14 (prohibition of discrimination) and Article 1 of the First Protocol (protection of property).

Community Safety

2.23 In relation to section 17 of the Crime and Disorder Act 1998, this states:

'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'

Financial Implications

2.24 There are no financial implications.

Risk Management Implications

2.25 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court. The appeal period is 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 10 February 2016		
Name: Paresh Mehta	<input type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 10 February 2016		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer extension 7667

Background Papers: Application, Plan of the premises, Representations, Location (GIS) Map, Statutory Guidance.