

REPORT FOR: LICENSING Panel

Date:	20 September 2017
Subject:	Application for a new premises licence for Jagoda, 12-13 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR
Responsible Officer:	Simon Baxter, Divisional Director – Community Directorate
Exempt:	No
Enclosures:	Current premises licence (appendix 1) Location (GIS) Map (appendix 2) Image of premises (appendix 3) Plan of premises (appendix 4) Representation (appendix 5) Summary of proposed times and conditions (appendix 6)

Section 1 – Summary

An application has been received for a new premises licence for Jagoda, 12-13 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6L to sell alcohol between 0700 and 0000 hours each day. A representation has been received from a councillor.

Section 2 – Report

- 2.1 Krystyna Kajdel has applied on behalf of Jagoda Group (a partnership) for a new premises licence for Jagoda, 12 - 13 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR. A location map and image of the premises are set out at appendices 2 and 3.
- 2.2 Licensable activities
The applicant has applied to sell alcohol by retail for consumption off of the premises from 0700 to 0000 hours each day.

- 2.3 Description of premises
The premises are described on the application form as a “general grocery store, fruits and vegetables and off-licence”.
- 2.4 History of the premises
The applicant has held a licence for 13 Whitchurch Parade since 18 December 2014, which authorised the sale of alcohol from 0900 to 2100 hours.
- 2.5 The licence for 13 Whitchurch Parade was varied without objection on 7 August 2017 to extend the hours for the sale of alcohol to 0700 to 0000 hours.
- 2.5 Designated premises supervisor
Mr Michal Daniel Struzynski
- 2.6 Details of application
Received: 22 August July 2017
Closing date for representations: 19 September 2017
- 2.7 Representations
Representations have been received from a councillor (appendix 4).
- 2.8 Operating schedule and conditions
Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.
- 2.9 The Panel’s attention is directed towards paragraphs 8.39 – 8.46 of the April 2017 statutory guidance issued under the Act that sets out matters that ought to be considered by an applicant when drafting their operating schedule.
- 2.10 The most critical part of the operating schedule are the steps taken by the applicant to promote the licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be transferred into conditions on the licence. The Panel’s discretion is engaged in the light of relevant representations to impose conditions that are appropriate to promote the licensing objectives. Conditions should be tailored to the size, type, location, characteristics and activities at the premises, and the Panel should be aware of any indirect costs that may arise from the imposition of conditions.
- 2.11 The current premises licence is set out at appendix 1. The Panel may consider it appropriate to transfer the existing premises licence conditions to the new licence, subject to any further considerations raised in the representations or by the applicant.
- 2.12 When imposing conditions relating to CCTV the Panel should bear in mind the Information Commissioner’s guidance¹ that such conditions should only be imposed where it is justified to do so and in order to meet the licensing objectives. However as appendix 1 shows, CCTV conditions already exist on the current premises licence.
- 2.13 The Panel has the discretion to add to or modify these conditions in light of the representations where it is appropriate to do so to promote the licensing objectives.

¹ https://ico.org.uk/media/for-organisations/documents/1565/ico_view_on_cctv_in_pubs.pdf

2.14 Licensing policy

Para 8.3 of the statement of licensing policy states:

Opening times and shops

In accordance with the Secretary of State's guidance, the presumption will be that shops shall be licensed to sell alcohol during the same times as other goods in that shop, unless it is appropriate not to in order to further the licensing objectives. In some cases it may be appropriate to restrict alcohol sales to certain times and conditions imposed to ensure alcohol are segregated from other goods on sale.

2.15 Legal implications

The applicant already holds a premises licence to sell alcohol from 13 Whitchurch Lane between 0700 and 0000 hours. That licence cannot be interfered with by this application. This application has been made because of the applicant's intention to extend the premises and to sell alcohol from 12 and 13 Whitchurch Lane.

2.16 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.

2.17 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.

2.18 The Licensing Panel will be aware that it is unable to reduce the existing hours of the premises licence. The Panel's attention is drawn to paragraph 10.15 of the statutory guidance (which is reflected by paragraph 8.3 of the statement of licensing policy).

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 modify the conditions of the licence;
- (b) to reject the whole or part of the application;

The conditions of the licence are modified if any of them are altered or omitted or any new conditions added.

2.21 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.

2.22 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

2.23 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)

2.24 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

2.25 There are no financial implications.

Appeals

2.26 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 within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Ann Begley	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 31 August 2017		
Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 31 August 2017		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer Phone: 020 8424 7667

Email: Jeffrey.lieb@harrow.gov.uk

Background Papers: Application form, Statutory Guidance.