
REPORT FOR: LICENSING PANEL

Date of Meeting: 24 September 2019

Subject: Application for review of the premises licence for (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

Responsible Officer: Paul Walker – Corporate Director – Community Directorate

Exempt: No

Wards affected: Edgware

Enclosures:

Appendix 1 - Application for review
Appendix 1a - Additional information provided by Applicant
Appendix 2 - Location map and image
Appendix 3 - Current premises licence and plan
Appendix 4 - Representations
Appendix 5 – Relevant Section of Statement of Licensing Policy
Appendix 6 – Relevant Section of Statutory Guidance

Section 1 – Summary

An application has been received from the Metropolitan Police Service further to s.51 of the Licensing Act 2003 (“the Act”), to review the premises licence for (A) Day Fresh, 50 South

Parade, Mollison Way, Edgware, Middlesex, HA8 5QH.

Representations received

From	Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health	<i>No representations received</i>
Trading Standards	No representations received
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
<i>Metropolitan Police</i>	Application made & representations received
<i>Licensing authority</i>	No representations made
<i>Her Majesty's Revenue & Customs</i>	Representation received

Representations from other persons

1 representation received from a Councillor.

Section 2 – Report

- 2 An application has been received on behalf of the Metropolitan Police Service further to s.51 of the Licensing Act 2003 (“the Act”) to review the premises licence of (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL, currently held by Mrs Mathivathani Kenkarajah
- 3 The Licensing Objectives to which the review applications relates to are:
 - a) Prevention of Crime and Disorder;
 - b) Public Safety;
 - c) Prevention of Public Nuisance; and
 - d) Protection of Children from Harm.

Description of premises

- 4 The premises are located on the busy shopping parade of South Parade, Mollison Way. The premises comprise a three storey building. The ground floor being a small grocery and off licence and the other two floors being flats.
- 5 An image of the premises and a location map are provided at Appendix 2.

Licensing history

- 6 A premises licence was first granted on 14 November 2008. There have not been any transfer or DPS variations submitted since the original grant.
- 7 The current premises licence and plan are attached at appendix 3.

Details of the application

- 8 The Application was received on the 5 August 2019. The application has been advertised in accordance with the prescribed regulations.

Representations

- 9 There have been three representations. Two are from responsible authorities being HMRC and the police and the other from a councillor.

Officer observations

- 10 The applicant alleges that during several visits by the police, the licensee has not been able to uphold one or more of the four licensing objectives. The application alleges breaches of licence conditions and the keeping of smuggled goods. The applicant states that the police and the licensing authority have worked with the applicant on several occasions to remedy the problems encountered at the premises, however the problems still continue.
- 11 The representation made by the police alleges that by the premises providing alcohol to street drinkers, this is contributing to anti-social behaviour. The representation made by HMRC shows that they have confiscated alcohol and cigarettes from the premises on several occasions as they suspected that the correct duty has not been paid. On the latest visit by HMRC on 14 August, further confiscations were made and the licensee was given the opportunity to provide VAT invoices, however, the licensee failed to provide these.
- 12 The keeping of smuggled goods is an offence under Section 144 of the Act.

Licensing policy

- 13 In considering the Application for Review as set out in Appendix 1, the Panel will bear the statement of licensing policy attached to this report at Appendix 5. The Panel has discretion to depart from the guidelines, which are designed with consistency and transparency of decision-making in mind.

Statutory guidance

- 14 Paragraph 10.27 of the Statutory Guidance (April 2018) states in part "The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the

premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder.

15 Section 11 of the Statutory Guidance (April 2018) issued under section 182 of the Act regarding reviews is attached to this report at Appendix 6.

Determination

16 The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

17 The Licensing Panel is required to give appropriate weight to the review application, 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 (if any) that are appropriate to promote the four licensing objectives.

18 The Licensing Panel shall determine the application in accordance with S.52 of the Licencing Act 2003 ("the Act").

19 As per s.52 (3) the Act, the authority must having, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the Licensing objectives.

20 The steps as set out in s.52 (4) of the Act are:

- a) to modify the conditions of the licence;
- b) to exclude any of the licensable activities from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding 3 months;
- e) to revoke the licence

And for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition added.

21 If the Panel takes a step mentioned in subsection (4) (a) or (b), it may specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.

22 The Panel should also note:

- clear reasons must be given for the decision;
- any additional or modified conditions should be practicable and enforceable;
- the applicant for the review, the premises licence holder 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 Act.

- 23 In addition to determining the application in accordance with the legislation, Members must have regard to the –
- Common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc.);
 - Provisions of the Human Rights Act 1998;
 - Considerations in section 17 of the Crime and Disorder Act 1998.
- 24 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).
- 25 The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which 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.'*
- 26 Full copies of the Council's statement of licencing policy, hearing procedure and statutory guidance to the Act will be available at the Panel Hearing or in advance if so required.

Financial Implications

- 27 There are no financial implications.

Appeals

- 28 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in schedule 5 to the Act, they can appeal to a Magistrates' Court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man

on behalf of the
Chief Financial Officer

Date: 13 September 2019

Name: Andrew Lucas

on behalf of the
Monitoring Officer

Date: 12 September 2019

Name: Paul Walker

Corporate Director

Date: 12 September 2019

Ward Councillors notified:

Yes

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, Ext. 6267

Background Papers:

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>