

Licensing & Regulatory Sub Committee

15<sup>th</sup> October 2018

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:  
Executive Director (Place)**

**Ward(s) affected:**

Foleshill

**Title: Decision on a new Premises Licence application under the Licensing Act 2003**

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is for the Licensing & Regulatory Sub Committee to consider a new Premises Licence application under the Licensing Act 2003, for Raj's Store, 57 Harnall Lane West, Coventry, CV1 4EY.

**Recommendations:**

The Sub Committee is recommended to consider whether to:

1. Grant the application as requested
2. Grant the application subject to such conditions that are necessary to promote the Licensing Objectives
3. Refuse the application wholly or in part where it is necessary in order to promote the Licensing Objectives

Your officer recommends option 3 because it supports the representations made by the Responsible Authorities (as outlined in paragraph 3.4 of this report), and due to no resolution being agreed at a mediation meeting between all parties

**List of Appendices included:**

1. Premises Licence application
2. DPS consent form
3. Plan of Premises
4. Representation – West Midlands Police
5. Representation – Public Health
6. Location plan
7. Hearing Procedure Note

8. Relevant Hearing Briefing note
9. Statement of Licensing Policy

**Background papers:**

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub Committee to take into account the Government's guidance to the Act before reaching a decision.

Statement of Licensing Policy

The Council will have regard to the Policy, when making a decision on applications made under the Act

**Other useful documents**

None

**Has it been or will it be considered by Scrutiny?**

Not applicable

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

Not applicable

**Will this report go to Council?**

Not applicable

## **1. Context (or background)**

- 1.1 The Licensing Act 2003 ('the Act') requires the Council as the Licensing Authority to carry out its various licensing functions so as to promote the following four Licensing Objectives:
- The Prevention of Crime and Disorder
  - The Protection of Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 1.2 The Licensing Authority received a new Premises Licence application for Raj's Store, 57 Harnall Lane West, Coventry, CV1 4EY on 24<sup>th</sup> August 2018. The application is requesting Sale of Alcohol (off sales) Monday to Saturday 07:00hrs – 21:30hrs & Sunday 08:00hrs – 20:30hrs.
- 1.3 Two representations from West Midlands Police and Public Health have been received to the application (outlined in paragraph 3.4)
- 1.4 In addition to the mandatory conditions, the Sub Committee should refer to the operating schedule detailed in the application (Appendix 1), which will be attached as conditions to the licence should it be granted.
- 1.5 The Act requires the Council to publish a Statement of Licensing Policy that sets out policies which the Council will have regard to and apply, in order to promote the licensing objectives when making a decision on applications made under the Act. The Policy will be available at the hearing for reference purposes (Appendix 9).
- 1.6 It is essential that the Sub Committee takes into account the Government's guidance to the Act before reaching a decision. It is important that the Applicant and Objectors refer to the relevant sections of the guidance, and it is suggested good practice for members of the Sub Committee to read the relevant paragraph of the guidance prior to the hearing.

## **2. Options considered and recommended proposal**

- 2.1 There are three courses of action available to the Sub Committee in relation to this application:
- (i) Grant the application as requested. If the Sub Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to mandatory conditions and conditions consistent with the applicant's operating schedule, and any other conditions agreed by the applicant as part of the consultation / mediation process. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (ii) Grant the application as above, but the Sub Committee could impose extra conditions as it thinks fit, or make amendments to the operating schedule conditions, and/or proposed hours. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (iii) If the Sub Committee concludes that no additional conditions would ensure that the Licensing Objectives would be upheld, then the whole application should be rejected.

- 2.2 Your officer recommends option (iii) as it supports the representations made by the Responsible Authorities as outlined in paragraph 3.4 of this report, and due to no resolution being agreed at a mediation meeting between all parties.
- 2.3 The Sub Committee are advised that they may depart from the officer recommendation if, having heard all of the evidence, they believe it is appropriate to do so. Should the Sub Committee decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.
- 2.4 The Sub Committee must be reminded that full reasons for the decision must be given based on the Licensing Objectives only.
- 2.5 The Sub Committee must also be aware that licences can be reviewed at any time by any Responsible Authority or any 'Other Person', it if is considered that any of the Licensing Objectives have been undermined following the grant of the Premise Licence.

**3 Results of consultation undertaken**

- 3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Responsible Authorities) and any other persons for 28 days in the form of a notice displayed on the premises, and a notice published in a local newspaper.
- 3.2 It should be noted that under the Licensing Act 2003, 'any Other Person' is no longer constrained by members of the public or businesses 'within the vicinity'.
- 3.3 All Responsible Authorities received a copy of the application. Please see below responses received:

<b>Responsible Authority</b>	<b>Response Received</b>	<b>Representations</b>	<b>Conditions Agreed</b>
<b>Licensing</b>	Yes	No	No
<b>Police</b>	Yes	Yes	No
<b>Environmental Protection</b>	Yes	No	No
<b>Fire Safety</b>	Yes	No	No
<b>Health &amp; Safety</b>	No	No	No
<b>Trading Standards</b>	Yes	No	No
<b>Planning</b>	No	No	No
<b>Safeguarding Children</b>	No	No	No
<b>Public Health</b>	Yes	Yes	No
<b>Secretary of State (Immigration)</b>	No	No	No

- 3.4 Representations have been received from West Midlands Police and Public Health. The grounds for the representations are, that the granting of a Premises Licence would undermine the following licensing objectives: Prevention of Crime & Disorder; Protection of Public Safety and the Prevention of Public Nuisance. The representations note that the Salvation Army - Harnall Life House, is sited opposite the proposed premises and houses vulnerable people with high dependency issues, including alcohol/drug misuse. The area also currently attracts a high volume of calls to West Midlands Police for anti-social behaviour and crime & disorder.

- 3.5 On 2<sup>nd</sup> October 2018 a mediation meeting was held between the applicant and Responsible Authorities making representations, but no resolution could be agreed. A representative from the Salvation Army was present at this meeting.

#### **4 Timetable for implementing this decision**

- 4.1 The Appeal period is 21 days from the applicant and objectors being notified of the decision.

#### **5 Comments from Executive Director, Place**

##### **5.3 Financial implications**

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub Committee is not upheld.

Any decision to institute legal proceedings involves a financial commitment, the potential extent of which it is difficult to predict. Variables include any need to obtain the services of a barrister, costs falling to the Council in the event of an appeal by either a defendant or by the City Council and the possibility of costs being awarded against the Council in the event of a court holding that the prosecution was improperly brought. In considering this particular case the degree of financial risk is considered by your officers to be acceptable.

##### **5.4 Legal implications**

The Licensing Act 2003 sets out how applications for new Premises Licences should be dealt with where valid representations have been submitted. The Sub Committee have to decide the outcome of the application taking into account the Licensing Objectives.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole, or in part, an application to grant a premises licence the applicant may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

Similarly, where a person or Responsible Authority who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence; they may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

#### **6 Other implications**

##### **6.3 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy**

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Public Safety and citizen's quality of life.

##### **6.4 How is risk being managed?**

If the application is not handled in line with the Act, there is a risk of judicial appeals, reviews and associated costs.

##### **6.5 What is the impact on the organisation?**

None

**6.6 Equalities / EIA**

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

**6.7 Implications for (or impact on) the environment**

None

**6.8 Implications for partner organisations?**

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

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