

REPORT: Regulatory Sub-Committee

DATE: 3 October 2022

REPORTING OFFICER: Operational Director – Legal and Democratic Services

PORTFOLIO: Resources

SUBJECT: Application to Vary a Premises Licence – ABI Mini Mart, Halton Brook, Runcorn

WARDS: Bridgewater

1. PURPOSE OF REPORT

To assist Members of the Regulatory Committee in their consideration of an application by Mr Aravandan Kanthanathan for a variation of the premises licence for the ABI Mini Mart, Halton Brook, Runcorn, WA7 2DY (“the Mini Mart”).

2. RECOMMENDATION

The committee considers the contents of the report and makes a determination on the application.

3. BACKGROUND INFORMATION

- 3.1 The Mini Mart is a licensed general convenience store located next to a row of shops in the middle of a residential area known as Halton Brook. The row of shops which is known as the Hillcrest Centre includes another licensed premise and is surrounded by a car park and open space. The Mini Mart backs on to Leaside. A map and google images of the area are enclosed at Appendix A.
- 3.2 The Mini Mart was originally a pub known as the Burma Star which held a premises licence from 24th November 2005 until it was surrendered on the 17th September 2009.
- 3.3 In December 2014, a new application for a premises licence was submitted for a shop which included the sale of alcohol.
- 3.4 A licence was granted on the 9th December 2015 and a copy is attached at Appendix B. The licensable activities are:

Supply of alcohol Monday to Sunday 07:00 to 23:00.
Hours open to the public Monday to Sunday 06:00 to 23:00.

- 3.5 The applicant now seeks an extension to the opening hours and for the supply of alcohol by 2 hours with the premises closing at 02:00 each day and to add to the licence a further licensable activity, namely the provision of late night refreshment.

4. THE APPLICATION

- 4.1 The application has been made under section 34 of the Licensing Act 2003 (“the Act”). In summary, the application seeks:-

- Provision of Late Night Refreshment between the hours of 23:00 and 02:00 each day.
- Supply of Alcohol (off the premises) between the hours of 07:00 and 02:00 each day.
- Hours open to the public between the hours of 06:00 and 02:00 each day.

- 4.2 A copy of the application can be found at Appendix C.

- 4.3 In its Operating Schedule accompanying the application, the applicant has provided the following further detail in respect of the hours of operation:-

“This is also for the business to develop further in terms of deliveries – the ordering and delivery aspect is becoming more important and common-place now”.

The Operating Schedule also sets out a number of conditions which seek to ensure the responsible sale and delivery of alcohol and to minimise littering outside the shop. Further details are set out at Appendix D.

5. REQUIREMENT FOR A HEARING

- 5.1 The application was submitted on 9 August 2022 and was advertised in the local newspaper on 18 August 2022. Officers have confirmed that the advertisement requirements were complied with.

- 5.2 There was 1 representation from the responsible authorities (Cheshire Police) and 2 further representations from other persons, namely local residents.
- 5.3 Following the Police representations, the Applicant agreed to amend its application as set out below and, on this basis, the Police have removed its objections. The Applicant has notified the residents of this but, at the time of drafting this report, their objections remain.
- 5.4 Where, as here, relevant representations have been made and not withdrawn, the licensing authority must hold a hearing to consider them (unless agreed by the parties).
- 5.5 The hearing is held in accordance with the Act and the Licensing Act 2003 (Hearings) Regulations 2005. The procedure to be followed has been circulated to all parties and will be repeated at the beginning of the hearing.
- 5.6 The hearing is solely concerned with those aspects of the application, which has been the subject of the relevant representations as defined in the Act. These are the representations made by the residents.
- 5.7 The Applicant has indicated that it will be making submissions to the Sub-Committee at the hearing. The other parties have all been informed of the hearing and are expected to attend.

6. RELEVANT REPRESENTATIONS RECEIVED

6.1 RESPONSIBLE AUTHORITIES

Cheshire Police

The following email has been received from Halton VR Licensing at Cheshire Police:-

“Having discussed with the applicants solicitor and Licensing Officer Lesley Halliday the representations previously submitted I can confirm that we have come to agreement on a revised set of conditions which believe to be suitable to promote the Licensing Objectives in particular the prevention of Crime & Disorder and those amended and agreed conditions are as follows;

The shop will be open to the public – 06:00 to 01:00
From 01:00 to 02:00 the premises will operate a delivery service only.

Delivery conditions:

Alcohol may not be sold from the delivery vehicle.
The delivery driver may only carry alcohol that has been pre-ordered.

CCTV

The premises will retain CCTV footage in an unedited format for a minimum of 28 days.

CCTV shall be provided to the Police and Local Authority upon reasonable request”.

On this basis, the objections/ representations from Cheshire Police have been withdrawn.

6.2 ANY OTHER PERSON

Two letters containing representations has been received from residents who live Leaside behind the Mini Mart. They objected to the original application on the grounds of crime and disorder, nuisance and public safety. A copy of the redacted representations are at Appendix E.

The applicant has written to the residents setting out the amendments to its application and information to address their concerns. These letters are at Appendix F.

6.3 EVIDENCE

In accordance with the normal procedure it is noted that the relevant representations do not amount to evidence. The objector has been requested to supply the evidence they intend to rely on no later than 5 working days prior to the hearing. When received this will be forwarded to the applicant and members of the committee.

7. LEGAL AND POLICY FRAMEWORK

7.1 Under the Act, the Sub-Committee must promote the licensing objectives, namely:-

- The prevention of crime and disorder;
- The prevention of public nuisance;
- Public Safety;
- The protection of children from harm.

7.2. In promoting the licensing objectives, the Sub-Committee must also have regard to the national guidance issued under

section 182 of the Licensing Act 2003 (“the Guidance”) and the Council’s Statement of Licensing policy.

- 7.3 Paragraph 1.17 of the Guidance states that each application “must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy... Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.”
- 7.4 Members’ attention is also drawn to the following paragraphs of the Council’s Statement of Licensing Policy:-

...

15. The Council’s vision as set out within the Corporate Strategy 2018/2020 and within Halton’s fifteen year Sustainable Community Strategy 2011–2026 is that:

“Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality, sustained by a thriving business community; and safer, stronger and more attractive neighbourhoods”.

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17. Locally due to the high levels of alcohol-related harm Halton experiences the Halton Health and Wellbeing Strategy 2017/2022 includes the reduction in the harm from alcohol as a priority area.

18. The strategy identified a number of issues which may be affected by the licensing regime in Halton including:

- A significant proportion of cases of domestic violence are alcohol related
- Alcohol related crime and alcohol related violent crimes are worse in Halton than for both the North West and England as a whole
- Alcohol specific admissions (both among adults and those aged under 18) are much higher than the national and regional averages.

19. In addition due to the high levels of alcohol-related harm Halton was one of only twenty areas in the country to be awarded the status of being a “Local Alcohol Action Area” (LAAA). This award provided support from the Home Office and Public Health England during 2014/15 related to addressing the harm from alcohol across three areas – health, crime and anti-social behaviour, and diversifying the night time economy.

...

21. The vision of the strategy is to: “Enable people in Halton to have a sensible relationship with alcohol that promotes good health and wellbeing and ensures Halton is a safe place to live”.

22. In order to achieve this vision and minimise the harm from alcohol in Halton the strategy will seek to deliver three interlinked outcomes:

1. Reduce alcohol-related health harms
2. Reduce alcohol-related crime, antisocial behaviour and domestic abuse
3. Establish a diverse, vibrant and safe night-time economy.

22. So far as is consistent with the licensing objectives, the Council will carry out its licensing functions with a view to promoting these priorities and themes (including priorities and themes which may be adopted from time to time).

23. The Council will encourage the provision of a wide range of entertainment activities within the Halton area including promotion of live music, dance and so on, in the interests of broadening cultural opportunities within the local community.

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34. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

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48. Licensing hours

49. With regard to licensing hours, consideration will be given to the individual merits of an application.

- The Council recognises that, in certain circumstances, longer licensing hours with regard to the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- The Council also wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time local economy.

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51. Shops stores and supermarkets

52. With regard to shops, stores and supermarkets, the norm will be for such premises to be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

53. Mobile, remote, internet and other delivery sales

54. The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.

55. The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the

purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.

56. Persons who run premises providing 'alcohol delivery services' should notify the Council that they are operating such a service in their operating schedule. This ensures that the Council can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact the Council for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required. Steps must be in place to ensure that any designated premises supervisor and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons under age.

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87. CCTV

88. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time. The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

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95 The control of excessive Alcohol consumption

It is an offence under the Licensing Act 2003 to sell to, or obtain alcohol for, a person who is drunk on licensed premises. In practical terms this includes:

- Selling an alcoholic drink to someone who you know is drunk
- Buying an alcoholic drink for someone who you know is drunk

The Council expects all premises licence holders to take steps to control excessive consumption and drunkenness on relevant alcohol licensed premises. All serving staff should be

trained in recognising the signs of drunkenness, how to refuse service and the premises duty of care. The premise should display prominent signage at point of sale that it is an offence to sell alcohol to anyone who is drunk. This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities.

8. OPTIONS

8.1 The Committee has the following options under Section 34 of the Act:

- (1) To grant the application subject to such conditions as appropriate for the promotion of the licensing objectives; and any mandatory conditions.
- (2) To exclude from the scope of the licence any of the licensable activities to which the application relates.
- (3) To reject the application.

9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Guidance issued under Section 182 of the Licensing Act 2003	Licensing Section/ Government Website see link 1 below.	Kim Hesketh
Halton Council's Statement of Licensing Policy	Licensing Section/ Council website see link 2 below.	Kim Hesketh

1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidanceIssuedUnderSection182oftheLicensingAct2003_April2018.pdf
2. <https://www3.halton.gov.uk/Documents/business/licencing/alcoholent/StatementofLicensingPolicy.pdf>