

WELWYN HATFIELD COUNCIL
 LICENSING SUB COMMITTEE
 REPORT OF THE LICENSING OFFICER

Brookmans Park

REPORT TO LICENSING SUB COMMITTEE

**APPLICATION FOR VARIATION OF A PREMISES LICENCE FOR:
 BROOKMAN WINES, 95 BRADMORE GREEN, BROOKMANS PARK**

1 Summary of the Application

Premises Licence Holder(s)
Kiranjot Kaur
Address of Premises
Brookman Wines 95 Bradmore Green Brookmans Park Hatfield

This committee report contains an application for variation of an existing premises licence for 95 Bradmore Green, Brookmans Park.

Appendix A - Copy of this application, & summary hours sheet

Appendix B - A map of the locality

Appendix C - Representations received.

Appendix D - Police agreed amended timings & Applicants consent

Summary of Application Received

An application has been received from Kiranjot Kaur under the Licensing Act 2003 for variation of an existing premises licence for Brookman Wines to extend the times for the sale of alcohol and opening, and to add to the licence "on sales" to permit wine tasting on the premises.

The application as made is for sale of alcohol to be from 08:00 until 04:00 hours seven days a week.

Similarly opening hours from 08:00 until 04:00 hours seven days a week.

And the consumption of alcohol (on sales) for wine tasting also from 08:00 until 04:00 hours seven days a week.

No extra activities or hours were requested for bank holidays or special days.

1.1 Unresolved representations

The representations from local residents & other parties remain unresolved.

However, we have written to them to advise them of the amended timings in the application following successful mediation with the police.

1.2 Resolved Representations

Following mediation with Herts Constabulary the applicant has amended the timings of the application to satisfy police concerns, and the police have withdrawn their representation subject to these amended timings.

Summary of the agreed conditions is at appendix "D", together with timings agreement from Kiranjot Kaur agreement to these timings, and confirmation of Police withdrawing their representation. Agreed hours: -

Monday to Saturday - 08:00 - 01:00 hours, &

Sundays - 08:00 - 00:00 hours

2 Background

The application submitted is for an application to vary an existing premises licence to extend the timings for the sale of alcohol and opening, and to include on sales on the premises as the applicant would like to be able to hold wine tasting functions/events. Representations received are with regard to this, therefore the committee are obliged to determine the application.

2.1 In determining the application the sub committee must take account of the councils duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

3 Licensing Policy

3.1 The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

Guidance 9.41

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.42

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.43

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Guidance 9.44

Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

Guidance 13.56

The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

Guidance 13.57

There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

- 3.2 The sub committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes: -

Interface with planning controls

The Council recognises that the 'need' for new premises is not considered within the remit of the Act. The assessment of need for retail and leisure development is a matter for the planning authority to consider when planning the core strategy.

Licensing Hours

We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.

The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.

We will normally expect to grant shops, stores and supermarkets with permission to provide sales of alcohol for consumption off the premises at any time when the premises is open, unless there are good reasons for restricting those hours. It may be appropriate for us to restrict the sale of alcohol where we have received representations about crime and disorder issues, e.g. street drinkers.

We recognise that flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. Unreasonable, repetitive, frivolous and vexatious representations will be disregarded. Representations from competitors that suggest restriction on hours because further facilities for the sale of alcohol are not "needed" will be disregarded.

Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

4 Recommendation

- 4.1 The committee must have regard to the application made and the evidence it hears. The sub-committee is therefore asked to determine the application.

- 4.2 In determining the application, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the variation of the premises licence as proposed.
 - b) To modify the conditions of the licence by altering or omitting or adding to them as appropriate for the promotion of the licensing objectives (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
 - c) To exclude any of the licensable activities to which the application relates.
 - d) To refuse to specify a person in the licence as the premises supervisor.
 - e) To reject the whole of the application.

5 Appendices

- a. Premises licence variation application, and plan.
- b. Cartology maps of locality.
- c. Representations received, including the police representation
- d. Consent of the applicant to the police conditions, and Police removal of their representation subject to the reduced hours
- e. Letter sent to all persons making representations advising them of the amendment to the hours requested in the application

Dennis Pennyfather, Licensing Technical Officer
Date – 10th November 2016