

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Licensing Panel
Date: Thursday 13 April 2023
Reporting officer: Katie Honeywood, Licensing Assistant
Subject: Consideration of an application for a new premises licence for Agishaan Mini Market, 2a Hermitage Road, Higham, Rochester, Kent, ME3 7DA

Purpose and summary of report:

To assist members to determine an application for a new premises licence under the Licensing Act 2003 (LA03).

Recommendations:

1. Members are requested to determine the application on its merits.

Key Implications:	
Item	Implications
Legal	<p>The LA03 requires licensing authorities to publish a Statement of Licensing Policy which sets out the policies they have in place to promote the four licensing objectives. This policy must be considered when making decisions on applications. The current policy is in place until 15 April 2024. It is available for viewing on the website. https://www.gravesham.gov.uk/_data/assets/pdf_file/0011/185726/Licensing-Policy-2019-24.pdf</p> <p>The licensing authority are required have regard to the Section 182 guidance issued by the Secretary of State. The licensing panel is able to depart from this guidance, but only when they have reason to do so. Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK (www.gov.uk)</p> <p>The panel are reminded that the Human Rights Act guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence, and the protection of private and family life.</p> <p>In accordance with the provisions of the Act, if a licensing authority rejects in whole of part an application to vary a premises licence the applicant may appeal against the decision to a Magistrates Court within 21 days of being notified of the decision.</p>

	Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that different 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.
Finance and Value for Money	None unless there is an appeal about the Panel decision to Magistrates Court which proves to be successful and which could therefore result in costs being awarded against the Council.
Corporate Plan	There are direct links to Corporate Objective #1 – People and the associated commitment to enforce high regulatory standards: Put customer and employee safety first by ensuring commercial businesses and licence holders are fully compliant with expected legislative standards.
Climate Change	N/A

1. Introduction

- 1.1 The Licensing Panel is asked to determine an application for a new premises licence, following receipt of an objection by two members of the public. The application is in respect of the premises Agishaan Mini Market, 2a Hermitage Road, Higham, Rochester, Kent, ME3 7DA.

2. Background

- 2.1 It is in Higham Village, next to post office etc. The premises is located in the village of Higham, attached to the Post Office and opposite The Gardeners Arms Public House, There are two off licences along Forge Lane and a row of shops along School Lane.

3. The Application

- 3.1 On 16 February 2023 an application was received from Mr. Thiruchchelvam Sathiskumar.
- 3.2 The application is for sale by retail of alcohol the licensable hours as follows:
- 3.2.1 Sale by retail of alcohol, Off sales only
- 3.2.1.1 Monday to Saturday 05:30 to 23:00
- 3.2.1.2 Sunday 06:00 to 22:00
- 3.3 Section M of the application form asks the applicant to describe the steps they intend to take to promote the four licensing objectives. These steps will be added to the premises licence as clear and enforceable conditions. The panel may choose to amend these conditions.
- 3.4 A copy of the application can be found at Appendix 1.

4. Representations

- 4.1 At any stage during the 28 day consultation period a responsible authority, a Councillor or an interested party may make representations provided that the

grounds are relevant to the licensing objectives and are not deemed to be vexatious, frivolous or repetitive.

- 4.2 On 27 February 2023 we received a representation from Environmental Protection, requesting that the applicant amends their operating schedule to the following hours:

4.2.1.1 Monday to Saturday 06:30 to 23:00

4.2.1.2 Sunday 07:30 to 22:00

4.2.2 This was agreed by the applicant on 27 February 2023.

4.2.3 The email with the agreed amendments can be found at Appendix 2.

- 4.3 On 8 March 2023 we received a representation from the Police requesting an amendment to the operating schedule to include conditions.

4.3.1 This had been agreed with the applicant on 7 March 2023.

4.3.2 The email with the agreed conditions can be found at Appendix 3.

- 4.4 On 16 March 2023 we received a representation from Trading Standards, requesting an amendment to the operating schedule to include conditions.

4.4.1 This had been agreed with the applicant on 9 March 2023.

4.4.2 The signed document with the agree conditions can be found at Appendix 4.

- 4.5 On 24 March 2023 we received two objections in relation to public nuisance from two members of public

4.5.1 These can be found at Appendix 5.

5. Appendices

- 5.1 The following documents are to be published with the report:

5.1.1 Appendix 1 – Application

5.1.2 Appendix 2 – Agreed amendments with Environmental Protection

5.1.3 Appendix 3 – Agreed amendments with Police

5.1.4 Appendix 4 – Agreed amendments with Trading Standards

5.1.5 Appendix 5 – Objections from two local shops

6. Background Documents

- 6.1 There are no background documents.

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Secondary Implications	
Risk Assessment	Departure from the Guidance and Policy could lead to an increased risk of appeal. Ensuring that all decisions are evidence based, justified and proportionate, and that sufficiently detailed reasons for decisions are given, helps to reduce the risk of a successful appeal.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Crime and Disorder	There are obvious links to community safety and the perception of crime and disorder if licensed premises are not run and managed properly or adequately enforced.
Digital and website implications	Basic notices are published on our website for all premises applications during the consultation period.
Safeguarding children and vulnerable adults	The Licensing Act 2003 requires premises licence holders to promote the licensing objective 'Protection of children from harm'. Licensing Authorities must play their part in taking the required action against those that don't appear to be promoting this objective.