

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Licensing Sub-Committee

01 December 2020

TITLE:	Application for the Variation of a Premises Licence for Morrisons, Barnfield Close, Leek, Staffordshire Moorlands, ST13 5SG.
PORTFOLIO:	Environment
OFFICER:	Mike Towers, Senior Officer (Housing, Public Health & Licensing)
WARD:	Leek East

Attached documents

- Appendix 1 – Copy of the application form.**
- Appendix 2 – Copy of the current premises licence.**
- Appendix 3 – Copy of memorandum from Environmental Health.**
- Appendix 4 – Copies of representations from interested parties.**
- Appendix 5 – Map showing the proximity of the objectors to the premises.**

Recommendations

- 1.1 That members determine the application for the Variation of a Premises Licence in respect of Morrisons, Barnfield Close, Leek, Staffordshire, ST13 5SG within the provisions of the Licensing Act 2003.

Executive Summary

- 2.1 An application was received on 01 October 2020 from Gosschalks LLP on behalf of WM Morrison Supermarket PLC, for a variation of the current premises licence in respect of Morrisons, Barnfield Close, Leek, Staffordshire, ST13 5SG. During the consultation period 5 relevant representations were received from interested parties including a District Councillor and a Town Councillor who live in the

immediate vicinity of the premises. Therefore, the application is required to be determined by the Licensing Sub-Committee.

Background:

2.2 An application was received on 01 October 2020 from Gosschalks LLP on behalf of WM Morrison Supermarket PLC for a variation of the current premises licence in respect of Morrisons, Barnfield Close, Leek, Staffordshire Moorlands, ST13 5SG. The application is seeking to increase the hours for the sale by retail of alcohol to 24 hours Monday to Sunday, to permit late night refreshment 23:00 hours to 05:00 hours Monday to Sunday and opening times of the premises Monday to Sunday 24 hours per day. However, it should be noted that the premises will continue to be bound by the terms of the Sunday Trading Act 1994 and will, therefore, continue to operate for six hours only on Sundays. A copy of the application form is attached at Appendix 1.

2.3 The premises currently holds a premises licence which permits the following licensable activities: -

- Sale of alcohol (for consumption off the premises): -
Monday to Sunday:- 06:00 – 00:00

The permitted opening times of the premises are: -

- Monday to Sunday:- 06:00 – 00:00

A copy of the current premises licence is attached at Appendix 2.

2.4 In accordance with the requirements of the Licensing Act 2003 consultation on this application was conducted between 02 October 2020 and 29 October 2020 by the displaying of a public notice giving details of the application on the premises, on the premises car park and on the railings situated on the A53 (Leek Road), on Junction Road and in a local newspaper namely the Leek Post and Times (07 October 2020). A copy of the application was also displayed on the Staffordshire Moorlands District Council's Licensing webpage.

2.5 On 26 October 2020 the Environmental Health Department at Staffordshire Moorlands District Council sent an e-mail to Gosschalks Solicitors in relation to the application and proposed two conditions to alleviate the potential for noise complaints if the extended hours were granted. The two conditions were:-

- No Heavy Goods Vehicles (HGVs) shall enter or depart from the application site except between the hours of 07:00 to 22:00 Monday to Saturday, and 09:00 to 22:00 on Sundays, bank or public holidays.

(This condition would take account of noise caused by HGV arrivals and unloading etc. whilst not compromising home deliveries).

- Staff shall monitor customers outside the premises on a regular basis and ensure patrons do not cause a public nuisance.

(This condition would address concerns in relation to anti-social behaviour)

- 2.6 On 02 November 2020 the Licensing Authority forwarded a memorandum from the Environmental Health Department to Gosschalks Solicitors in relation to the previous e-mail and the proposed conditions. A copy of this memorandum is attached at Appendix 3.
- 2.7 On 03 November 2020 Mr Richard Taylor from Gosschalks Solicitors (who had been on annual leave) responded to confirm that having discussed the proposed conditions with his client, they had confirmed that the application will not affect their current delivery schedules and as there was no history of noise complaints to the Environmental Health Department during the past six years then the first condition was not applicable. In respect of the second proposed condition and to address concerns raised by the objectors, Mr Taylor volunteered to amend the proposed condition to *“When the premises is open for alcohol sales between midnight and 6.00am, a minimum of one SIA security guard will be employed at the premises”*.
- 2.8 On 03 November 2020 Mr Denis Colgan, Environmental Health Officer confirmed that although he had not submitted a formal representation to the application due to there being no history of complaints during the past six years, the proposed condition in respect of employing SIA security between the hours of midnight to 06:00 should address any potential for anti-social behaviour at the premises.
- 2.9 The Committee are advised that as there are no planning conditions currently restricting the hours of opening of the premises, should this variation be rejected then this would not prevent the premises from opening between midnight and 06:00 but licensable activities during these hours would not be permitted.

Relevant Representations

2.10 Responsible Authorities

Environmental Health Officer – No formal objection received.
Planning Officer – None received
Health and Safety Authority – None received
Child Protection Body – None received
Staffordshire County Council Trading Standards - None received
Home Office Immigration – None received
Staffordshire Public Health - None received
Staffordshire Police – None received.
Staffordshire Fire and Rescue Service – None received.
Home Office Alcohol Licensing Team – None received.

2.11 Other Persons

During the consultation period 5 representations were received from local residents including a District Councillor and Town Councillor who live in the vicinity of the premises. Copies of these representations are attached at Appendix 4.

- 2.12 A map showing the location of the premises and the proximity of the objectors to the premises is attached at Appendix 5.
- 2.13 The Committee are advised that the relevant points of the representations are based around noise disturbance, external lighting, anti-social behaviour and litter.
- 2.14 The Committee are also advised that one representation refers to the petrol station adjacent to the premises and problems with the tannoy system used, however, as this does not form part of the licensed area this element of the representation cannot be considered.
- 2.15 A further representation refers to the application for late night refreshment between 23:00 – 05:00 and whether customers would be permitted to eat and drink inside the premises. The Licensing Authority checked with Mr Richard Taylor, Gosschalks Solicitors who confirmed that the current cafeteria would not be open between the above hours and the application was to authorise the sale of hot drinks and possibly rotisserie chicken etc.

2.16 When determining if a representation is relevant, consideration is given to paragraph 9.9 of the Section 182 guidance: -

“It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it”.

Local Policy Consideration

2.17 In carrying out its duties under the Act, the Licensing Authority will actively promote the licensing objectives, namely: -

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

2.18 The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under section 182 of the Act and the local statement of licensing policy.

2.19 The Licensing Authority has the ability to deviate from both the guidance issued by the Secretary of State and/or this statement of licensing policy where the facts of a case merit it. If such an occasion does arise then full reasons for such deviation will be given as part of the published decision.

2.20 The Sub-Committee must also have regard to the representations made and the evidence it hears.

2.21 The Sub-Committee must take such of the following steps, as it considers appropriate for the promotion of the licensing objectives:

- (a) To modify the conditions of the licence;
- (b) Reject the whole or part of the application.

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

The Sub-Committee are asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

The Sub-Committee are reminded that the premises currently holds a premise licence therefore, if the variation application is wholly rejected then the current premises licence is not affected.

- 2.22 The applicant or interested party have the right of appeal to the Magistrates Court within the period of 21 days beginning with the day on which the applicant and premises licence holder are notified in writing of the Licensing Sub-Committee's decision.

Options and Analysis

There are no options to consider other than detailed in the report. Applications made within the Licensing Act 2003 (Hearings) Regulations 2005.

Implications

- 3.1 Community Safety - (Crime and Disorder Act 1998)

None

- 3.2 Employees

None

- 3.3 Equalities

This report has been prepared in accordance with the Council's Diversity and Equalities Policies.

- 3.4 Financial Considerations

There are no direct financial implications for the authority from this application, although should WM Morrisons Supermarkets PLC or any of the interested parties exercise their right of appeal against any decision made by the Sub-Committee, then there would be additional costs incurred by the authority in defending the decision in court.

- 3.5 Legal

All parties have the right of appeal to the Magistrates Court.

3.6 Sustainability.

None.

Alicia Patterson
Operations Manager – Environmental Health

Background Papers	Location	Contact
Staffordshire Moorlands District Council Licensing Policy: - 2016 - 2021 Amended Guidance issued under Section 182 of the LA2003	Licensing Section	Mike Towers Senior Officer (Housing, Public Health & Licensing) 01538 395400 x4400