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## **APPENDICES**

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## 1. THE APPLICATION

On 15<sup>th</sup> May 2023, Adrian Curtis of Kenneth Curtis & Co Solicitors submitted an application on behalf of Ms Samreen Forzia Nawaz ("the applicant for a new premises licence to be granted in respect of the premises known as Safebury's, 159 - 161 North End Road, London, W14 9NH).

### 1.1 Application Requested

The applicant has applied for a new premises licence application for a proposed convenience store/mini supermarket, for the sale of alcohol off the premises only as detailed below:

**Sale by retail of alcohol off the premises**

Mondays-Sundays from 06:00 to 23:00

**Proposed opening hours:**

Mondays-Sundays from 06:00 to 23:00

A copy of the application form can be seen on pages 11-16 of this report.

### 1.2 Applicants Operating Schedule

The applicant has proposed steps to promote the four licensing objectives if the application is granted. A copy of these can be seen on pages 14 of this report.

On the 24<sup>th</sup> May 2023 following correspondence with the Police, the applicant amended the hours for the sale of alcohol off the premises Monday to Sunday, and agreed to add 2 conditions to the licence, if granted. The application was amended to the following:

**Sale by retail of alcohol off the premises**

Mondays-Sundays from 07:00 to 23:00

**Proposed opening hours:**

Mondays-Sundays from 06:00 to 23:00

**Agreed conditions:**

- *Any alcohol sold for consumption off the premises shall be sold in a sealed container.*
- *Strong beer, lager, cider and stout above 5.5% ABV shall not be displayed or sold*

A copy of the correspondence can be seen on pages 17-18 of this report.

## **2. BACKGROUND**

The premises is proposing to operate as a convenience store/mini supermarket. The main access to the premises is located on North End Road. There is a mixture of both residential and commercial premises within the area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages **19-21** of this report.

There are options for transport away from the area including buses and taxis which run from in and around the North End Road area. West Kensington tube station is a 5-minute walk away and Barons Court tube station is an 10-minute walk away.

## **3. CONSULTATION**

A public notice was displayed at the premises for 28 days. The application was advertised in a local circular and all statutory consultees were notified as required by the Regulations. The Council has served written notice of hearing upon the applicant and all those parties that have made representations in respect of the application.

### **3.1. Relevant Representations**

The licensing section received 1 representation from a resident objecting to the licence application. A copy of the representation can be seen on page **22** of this report.

## **4. OTHER INFORMATION**

### **4.1 Enforcement History**

There has been no enforcement history at the premises in the past three years.

### **4.2 Event Notices (“TENs”)**

No TENs have been submitted in respect of this premises in the past twelve months.

### **4.3 Additional Information**

On the 28<sup>th</sup> June 2023, the applicant’s licensing solicitor requested for a letter to be forwarded to the objector to address the concerns raised in the objection. This letter was sent to the representor on the 29<sup>th</sup> of June 2023 by the Licensing Team.

A copy of this letter can be seen on pages 23-27 of this report.

## **5. POLICY CONSIDERATIONS**

**5.1** Section 5 pages 12 and 13 of the Statement of Licensing Policy (“SLP”) states that in order to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule:

- the steps proposed to promote the licensing objective of the prevention of crime and disorder on, and in the vicinity of, the premises, having regard to

their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises;

- the steps proposed to ensure the physical safety of people using the relevant premises or place;
- how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met;
- the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

**5.2** Section 7 page 15 of the SLP states that for sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are shutters to prevent alcohol from being selected in non-licensed periods.
- there are appropriate numbers of staff on duty to deal with possible ‘intimidation’ to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures in place necessary to prevent underage sales. (See Annex 1)
- there are measures in place necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

**5.3** Policy 3 page 21 of the SLP states that where there is a relevant representation, the Licensing Authority will consider each particular case on its merits having regard in particular to the following matters:

- a) Whether the licensed activities are likely to have an adverse impact especially on local residents and, if there is potential to have an adverse impact, what, if any, appropriate measures will be put in place to prevent it;
- b) Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- c) Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- d) Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to a negative impact on the Licensing Objectives relating to the prevention of crime, disorder, anti-social behaviour (ASB), nuisance and vehicle emissions;

e) Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

The Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met. In determining an application the licensing committee might decide that the circumstances are such that a restriction on hours is the only appropriate means to achieve the Licensing Objectives. If an 'hours' restriction is imposed, the Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol.

To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

<b>Type of premises</b>	<b>Town centres</b>	<b>Mixed use areas</b>	<b>Residential areas</b>
<b>Off-licences and alcohol sales in Supermarkets</b>	23:00 daily	23:00 daily	22:00 daily

**5.4** Policy 4 pages 22 and 23 of the SLP state that the Licensing Authority are keen to welcome and support new businesses in the borough. We will balance this with our responsibility to identify where an area is receiving a lot of complaints about existing licensing activity. We will consider if, by granting a licence, it would contribute to the negative impact in the area.

Any Responsible Authority or other persons may object to applications for new premises licences/ certificates or variations of existing licences, on the grounds that the premises will have a negative cumulative impact in the area in question, on one or more of the four Licensing Objectives. See Section 182 guidance, which contains further information on cumulative impact.

In determining an application where there has been a relevant representation the Licensing Authority will, where appropriate, take into account the cumulative effect of the number, type and density of licensed premises already existing in the area. Consideration will be given to the proximity to any drug and alcohol treatment site, A&E department or homeless hostel in a local area type remit ie applicants need to make the case for how they would not increase further problems for residents/clients nearby.

In coming to any decision regarding cumulative impact the Licensing Authority will consider other mechanisms outside of the licensing regime which may also be available to address this issue, these include but are not limited to:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- Police and other enforcement of the normal law concerning disorder and anti-social behaviour.
- Prosecution or other enforcement of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk

- Prosecution or other enforcement of any personal licence holder or member of staff at such premises who is selling to underage persons or selling illegal alcohol or tobacco
- Police powers to close down instantly any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises, for up to 24 hours.
- The power of the police, other responsible authorities, a local resident, business or Councillor to seek a review of the licence or certificate in question.
- Police and Local Authority power to issue a Closure Notice for up to 48 hours where serious anti-social behaviour is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.
- To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt an Area Specific Cumulative Impact Policy in relation to a specific area; where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities.

**5.5** Policy 11 page 30 of the SLP states that population densities in this borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objectives will be of paramount concern when evaluating Operating Schedules. Licensing Committees will place high regard on the control measures put in place by the applicant to ensure that our residents are protected from the potential detrimental effects of any licensed premises.

**5.6** Annex 1 pages 35 and 36 of the SLP in relation to the prevention of crime and disorder states licence applicants will be expected to demonstrate the following in their operating schedules:

c) Operators of off-licences in areas problems relating to street drinking and under age drinking are prevalent, measures should be outlined to strictly monitor the way alcohol is sold, specifically where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.

d) It is important to ensure that staff working at off licences are suitably trained and receive appropriate refresher training in their responsibilities under the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- i. The likelihood of any violence, public order or policing problem if the licence is granted;
- ii. The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, where and to the extent that these matters are within their control.
- iii. Past conduct and prior history of complaints against the premises;
- iv. Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
- v. Any relevant representations.

g) Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.

- h) Crime and disorder in the vicinity of the premises: this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- j) CCTV - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.
- k) dispersal procedures - establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises.

**5.7** Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

- ii. The proximity of residential accommodation;
- iii. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- v. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.
- viii. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- ix. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- x. The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- xi. The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- xii. The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- xiii. The delivery and collection areas and delivery/collection times;
- xiv. The siting of external lighting, including security lighting that is installed inappropriately;
- xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- xix. Any other relevant activity likely to give rise to nuisance;
- xx. Any representations made by the Police, or other relevant agency or representative;

The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

j) **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at anti-social times. As a guide, the Noise and Nuisance Service recommend that deliveries/collections should only be made between the hours of 7:30am and 9:00pm, depending on the proximity of residential and/or other noise sensitive properties.

k) **Late night refreshment** - applicants in respect of late night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.

l) **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.

p) **Queue management** - establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage queues so as to minimise the potential for crime and disorder or public nuisance by customers who are queuing.

r) **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day. Consideration should also be given to the time of deliveries to minimize disruption to local residents.

s) **Litter** – for example, litter patrols for late night take-away premises

## 6. DETERMINATION

6.1 In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

(a) Grant the application in full

(b) Grant the application in part – modifying the proposed hours, activities or conditions.

(c) Reject the application

It is the Council's duty under the Licensing Act 2003 ("The Act") to determine applications with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching a decision the Council shall consider the details of any relevant representations received; the applicant's Operating Schedule; the Council's adopted Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act.

If the Committee is minded to grant the application conditions may be attached to the licence to alleviate the concerns raised through the representations.