

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date:	24 January 2017
Subject:	Application under Section 34 of the Licensing Act 2003 in respect of Sedoos Stop, 25 London Road, Gloucester GL1 3HB		
Report of:	The Corporate Director		
Wards Affected:	Kingsholm & Wotton		
Contact Officer:	Rebecca Tuck – Licensing And Enforcement Officer		
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Appendices:	<ol style="list-style-type: none">1. Copy of Application2. Copy of Letter following Test Purchase Operation3. Current Premises Licence4. Location plan5. All responses received from 'Other Persons'6. Representation received from Gloucestershire Police7. Sections 4, 5, 6, 7 and 8 of Gloucester City Council's Statement of Licensing Policy8. Procedure for Licensing Sub Committee		

FOR GENERAL RELEASE.

1.0 Purpose of Report

- 1.1 To present to members an application by Mr Ramachandran Krishnashankar of Sedoos Stop, 25 London Road, Gloucester GL1 3HB to vary an existing Premises Licence under section 34 of the Licensing Act 2003. A copy of the application is attached as **Appendix 1** of this report.

2.0 Recommendations

- 2.1 That Members having considered the application any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance (Section 182), members have the following options as considered necessary to promote the licensing objectives.

- To grant the variation application as applied for;
- To accept the variation application and modify the conditions of the licence by altering or omitting or adding to them;
- Reject the whole or part of the application

- 2.2 The Licensing Objectives are:-

- (a) The prevention of crime and disorder
- (b) Public safety

- (c) The prevention of public nuisance
- (d) The protection of children from harm

3.0 The Application

- 3.1 On 14 November 2016 the Licensing Team received a complete application from Mr Ramachandran Krishnashankar to vary the existing Premises Licence at Sedoos Stop.
- 3.2 A 28 day consultation period was started on 15 November 2016 to end on 12 December 2016.
- 3.3 During the consultation period it came to light that Mr Krishnashankar had not sent copies of his application to all of the relevant responsible authorities as required and whilst a copy of the public notice had been displayed on the premises it was on white paper not blue paper as required by the Act.
- 3.4 Consequently, it was necessary to begin the 28 day consultation again which was started on 30 November 2016 with the last date for representations being 27 December 2016.
- 3.5 Copies of the variation application were sent to all of the relevant responsible authorities and the application was re-advertised in the Gloucester Citizen and on the premises on blue paper.
- 3.6 During the consultation period Sedoo's Stop failed a test purchase for alcohol carried out by Gloucestershire Police on 10 December 2016. The member of staff concerned was issued with a Fixed Penalty Notice by the Police, and the Premises Licence Holder who is also the Designated Premises Supervisor (DPS) was written to, and a copy of the letter is attached as **Appendix 2** of the report.
- 3.7 Mr Krishnashanker is applying to vary the following licensable activities:-

Licensable Activity	Current Licence	Variation Application
Retail Sale of Alcohol	Everyday 06:00 to 23:00	Everyday 24 Hours

As a consequence of this variation application the proposed opening hours of the premises are to be extended to reflect the hours applied for above.

- 3.8 The current premises licence for Sedoos Stop is attached as **Appendix 3** of this report.
- 3.9 A location plan of the premises is attached as **Appendix 4** of this report.

4.0 Representations

- 4.1 Chapter 8, paragraph 8.12 of the Home Office Guidance, amongst other things states:-
 "As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or

business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographical proximity to the premises”.

- 4.2 During the consultation period, the variation application has resulted in 16 individual representations from local residents (Other Persons) within the meaning of the Act. Also received was one petition containing 13 signatures. Another response received was neutral
- 4.3 The representations are centred around all four of the licensing objectives (see paragraph 2.2). The individual representations, the petition and the neutral response are attached as **Appendix 5** of this report.
- 4.4 A representation was also received from one of the Responsible Authorities, namely Gloucestershire Police and is attached as **Appendix 6** of this report.
- 4.5 The applicant and those who have made representations have been given Notice of Hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

5.0 Financial Implications

- 5.1 There are no direct financial implications associated with this report.

(Financial Services have been consulted in the preparation this report.)

6.0 Legal Implications

- 6.1 The Licensing Sub-Committee is asked to determine this application with a view to promotion of the Licensing Objectives which are:
- The prevention of Crime and Disorder
 - Public Safety
 - The prevention of Public Nuisance
 - The protection of Children from Harm
- 6.2 In making its decision, the Licensing Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy. Members attention is drawn to Sections 4, 5, 6 and 7 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 8.0 that refers specifically to the licensing hours. This is attached in **Appendix 7**.
- 6.3 The Sub-Committee must also have regard to the representations made and the evidence it hears and also be satisfied that:-
- the application is properly made
 - the application has given proper notice.
 - the applicant has satisfied the advertising requirements.
- 6.4 The Sub-Committee has powers to decide on any of the options set in paragraph 2.1 of this report

- 6.5 The Sub-Committee has powers to adjourn or carry forward the hearing to additional specified dates.
- 6.6 For the purposes of determining an application, a “relevant representation” means a representation which:
- (a) Is relevant to one or more of the licensing objectives.
 - (b) Is made by a responsible authority or other persons within the prescribed period.
 - (c) Has not been withdrawn
 - (d) If having been made by a person who is not a responsible authority, that they are not in the opinion of the Licensing Authority frivolous or vexatious.
- 6.7 In deciding what action, if any, it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations identify. Any action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committee decision must be necessary and proportionate.
- 6.8 The Sub-Committee is required to have regard to the most up to date version of the Home Secretary’s Guidance when making its decision. However the Guidance does not cover every possible situation, so long as Guidance has been followed properly and reason carefully understood, the Sub-Committee may depart from it if they have to do so. Full reasons must be given for any departure from the Home Secretary’s Guidance.
- 6.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:
- Speculating of what might happen in the absence of evidence that harm would or could happen.
 - Not paying attention to Government Guidance where failing to follow it requires good reasons to be given.
 - Modifying Imposing conditions that do not promote the licensing objectives.
- 6.10 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :
- The applicant.
 - The ‘other person’ who made the relevant representations.
 - The ‘responsible authority’ who made the relevant representation.
- 6.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as **Appendix 8**.
- 6.12 In considering the application, the Sub-Committee is solely performing the role of the Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application

(One Legal has been consulted in the preparation this report.)

7.0 Risk & Opportunity Management Implications

7.1 There is a right of appeal to the Magistrates Court for both the applicant and 'Other Persons'. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

8.0 People Impact Assessment (PIA):

8.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

8.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

9.0 Other Corporate Implications

Community Safety

9.1 None at this stage

Sustainability

9.2 None at this stage

Staffing & Trade Union

9.3 None at this stage

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005 Gloucester City Council Licensing Policy Statement Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (March 2015) and Daniel Thwaites v Wirral Borough Magistrates Court (2008)