

Meeting:	Licensing Sub- Committee	Date:	2 August 2023
Subject:	Application for a New Premises at 102 Finlay Road, Gloucester, GL4 6TP		
Report Of:	Head of Communities		
Wards Affected:	All		
Contact Officer:	Richard Barnett – Licensing Officer		
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Appendices:	1. Application form		
	2. Representation from other persons		
	3. Agreement with Gloucestershire Constabulary to reduce Licensable hours and agreed additional conditions.		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 To consider an application by Nanthini Thevanesan for a new Premises Licence at 102 Finlay Road, Gloucester. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

2.1 That members:

(a) Consider the application, any relevant representations, the Licensing Objectives, the Council's Statement of Licensing Policy and National Guidance (Section 182).

(b) Determine the following steps it considers necessary for the promotion of the licensing objectives:

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

3.0 Background

- 3.1 On 16th June 2023, the Licensing Team received an application for a new Premises Licence for Premier Store, 102 Finlay Road, Gloucester.
- 3.2 The application contained all the requisite documentation including the fee.
- 3.3 It can be confirmed that the application has been advertised (A4 notice displayed on site and a public notice placed in the local newspaper) and that the application has been served on all Responsible Authorities.
- 3.4 The applicant applied for the following licensable activities:-

Licensable Activity	Days and hours applied for
Retail Sale of alcohol	Everyday from 06:00 to 00:00

- 3.5 The applicant has included conditions that if granted, will be included as workable, enforceable conditions on the Premises Licence. These can be seen in in section 18 of the application form.

4.0 Representations

- 4.1 During the consultation period, the application has resulted in 2 representations from other persons. These can be seen in **Appendix 2**.
- 4.2 During the consultation process, following discussion with Gloucestershire Constabulary, the applicant has agreed to reduce the hours for Licensable activities to 07:00 to 23:00 everyday. Additional conditions have also been agreed with the applicant.
- 4.3 A copy of the agreement with Gloucestershire Constabulary can be seen in **Appendix 3**.

5.0 Conclusions

- 5.1 Members are referred to the options at 2.1(a) and (b) of this report.

6.0 Financial Implications

- 6.1 There are no direct financial implications attached to the recommendations in this report. However, Members are advised that the applicant has a right of appeal against any decision to refuse the grant of their application. At any such appeal costs may be awarded against the Council on a successful appeal if the Council has not acted reasonably.

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

7.0 Legal Implications

- 7.1 The Licensing Sub-Committee is asked to determine this application with a view to the 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
- 7.2 In making its decision, the Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy.
- 7.3 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.
- 7.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report.
- 7.5 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.
- 7.6 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.
- 7.7 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.

7.8 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 or Imposing conditions that do not promote the licensing objectives.

7.9 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :

- The applicant.
- The 'responsible authority' who made the relevant representation.
- Other persons

7.10 The Sub-Committee has its own procedure for determining applications.

7.11 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.

7.12 There is a right of appeal to the Magistrates Court.

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

8.0 Risk & Opportunity Management Implications

8.1 There is a right of appeal to the Magistrates Court should an inappropriate or unreasonable decision be made and the potential for costs to be awarded against the Council on successful appeal if the Council has not acted reasonably.

9.0 People Impact Assessment (PIA):

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

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

10.0 Other Corporate Implications

Community Safety

10.1 None at this stage

Sustainability

10.2 None at this stage

Staffing & Trade Union

10.3 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
Daniel Thwaites v Wirral Borough Magistrates Court (2008)