

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	30/08/2018	<b>Unclassified</b>		

Report of : <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>	Title: <b>Licensing Act 2003 Application for variation of a Premises Licence for Angel Convenience, 23 Roman Road, London E2 0HU</b>
Originating Officer: <b>Corinne Holland</b> <b>Licensing Officer</b>	Ward affected: <b>Bethnal Green</b>

## 1.0 Summary

Applicant: **Mohammed Taufiq Alahi**  
Name and Address of Premises: **Angel Convenience Store**  
**23 Roman Road**  
**London**  
**E2 0HU**

Licence sought: **Licensing Act 2003**  
**The Sale of Alcohol**

Objectors: **Police**  
**Licensing Authority**  
**Trading Standards**  
**Local Residents**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

**LOCAL GOVERNMENT 2000 (Section 97)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Corinne Holland  
020 7364 3986

### 3.0 **Background**

3.1 This is an application for a variation of the premises licence for Angel Convenience Store, 23 Roman Road, London E2 0HU

3.2 A copy of the existing licence is enclosed as **Appendix 1**.

3.3 A copy of the variation application is enclosed as **Appendix 2**.

3.4 The applicant has applied to extend the hours for the sale of alcohol

3.5 Current hours for opening and the sale of alcohol is as follows:

Monday to Tuesday, 08.00am to Midnight

Wednesday to Saturday, 08.00am to 01.00am the next day

Sunday, 10.00am to 10.00pm

3.6 The hours that have been applied for are as follows:-

#### **Sale of Alcohol (off sales)**

Monday to Thursday 09:00 to 02:00 hours

Friday 09:00 to 03:00 hours

Saturday 10:00 to 03:00 hours

Sunday 11:00 to 01:00 hours

#### **Hours premise is open to the public:**

Monday to Thursday 09:00 to 02:00 hours

Friday 09:00 to 03:00 hours

Saturday 10:00 to 03:00 hours

Sunday 11:00 to 01:00 hours

### 4.0 **Location and Nature of the premises**

4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.

4.2 The site plan of the venue is included as **Appendix 3**.

4.3 Maps showing the vicinity are included as **Appendix 4**.

4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

### 5.0 **Licensing Policy and Government Advice**

5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1<sup>st</sup> November 2013.

- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in April 2018.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

## 6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 6**.
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.
- 6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following responsible authorities and local residents:
  - Police (**Appendix 7**)
  - Trading Standards (**Appendix 8**)

- Licensing Authority (**Appendix 9**)
- Azajul Hoque (**Appendix 10**)
- Abdul Kayyim (**Appendix 11**)
- Ebou Mjie (**Appendix 12**)
- Hitesh Patel (**Appendix 13**)
- Nishit Patel (**Appendix 14**)
- Mohammed Uyas (**Appendix 15**)
- Sahidul Haider (**Appendix 16**)
- Tracey Barbe (**Appendix 17**)
- Seven residents of Keats House (**Appendix 18**)

6.9 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Public Health

6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.11 The objections cover allegations of

- Anti-social behaviour from patrons leaving the premises
- Noise while the premise is in use
- Disturbance from patrons leaving the premises on foot
- Protecting children from harm
- Close proximity to residential properties
- Crime and disorder

6.12 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.13 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

#### **7.0 Conditions on existing Premises Licence**

1. All incidents of crime and disorder will be recorded in an incident book.
2. Details of any incident which causes a nuisance will be recorded in an incident book.
3. CCTV will be in operation at the premises 24 hours a day.
4. No one under the age of 12 will be permitted on the premises unless they are accompanied by some aged 18 or over.
5. No one under the age of 18 will be allowed on the premises between 10.00pm and 07.00am the next day.

#### **8.0 Conditions consistent with Operating Schedule**

1. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
2. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
3. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premise is open.
4. An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:

- a) all crimes reported to the venue;
  - b) any incidents of disorder;
  - c) any faults in the CCTV system, searching equipment or scanning equipment;
  - d) any refusal of the sale of alcohol;
  - e) any visit by a relevant authority or emergency service.
5. A clear and legible notice outside the premises indicating the normal hours under the terms of the Premises Licence during which licensable activities are permitted.
  6. Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.
  7. Maintain vigilance to prevent illegal drug use at the premises.
  8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
  9. Deliveries will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
  10. The PLH/DPS will ensure staff who arrive early/depart late once the business has ceased trading conduct themselves in such a manner they do not cause a disturbance to nearby residents.
  11. Customers will be asked not to stand around loudly talking in the street outside the premises.
  12. Any lighting on or outside the premises will be positioned and screened in such a way as to not cause a disturbance to nearby residents.

## **9.0 Conditions agreed in consultation with the responsible authorities**

None

## **10.0 Licensing Officer Comments**

- 10.1 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

## 10.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
- ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
- ❖ It is not acceptable for licensing authorities to simply replicate the wording from an applicant’s operating schedule. A condition should be interpreted in accordance with the applicant’s intention (10.5)
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.

- ❖ The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities.” (10.11)
- ❖ Mandatory conditions must be imposed (10.25) and censorship avoided (10.17).
- ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.58)
- ❖ Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives (10.21).
- ❖ The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)

10.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.

10.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

10.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

10.6 The Government has advised that “Beyond the immediate area surrounding the premises, these are matters for the personal



responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.” (2.21)

10.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

10.8 In **Appendices 19 – 26** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.

#### 11.0 **Legal Comments**

11.1 The Council’s legal officer will give advice at the hearing.

#### 12.0 **Finance Comments**

12.1 There are no financial implications in this report.

### 13.0 Appendices

<b>Appendix 1</b>	A copy the existing licence
<b>Appendix 2</b>	A copy of the application for variation
<b>Appendix 3</b>	Site Plan
<b>Appendix 4</b>	Maps of the surrounding area
<b>Appendix 5</b>	Other licensed venues in the area
<b>Appendix 6</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 7</b>	Representations of Police
<b>Appendix 8</b>	Representation of Trading Standards
<b>Appendix 9</b>	Representation of Licensing Authority
<b>Appendix 10-18</b>	Representations of Local Residents
<b>Appendix 19</b>	Licensing officer comments on anti-social behaviour patrons leaving the premises
<b>Appendix 20</b>	Licensing officer comments on Noise when the premises is in use
<b>Appendix 21</b>	S182 Advice on crime and disorder
<b>Appendix 22</b>	Licensing Policy advice on crime and disorder
<b>Appendix 23</b>	S182 Advice on public nuisance
<b>Appendix 24</b>	Licensing Policy advice on public nuisance
<b>Appendix 25</b>	Licensing Policy relating to hours of trading.
<b>Appendix 26</b>	Planning