

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub-Committee</b>	7 July 2020	<b>Unclassified</b>		

Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Mohshin Ali</b> <b>Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b> <b>Application for a Premises Licence for (S-A-N-D Grocery Ltd), 98a Coborn Road, Bow, London E3 2DG</b>  Ward affected: <b>Bow West</b>
--	---

## 1.0 Summary

Applicant: **Andrei Valentin Marin**

Name and **S-A-N-D Grocery Ltd**

Address of Premises: **98a Coborn Road**  
**Bow**  
**London**  
**E3 2DG**

Licence sought: **Licensing Act 2003 – premises licence**

- **The sale by retail of alcohol (Off sales only)**

Representation (s): **Other persons (residents)**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and representations 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

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Mohshin Ali  
020 7364 5498

### 3.0 **Background**

3.1 This is an application for a premises licence for (S-A-N-D Grocery Ltd), 98a Coborn Road, Bow, London E3 2DG.

3.2 The applicant has described the premises as follows:

*“S-A-N-D Grocery Ltd is a small convenience store situated within a quiet neighbourhood. The business is enjoying tremendous support from the local residents due to our mission statement to provide affordable groceries to all. As a business S-A-N-D already supplies cigarettes (track & trace compliant), confectionery, household cleaning, baking goods, chilled foods and soft drinks. We feel that now is the time to complete the range by adding a small range of alcoholic drinks”.*

3.3 A copy of the premises licence application form is enclosed as **Appendix 1**.

3.4 The applicant has applied for the following licensable activities and timings:-

#### **The sale by retail of alcohol – Off sales only**

- Monday to Friday, from 07:30 hrs to 22:00 hrs
- Saturday, from 09:00 hrs to 20:00 hrs
- Sunday, from 09:00 hrs to 16:00 hrs

#### **The opening hours of the premises**

- Monday to Friday, from 07:00 hrs to 22:00 hrs
- Saturday, from 09:00 hrs to 20:00 hrs
- Sunday, from 09:00 hrs to 16:00 hrs

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

4.1 The site plan of the venue is included as **Appendix 2**.

4.2 Maps showing the vicinity are included as **Appendix 3**.

4.3 Details of the nearest licensed venues are included as **Appendix 4**.

### 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 the 1<sup>st</sup> November 2018.

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, than 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 5**.
- 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 a relevant representation has been made by the following:

<b>Other persons</b>	<b>Appendix</b>
Beverley Charters	<b>6</b>
Carol Woodford	<b>7</b>
Mr & Mrs D & J Newland	<b>8</b>
Diana Wright	<b>9</b>
Jacqueline Kavanagh	<b>10</b>
Mohsin Yemani	<b>11</b>
Shanur Miah	<b>12</b>

- 6.9 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
  - The Metropolitan Police
  - London Fire Brigade
  - Planning
  - Health and Safety
  - Environmental Health Noise Team
  - Trading Standards
  - Child Protection
  - Public Health
  - Home Secretary (Home Office Immigration Enforcement)
- 6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only representations 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 Essentially, the relevant party opposes the application because in their opinion, the applicant has not explained how within the context of the application they will meet the licensing objective of the prevention of public nuisance and the prevention of 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.
- 6.14 The applicant has responded to the representations made by other persons. The replies are contained in **Appendix 13**.

## 7.0 **Conditions consistent with Operating Schedule**

- 7.1 *All staff and owners will be trained in the prevention of crime and disorder including matter such as the prevention of sale of alcohol to drunk individuals or on behalf of drunk individuals.*

Licensing Officer comments - members may wish to consider the following standard wordings:

All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every six months thereafter. This training shall be recorded and the records to be available on request to the Police or any authorised officer. The training to include:

- a) the operation of the challenge 25 scheme;
- b) types of acceptable ID;
- c) the method of recording challenges;
- d) the likely consequences of making an underage sale;
- e) refusing sales to persons who appear to be drunk;
- f) proxy sales.

7.2 *All customers showing a desire or willing to be a public nuisance will be advised to leave the area and to desist from the nuisance. Should this not deter the parties involved then the appropriate authorities will be contacted.*

7.3 *Customers will always be advised to leave the premises in an orderly fashion to ensure our neighbours are not affected by any irresponsible behaviour.*

Licensing Officer comments - members may wish to consider the following standard wordings:

Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

7.4 *Staff will ensure that the front of the premises is always clear and free of rubbish during and at the end of the day.*

7.5 *Children are already observed when entering the premises even if they are accompanied by an adult. Children should never be left alone or unattended within or outside the premises to ensure that no harm will come to them.*

8.0 **Conditions in consultation with the Responsible Authorities**  
(Police Licensing conditions agreed – See **Appendix 14** )

8.1 *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.*

- 8.2 *A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.*
- 8.3 *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) all ejections of patrons;*
  - c) any complaints received concerning crime and disorder*
  - d) any incidents of disorder;*
  - e) all seizures of drugs or offensive weapons;*
  - f) any faults in the CCTV system, searching equipment or scanning equipment;*
  - g) any refusal of the sale of alcohol;*
  - h) any visit by a relevant authority or emergency service.*
- 8.4 A 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.

## **9.0 Licensing Officer Comments**

- 9.1 The Live Music Act removed licensing requirements for the following:
- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
  - unamplified live music between 8am and 11pm in all venues.
  - Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.
- 9.2 The following is intended simply 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.

### 9.3 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)
- ❖ 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) Also, “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.” (10.21)

- 9.4 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.5 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.6 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.
- 9.7 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)
- 9.8 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.9 In **Appendices 15 - 20** 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.

#### 10.0 **Legal Comments**

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

#### 11.0 **Finance Comments**

- 11.1 There are no financial implications in this report.



## 12.0 Appendices

<b>Appendix 1</b>	A copy of the application from
<b>Appendix 2</b>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Other licensed venues in the area
<b>Appendix 5</b>	Section 182 Guidance by the Home Office
<b>Appendices 6-12</b>	Representations of residents
<b>Appendix 13</b>	Applicant's response to representations
<b>Appendix 14</b>	Agreement with Police Licensing Team
<b>Appendix 15</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 16</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 17</b>	Licensing Officer comments on crime and disorder on the premises
<b>Appendix 18</b>	Licensing Officer comments on crime and disorder from patrons leaving the premises
<b>Appendix 19</b>	Planning
<b>Appendix 20</b>	Licensing Policy relating to hours of trading