

Committee : <b>Licensing Sub-Committee</b>	Date 28 September 2021	Classification <b>Unclassified</b>	Report No.	Agenda Item No.
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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 (Vish Convenience Store) 59 Commercial Street, London E1 6BD</b>  Ward affected: <b>Spitalfields and Banglatown</b>
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## 1.0 Summary

Applicant: **Dilantha Wedamunige**

Name and Address of Premises: **Stop N Shop**  
**59 Commercial Street**  
**London**  
**E1 6BD**

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

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

Representations: **Licensing Authority (RA)**  
**Environmental Protection**

## 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  
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### 3.0 **Background**

3.1 This is an application for a premises licence for (Stop N Shop) 59 Commercial Street, London E1 6BD.

3.2 The applicant has described the premises as:

*“Convenience Store, Grocery and Off Licence...”*

*A small convenience store which previously had a premises licence under old management, which was revoked due to breaches of the Licensing Act by previous owner which has nothing to do with new owners they have just been very unfortunate to be in this situation. They were misled into buying this business thinking the premises had a premises licence only to later realise it’s been revoked...”*

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

3.4 The licensable activities and timings that have been applied for are as follows:

***The sale by retail of alcohol – (off sales only)***

- *Monday to Saturday, from 09:00 hrs to 23:00 hrs*
- *Sunday, from 10:00 hrs to 22:30 hrs*

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

- *Monday to Saturday, from 09:00 hrs to 23:00 hrs*
- *Sunday, from 10:00 hrs to 22:30 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 and photos 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, 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 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
- Licensing Authority acting as a Responsible Authority (See **Appendix 5**).
  - Environmental Protection Team (See **Appendix 6**).
- 6.2 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
  - Environmental Protection (Noise)
  - Trading Standards
  - Child Protection
  - Public Health
  - Home Secretary (Home Office Immigration Enforcement)
- 6.3 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
- 6.4 Essentially, the relevant parties oppose 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 crime and disorder and the prevention of public nuisance.

- 6.5 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.
- 6.6 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 consistent with Operating Schedule (offered by the applicant)**
- 7.1 *A CCTV system shall be at the premises. The CCTV system shall be maintained in working condition and record the premises 24 hours a day. Recordings to be retained for a minimum of 31 days and be made available to the Police or officers of the Council upon request and be of evidential quality.*
- a) *The equipment must have a suitable export method i.e. CD/DVD/USB facility so that the Police and Officers of the Council can make an evidential copy of the data they require. This data should be in the native file format to ensure that no image quality is lost when making a copy. If this format is non-standard (i.e. manufacturers proprietary), then the licence holder shall within 14 days of being requested supply the replay software to ensure that the video on the CD can be replayed by the Police and officers of the council on a standard computer. Copies must be made available to the Police and Officers of the Council upon request.*
  - b) *Staff working at the premises shall be trained in the use of the equipment and a log shall be kept to verify this*
  - c) *Cameras on the entrance must capture full frame shots of the heads and shoulders of all the people entering the premises, i.e. capable of identification.*
  - d) *There shall be signage displayed in the customer area to advise that CCTV is in operation.*
  - e) *Should the CCTV become non-functional this will be reported immediately to the Licensing Authority.*
- 7.2 *Beers, lagers and ciders sold at the premises should not exceed 6.0 alcohol volume.*
- 7.3 *Spirits should not be sold in bottles of less than 25cl/250ml*

- 7.4 *No single cans or beer bottles, lagers stouts, ciders and alcohol pops shall be sold*
- 7.5 *There shall be no self-service of spirits on the premises.*
- 7.6 *Spirits shall be located behind the counter. All other alcohol (e.g. beer, lager, cider) for sale are to be displayed in a position that is not obscured from the constant view of cashier / staff by fixtures.*
- 7.7 *All goods, including those subject to duty payments i.e. alcohol and tobacco product will be brought from cash and carry only on invoices and they will be available upon request. All alcohol will be purchased from AWRS registered cash & carry or wholesalers.*
- 7.8 *No alcoholic drinks or tobacco shall be purchased by the premises from unannounced sellers calling at the premises.*
- 7.9 *All staff employed at the premises shall have UK right to work status checked, once passed that stage they shall be offered employment*
- 7.10 *Any litter outside the premises shall be cleaned up at the end of day.*
- 7.11 *An incident/refusal log shall be kept at the premises, and made available for inspection on request to an authorised officer of the council or the Police, which will record the following:*
- a) *all crimes reported to the venue*
  - b) *any complaints received*
  - c) *any faults in the CCTV system*
  - d) *any refusal of the sale of alcohol*
  - e) *any visit by a relevant authority*
  - f) *CAD reference number where Police are called*
- 7.12 *Mr Ashok Thakur shall not be allowed to enter the property, he shall be banned from the premises.*
- 7.13 *No members of the Thakur family shall be allowed on the property.*
- 7.14 *A clear notice shall be displayed at every exit from the premises to instruct customers to respect the needs of the local residents and leave the premises and the area quietly.*
- 7.15 *Appropriate signage shall be displayed, in prominent position informing customers they are being recorded on CCTV.*
- 7.16 *The licensee shall adopt a "Challenge 25" policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age related products are asked for proof of their age.*

7.17 *The licensee shall prominently display notices advising customers of the “Challenge 25” policy*

7.18 *The following proof of age are the only ones to be accepted:*

- a) *Proof of age cards bearing the “Pass” hologram*
- b) *UK photo Driving Licence*
- c) *Passport*

7.19 *The Licensing to keep a written record of all staff authorised to sell alcohol, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.*

7.20 *The licensee shall ensure that each member of staff authorised to sell alcohol is fully aware of his/her responsibilities in relation to verifying a customer’s age and is able to effectively question purchasers and check evidence of proof of age. The licensee to ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under – 18s attempting to purchase alcohol.*

7.21 *The licensee shall keep a register of refused sales of all age-restricted products (refusals book). The refusals book shall contain details of time and date, description of the attempting purchaser, description the age restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.*

7.22 *Refusals book shall be examined on a regular basis by the licensee and the date and time of each examination to be endorsed in the book.*

7.23 *The Refusals Book to be kept on the licensed premise and made available for inspection by the Licensing Officer, Trading Standards Officer or the Police.*

## **8.0 Conditions in consultation with the Responsible Authorities**

None

## **9.0 Licensing Officer Comments**

9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 30th September 2021 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd

July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

9.2 The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

9.3 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.

9.4 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.

9.5 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)
- 9.6 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.
- 9.7 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.8 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.

9.9 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)

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

9.11 In **Appendices 7 - 13** 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
<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>	Representation of Licensing Authority (RA)
<b>Appendix 6</b>	Representation of EH Noise Team
<b>Appendix 7</b>	Licensing Officer comments on noise while the premise is in use
<b>Appendix 8</b>	Licensing Officer comments on access/egress Problems
<b>Appendix 9</b>	Licensing Officer comments on crime and disorder on the premises
<b>Appendix 10</b>	Licensing Officer comments on crime and disorder from patrons leaving the premises
<b>Appendix 11</b>	Planning
<b>Appendix 12</b>	Licensing Policy relating to hours of trading
<b>Appendix 13</b>	Tower Hamlets Cumulative Impact Zone