

**Report to:** Licensing Sub-Committee.

**Date of Meeting:** 28<sup>th</sup> March 2024

**Report Title:** Application for a premises licence with representations, Hastings  
Queens Road Service Station, Queens Road, Hastings TN34 1RH.

**Report By:** Natasha Tewkesbury. Head of Community and Regulatory Services.

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### **Purpose of Report**

To consider the application for a new premises licence as a result of representations received.

Responsible Authorities. None

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### **Recommendation(s)**

- 1. Members consider the content of the report, options available and determine the application.**

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### **Reasons for Recommendations**

The Licensing Act 2003 requires a licensing sub-committee to consider such applications when appropriate representations have been made. The decision reached at the sub-committee can be subject to appeal by any party to the hearing that is aggrieved by the decision.

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## Introduction

### 1.0 Background

1. On 7<sup>th</sup> February 2005 the Licensing Act 2003 came into force for all local authorities, marking the practical commencement of the Government's new liquor licensing regime.
2. On the 8<sup>th</sup> February 2024, Hastings Borough Council received an application for a premises licence for Hastings Queens Road Service Station, Queens Road, Hastings, made under section 17 of the Licensing Act 2003. (Attached at Appendix A).
3. The premises formally operated under a licence granted in 2016, operating as 'Morrisons Daily Petrol Filling Stn (PFS)'. In May 2019 the Council was informed that the Licence was to be surrendered.
4. A Variation to the Licence relating to the Main Morrisons Store Premises Licence was received in March 2022 to add the PFS to the Licence. No objections were received and the was licensed granted.
5. This premise holds a licence under the Licensing Act 2003. The premise is located within Area 1B Hastings Town Ctr (Queens Road) of the Council Special Saturation Policy (Cumulative Impact) a map of the area is attached. (Appendix B) A copy of the existing licence is attached (Appendix C).
6. This existing premises licence covers the use of the premises for:
  - Late night refreshment Monday – Sunday 23.00 – 24.00
  - Supply of alcohol Monday – Sunday 06.00 – 24.00
  - The operating hours of the premises are Monday – Sunday 06.00 – 24.00

The Cumulative Impact Policy was reviewed and extended in 2022 and is contained within the Council's Licensing Policy, each application will be considered on a case by case basis. Where no representations are received, any application will be granted in terms consistent with the operating schedule. Where relevant representations are received in relation to applications for the grant of a new premise licence a hearing will be held. Applicants are advised to seek legal advice if making an application for a licence in a Cumulative Impact Zone. It is for the applicant to address the Cumulative Impact Policy and produce evidence to demonstrate that the matter:

- (a) Will not add to the cumulative impact caused by licensed premises and challenges already experienced in the area;
  - (b) Will not undermine the promotion of the Licensing Objectives.
7. In addition, at the statutory review of the Licensing Policy carried out at the end of 2015 and published in January 2016, a matrix was added to the policy and reviewed

in 2022. This matrix was published to help give clearer guidance to applicants for premises licenses as to how the Council would prefer the area to develop from a licensed premises perspective, and what type of application if applied for, would suit this best. The main operation of the application is the sale of fuel. Alcohol and Late night refreshment being ancillary to the main operation.

8. This application replicates the hours relating to the licensable activities within the existing licence and the only change is to extend the opening hours of the PFS not the licensable activities. During the period since the existing licence was granted, the Council has not been made aware by anyone of any issues relating to the alcohol sales at the PFS.

## 2.0 Application

9. When applying for a new premises licence under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four Licensing Objectives as defined by the Licensing Act 2003. The Operating Schedule detailing these steps can be seen in the application form. This is included at Appendix A. The application requests the following:
  10. To have Late night refreshment Monday to Sunday 23.00hrs to 24.00hrs (in line with the existing 'Morrisons' licence).
  11. To supply of Alcohol for sales "Off" the premises on Monday to Sunday from 06.00hrs to 24.00hrs (in line with the existing 'Morrisons' licence).
  12. To extend opening hours of the premises, Monday to Sunday from 06.00hrs - 24.00hrs to a 24 Hours basis for Fuel and ancillary sales.
13. When submitting an application for a licence under the Licensing Act 2003 the applicant is asked to describe what steps they intend to take to promote the four licensing objectives: -
  - the prevention of crime and disorder,
  - public safety,
  - prevention of public nuisance,
  - protection of children from harm.

## 3.0 Consultation

14. The Licensing Act 2003 requires an applicant to advertise their application once in a local newspaper and on the premises by way of an approved notice for 28 days to allow for representations to be made, this has been done The Licensing Act 2003 requires applicants to advertise both on the premises and in a local newspaper to inform the public of the application. The application details are also advertised on the Council's website. There was a consultation period of 28 days, for representations to be made. The applicant conformed with all the requirements as laid out within The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

15. Copies of the application are required to be served on a list of responsible authorities at the same time as placing the application before the local authority, this has been done and no representations were made.
16. Several representations have been received from local residents in relation to the application, objecting to the existing hours that the premises has operated under for the last two years and making comment regarding the extension of the fuel sales hours which is not relevant to this decision. These can be seen in Appendix D.
17. As part of the consultation, the Senior Licensing Officer has been in contact with Sussex police to make checks on crime levels in relation to the PFS and the licensing team has also agreed additional conditions with the applicant regarding '**reduce the strength**' to which the applicant has agreed. '**There shall be no sale of beer, lager, or cider with an ABV content above 6% ABV save for craft and premium beer, lager or cider**'. In addition, they have also agreed to a contact line to be made available for the public once the licence is in operation. This can be seen in Mrs Rolfe's memo. (Appendix E)

#### 4.0 The Decision-Making Process – Licensing Objectives

18. In their decision making, the Licensing Sub-Committee must act to promote the four Licensing Objectives. All carry equal weight as part of the process. The Licensing Objectives are:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of children from Harm
19. A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a likely effect of a grant (i.e., more probable than not).

#### 5.0 Legal Considerations

20. Under section 18 of the Licensing Act 2003 (as amended), following receipt of an application for a premises licence if relevant representations are received, unless all parties agree that a hearing is unnecessary, the Licensing Authority must hold a hearing. At the hearing, the Sub-Committee shall, having regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 8.1 of this Report.
21. The Licensing Sub Committee should be mindful of the requirements and responsibilities placed on it by other legislation in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2020, the Human Rights Act 1998 and the Crime and Disorder Act 1998.

22. Under section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal to the Magistrates' Court in respect of application for new premises licences. This right of appeal is open both to the applicant and to any person who has made relevant representations. The appeal application must be made within 21 days of the written notification of the Sub-Committee's decision. If members choose to refuse the application in full or in part, the applicant has a right of appeal to the Magistrates' Court. There is also a right of appeal to conditions imposed as a result of the hearing by any person affected by the decision.

## 5.0 Financial implications

23. The applicant has paid the application fee. Should the application not be granted this fee is not refundable.

The cost of delivering the licensing function is fully covered by the Licensing fees.

A decision made by the Sub-Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

## 6.0 Risk implications

24. There are no risks associated with the content of this report.

## 7.0 Equality impact assessment

25. An Equality Analysis is not constructive in this instance

## 8.0 Environmental impact assessment

26. There are no sustainability and/or carbon reduction implications associated with this report.

## 9.0 Options

27. The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the Licensing Objections and may:

- **Grant the Licence in the same terms as it was applied for.**
- **Grant the Licence but modify the conditions as appropriate for the promotion of the licencing objectives.**
- **Grant the Licence but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives.**
- **Reject the application.**

28. The Sub-Committee are asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005, as amended.

29. In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-

case basis. The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

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## Wards Affected

Castle Ward.

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## Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

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## Additional Information

Appendix A. Premises Licence application.  
Appendix B. Map of site.  
Appendix C. Current licence.  
Appendix D. Representation List (interested parties)  
Appendix E. Memo from Snr Licensing Officer

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## Officer to Contact

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