

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Statutory Licensing Sub - Committee

20 May 2019

<b>Report title</b>	<b>Licensing Act 2003 –Application for a Premises Licence in respect of Fresh Food &amp; Drink Ltd, 43 Newhampton Road West, Wolverhampton, WV6 0RY</b>	
<b>Wards affected</b>	Park	
<b>Accountable director</b>	Ross Cook, City Environment	
<b>Originating service</b>	Licensing Services	
<b>Accountable employee(s)</b>	Michelle James	Licensing Policy Manager
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## Recommendation for decision:

1. To submit for consideration by the Statutory Licensing Sub-Committee an application for a new premises licence.

## **1.0 Purpose**

- 1.1 To submit for consideration by the Statutory Licensing Sub-Committee an application for a new premises licence.

## **2.0 Background**

- 2.1 The application was received on 22 March 2019 from Pavel Slavon Hristov for a premises licence in respect of Fresh Food & Drink Ltd, 43 Newhampton Road West, Wolverhampton, WV6 0RY. A copy of the application is attached at Appendix 1.
- 2.2 The premises are in Park ward and a location plan is attached at Appendix 2.
- 2.3 The application is in respect of the sale of alcohol off the premises.
- 2.4 This premises is situated within the Cumulative Impact Zone. A copy of the policy and the area which it covers is attached at Appendix 3.
- 2.5 It is the understanding of the licensing authority that the application for this premises licence has been properly made. The statutory requirement to give notice of the application has also been complied with.
- 2.6 All responsible authorities have been consulted on this application.
- 2.7 Relevant representations have been received from:
- West Midlands Police
  - Trading Standards
  - Public Health
  - Licensing Authority
  - Other Persons
- 2.8 Copies of the representations can be found at Appendices 4, 5, 6, 7 and 8.
- 2.9 Trading Standards representations have been made exempt under Paragraph 1 of Schedule 12A of the Local Government Act 1972, as it contains information relating to an individual.
- 2.10 West Midlands Police have submitted additional information and has been made exempt under Paragraph 1 of Schedule 12A of the Local Government Act 1972, as it contains information relating to an individual. This information is attached to the report as appendix 4a.
- 2.11 The applicant and all those who have submitted representations have been invited to attend the hearing.

### **3.0 Policy Implications**

- 3.1 On 3 April 2015 the Statement of Licensing Policy was revised to give effect to the Cumulative Impact Policy (CIP) in four new areas of the City. This decision supported the view that the number, type and density of premises selling alcohol for consumption and/or Late Night Refreshment in areas within Wolverhampton City was causing problems of nuisance and disorder and therefore causing an adverse impact on the licensing objectives of prevention of crime and disorder and prevention of public nuisance.
- 3.2 The effect of this CIP is to create a rebuttable presumption that applications in respect of the sale or supply of alcohol and/or Late Night Refreshment for new Premises Licences, Club Premises Certificates or Provisional Statements and applications for variations of existing Premises Licences, Club Premises Certificates where the premises are situated in the City Centre Cumulative Impact Zone will be refused.
- 3.3 Essentially this means that applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. (This policy does not act as an absolute prohibition on granting new licences in the Cumulative Impact Zones).
- 3.4 To rebut the presumption, explained in 3.3 above, the applicant is expected to demonstrate through their operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced and not therefore have an adverse impact in the Licensing Objectives.

### **4.0 Financial implications**

- 4.1 The fee for the application of a premises Licence Application is £190 and is non-refundable. The fees and charges in relation to the Licensing Act 2003 are set by the Secretary of State. This was noted by the Licensing Committee on 20 March 2019. [MK/17042019/D]

### **5.0 Legal implications**

- 5.1 Part 4(1) of the Licensing Act 2003 states that a Licensing Authority must carry out its function under the Act with a view to promoting the Licensing Objectives, namely:-
- (a) The prevention of crime and disorder;
  - (b) Public safety;
  - (c) The prevention of public nuisance;
  - (d) The protection of children from harm.

- 5.2 The general duties imposed on Licensing Authorities means proper consideration must be given to the Licensing Objectives when determining a premises licence application.
- 5.3 Regard shall be had to guidance issued by the Secretary of State under Section 182 and Wolverhampton City Council's Licensing Policy statement which includes a cumulative impact policy
- 5.4 Section 18 of the Licensing Act 2003 provides the Licensing Authority with the power to grant an application, subject to conditions, where appropriate
- 5.5 In order for the Cumulative Impact Policy to be relevant to this application the Sub-Committee

I. Should be satisfied it applies due to:

- (a) Premises being located within the Cumulative Impact Zone;
- (b) Licensable activity applied for at the premises is to include sale of alcohol or late night refreshment and is;
- (c) The likelihood that the activity will have an impact on the crime and disorder or prevention of public nuisance licensing objectives.

And where the Cumulative Impact Policy is deemed to apply:

II. Should refuse an application based upon the Cumulative Impact Policy unless sufficient evidence is produced, by the applicant, to rebut the presumption that a licence will not be granted or varied.

- 5.6 If the Sub-Committee are satisfied sufficient evidence has been produced to show the premises will not add to the Cumulative Impact already being experienced, the application should not be refused based upon Cumulative Impact Policy  
[SH/10052019/A]

## **6.0 Equalities implications**

- 6.1 This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in Section 4 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
- 6.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest

and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## **7.0 Environmental implications**

7.1 There are no environmental Implications in relation to this report.

## **8.0 Human resources implications**

8.1 There are no human resource implications in relation to this report.

## **9.0 Corporate landlord implications**

9.1 There are no corporate landlord implications in relation to this report.

## **10.0 Schedule of background papers**

10.1 None.

## **11.0 Appendices**

11.1 Appendix 1 – Application

11.2 Appendix 2 – Location Plan

11.3 Appendix 3 - Cumulative Impact Zone Policy

11.4 Appendix 4 – West Midlands Police Representations

11.5 Appendix 4a - West Midlands Police Additional Information (Exempt)

11.6 Appendix 5 – Trading Standards Representations (Exempt)

11.7 Appendix 6 – Public Health Representations

11.8 Appendix 7 – Licensing Authority Representations

11.9 Appendix 8 – Other Persons Representations