

## Slough Borough Council

**Report To:** Licensing Sub-Committee

**Date:** 29 February 2024

**Subject:** Premises Licence Application - Granville Stores, Granville Avenue, Slough

**Chief Officer:** Ketan Ghandi, Associate Director - Community & Public Protection

**Contact Officer:** Melanie Sagar Principal Licensing Officer / Russell Denney-Clarke Trading Standards and Licensing Manager

**Ward(s):** Manor Park & Stoke

**Exempt:** NO - Part 1

**Appendices:**

- Appendix A – Copy of application for grant of premises licence
- Appendix B – Copy of premises plan
- Appendix C – Resilience and Enforcement Team representation
- Appendix D - Beechwood Neighbours representation
- Appendix E – AK representation
- Appendix F – QA representation
- Appendix G – AB representation
- Appendix H – RU representation
- Appendix I – SA representation
- Appendix J – Thames Valley Police representation
- Appendix K – Royal Berkshire Fire and Rescue Service representation

## 1. Summary and Recommendations

- 1.1 This report sets out the application and representations received for a grant of a premises licence in respect of the premises Granville Stores, Granville Avenue, Slough, SL2 1JS (“the Premises”). The application has been made pursuant to section 17 of the Licensing Act 2003 (“the Licensing Act”). Under Section 18 of the Licensing Act, *‘before determining the application, the authority must hold a hearing to consider it and any relevant representations.’* Alongside the application, various representations have been received.

### Consultation:

- 1.2 As per section 17 (5) of the Licensing Act, the application for grant of the premises licence was subject to the following advertising:
- published on Slough Borough Council’s website.
  - a public notice placed at the window of the premises in question.
  - responsible authorities notified of the Application.
- 1.3 The closing date for representations was 07 February 2024. Eighteen submissions to the application have been made. Many of these were representations by local residents including a letter co-signed by various residents who object to the proposed application. A representation was also made by the Resilience & Enforcement Team, who sit under the Environmental Health mantle, (a responsible authority) who object to the proposed Application. In addition, a representation was made by Thames Valley Police (a responsible authority) who confirmed no objection to the Application whilst the Royal Berkshire Fire and Rescue Service authority submitted that they did not propose to submit a representation.

Under the Council’s Statement of Licensing Policy 2019-2024 (“the **Council’s Policy**”), Appendix A, the Delegation of Functions, where a representation is made, applications not previously resolved will be referred to a Licensing Sub Committee where the application will be fully considered. Under Appendix C – Glossary of the Council’s Policy, the Licensing Sub-Committee is *defined as ‘the Full Licensing Committee delegate a number their functions to one or more ‘Licensing Sub-Committees’. These are made up of three members of the Full Licensing Committee.’*

### Recommendations:

The Sub-Committee is recommended to:

Having had regard to the representations made by all parties, the Sub-Committee must consider appropriate action for the promotion of the licensing objectives.

Where the Sub-Committee considers action is appropriate the statutory options available are:

- (a) to grant the licence subject to—
- (i) conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers for the promotion of the licensing objectives, and

- (ii) any condition which must under section 19, 20 or 21 of the Licensing Act be included in the licence (ie, the mandatory conditions);
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application in whole or in part.

**Reason:**

The Licensing Team cannot disregard or overturn a decision made by the Licensing Sub-Committee.

## **2. Report**

### **Introductory paragraph**

- 2.1 As quasi-judicial body the Sub-Committee is required to consider this matter on its merits and must act reasonably and rationally. The Sub-Committee can only consider relevant factors and must ignore irrelevant factors. The decision must be based on evidence, which logically shows the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant and the decision must focus on the licensing objectives. The Sub-Committee must give fair consideration to the contentions of all persons entitled to make representation to them.
- 2.2 The Sub-Committee can only consider matters within the report.
- 2.3 Members should note that the Sub-Committee is meeting on this occasion solely to perform the role of Licensing Authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.
- 2.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to members when considering licensing issues. In addition, as a quasi-judicial body, Members are required to avoid both actual bias and the appearance of bias.

### **Options considered**

- 2.5 Consideration has been given to how the decision sought will help the Council meets its vision and corporate priorities, however the nature of the application is outside the scope of these priorities.

### **Background**

- 2.6 On 10 January 2024, Silver Fox Consultants, a licensing agent submitted an application for grant of a premises licence on behalf of Salk Local Ltd for Granville Stores, Granville Avenue, Slough, SL2 1JS. There is currently no licence in place for the Premises. A copy of the application form is attached at Appendix A ("**the Application**") which includes steps proposed to promote the four licensing objectives. A copy of the accompanying premises plan is attached at appendix B.

- 2.6.1 A premises licence is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:
- The sale of alcohol
  - The supply of alcohol (in respect of a club)
  - Regulated entertainment
  - The provision of late-night refreshment

In this Application, the licensable activity applied for are as follows:

Supply of alcohol for consumption on & off the premises:  
Monday to Sunday 08:00 to 22:00

Hours Premises are open to the public:  
Monday to Sunday 08:00 to 22:00

- 2.6.2 In accordance with Revised guidance issued under section 182 of the Licensing Act 2003 (the “Statutory Guidance”) section 9.4 - 9.10 (detailed in full at section 3.2.13 of this report), valid representations were received within the statutory 28- day consultation period.

In summary:

- A representation was made by the Resilience & Enforcement Team who were concerned by existing issues of crime within the locality to the premises in addition to a potential increase of anti-social behaviour, noise nuisance and litter. A Copy of the representation is shown at Appendix C.
- Representations have been made by local residents who are concerned that there may be an increase in crime and anti-social behaviour in the area due to the hours and type of licensable activity applied for. There are also concerns regarding public safety and an increase in potential public nuisance if the licence were to be granted. The representations include reference to a letter co-signed and submitted by various residents. These representations are shown in full at Appendix D – I.
- A representation was received from Thames Valley Police confirming they had no objection in response to the Application. A copy of this representation is shown at Appendix J.
- A submission was also made by the Royal Berkshire Fire and Rescue Service who having considered the Application, confirmed they did not propose to make a representation but did outline guidance a responsible person would be required to follow in relation to fire safety standards. A copy of this representation is shown at Appendix K.

### **3. Implications of the Recommendation**

#### **3.1 Financial implications**

- 3.1.1 There are no financial implications to the Council.

## 3.2 Legal implications

- 3.2.1 The Licensing Authority is required to hold a hearing to consider the application for grant of a premises licence and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 3.2.2 An application for grant of a premises licence may be made pursuant to section 17 of the Licensing Act 2003.
- 3.2.3 The Licensing Panel is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives. The licensing objectives are:
- Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
- 3.2.4 Members should note that each objective is of equal importance.
- 3.2.5 Having considered those relevant matters, the Licensing Panel can take steps (if any) as it considers appropriate for the promotion of the licensing objectives.
- 3.2.6 Section 18 of the Licensing Act states the steps which the Licensing Authority can take upon determination of the Application, as outlined in the Recommendation section of this Report.
- 3.2.7 It should be noted that:
- (a) clear reasons must be given for the decision; and
  - (b) any additional or modified conditions should be practicable and enforceable.
- 3.2.8 The applicant and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in schedule 5 to the Licensing Act 2003.
- 3.2.9 In addition to determining the application in accordance with the legislation, Members must have regard to the:
- (a) common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc.).
  - (b) provisions of the Human Rights Act 1998;
  - (c) considerations in section 17 of the Crime and Disorder Act 1998.
- 3.2.10 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).
- 3.2.11 The Panel must also consider section 17 of the Crime and Disorder Act 1998 which states:

‘without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.’

3.2.12 The Sub-Committee must have regard to the Statutory Guidance and in particular, Chapters 9 (Determining applications) and 10 (Conditions attached to Premises Licences). Particular regard should be had to paragraphs 9.31 – 9.41 (Hearings) and 9.42 – 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives).

3.2.13 With regards to Relevant, Frivolous or Vexatious Representations the relevant sections of the Section 182 Guidance state the following:

*9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.*

*9.5 It is for the licensing authority to determine whether a representation (other than a representation from a responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.*

*9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.*

*9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority’s corporate complaints procedure. A person may also challenge the authority’s decision by way of judicial review.*

*9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub- committee before any decision is taken that necessitates a*

*hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.*

*9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.*

*9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.*

3.2.14 The committee must also have regard to the Council's Policy.

### **3.3 Risk management implications**

3.3.1 Consideration has given to risk management implications however the nature of the decision is outside the scope of these priorities.

### **3.4 Environmental implications**

3.4.1 Consideration has given to environmental implications however the nature of the decision is outside the scope of these priorities.

### **3.5 Equality implications**

3.5.1 The Sub-Committee should be aware of and consider any implications that may arise from the Human Rights Act 1998 and section 149 Equality Act 2010. The legislation makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention of Human Rights.

3.5.2 When determining the case and considering imposition of conditions the Sub-Committee must be satisfied that any decision which interferes with the rights of the applicant or of others, only does so insofar as it is necessary to protect the rights of others and that no alternative decision would be appropriate.

3.5.3 The Sub-Committee is specifically referred to the following Convention rights:

- (i) Article 6 (the right to a fair trial),
- (ii) Article 8 (the right to respect for private and family life)
- (iii) Article 1 of the First Protocol (the protection of property)

## **4. Background Papers**

- [The Licensing Act 2003](#)
- [Revised guidance issued under Section 182 of the Licensing Act 2003 \(2023\)](#)
- [The Licensing Act 2003 \(Hearings\) Regulations 2005](#)
- [Slough Borough Council Statement of Licensing Policy – January 2019-2024](#)