

## LICENSING SUB-COMMITTEE

**DATE OF MEETING:** Wednesday 11 November 2020

**TITLE OF REPORT:** APPLICATION FOR VARIATION OF PREMISES LICENCE  
Wm MORRISON SUPERMARKET, ELVETHAM HEATH  
WAY, FLEET, HAMPSHIRE, GU51 1GY

**Report of:** Head of Place

### **1 PURPOSE OF REPORT**

1.1 This report is to enable members to consider and determine an application for a variation of premises licence for Morrisons Supermarket, Elvetham Heath Way, Fleet, GU51 1GY in accordance with the requirements of the Licensing Act 2003.

### **2 OFFICER RECOMMENDATION**

2.1 It is recommended that:

The sub-committee consider the evidence of all parties involved at the hearing and have regard to the guidance issued under section 182 of the Licensing Act 2003 and the council's statement of licensing policy, then take the steps it considers appropriate to promote the licensing objectives to determine the application.

2.2 Members must determine the application in accordance with The Licensing Act 2003 (Hearings) Regulations 2005.

2.3 After considering the above matters and evidence, the options available to the committee to determine the variation application are contained under section 35(4) of the LA2003 which are as follows:

(a) to modify the conditions of the licence;

(b) to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

2.4 When determined, the licensing authority must notify that decision including its reasons for that decision in a notice to:

a) The applicant,

b) Any person who has made relevant representations, and

c) The chief officer of Police for the area in which the premises is situated.

2.5 If granting the application, the notice must specify the time when the variation in question takes effect. That time is the time specified in the application or, if that

time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

- 2.6 An appeal against the decision made in determining this application may be made to the Magistrates Court within 21 days of all parties being notified of the local authority's decision.

### **3 BACKGROUND**

- 3.1 Morrison Supermarket, Elvetham Health already benefits from a premises licence (see Appendix 1) which was originally granted in 2005 and has been varied several times since for internal layout changes, to extend the hours for the sale of alcohol and to include a café. The café is not included in this variation. Current permitted licensable activities and timings for the supermarket only are as follows:

Sale of alcohol – Consumption off the premises and opening times every day  
06.00 – 00.00

- 3.2 The variation application received 25 September 2020 seeks to permit the sale of alcohol for consumption off the premises 24 hours a day every day and permit late night refreshment every day from 23.00 to 05.00hrs. The variation application form and plan may be found at Appendices 2 & 3.
- 3.3 The Council advertised the application on our website and notice boards. Officers are satisfied the advertising regulations for this application were complied with.
- 3.4 The application is subject to a statutory 28 days consultation period in which responsible authorities and other parties are able to make representations which are relevant to the licensing objectives which are:
- Public safety,
  - The protection of children from harm,
  - The prevention of crime and disorder, and
  - The prevention of public nuisance

### **4 REPRESENTATIONS**

- 4.1 Representations are relevant if they relate to the likely effect of the granting of the application in promotion of the licensing objectives. In other words, representations need to relate to the impact of licensable activities carried on from a premises on the licensing objectives.

- 4.2 Within the consultation period a total of 29 representations were received from local residents opposing the application on grounds relating to one or more of the Licensing Objectives. A further two were received from a Hart District Council Councillor and Elvetham Heath Parish Council. All the representations are attached at Appendix 4. Any matters outside the scope of the licensing objectives are not considered relevant under the Licensing Act 2003.
- 4.3 No representations were received from any of the 10 Responsible Authorities who are considered experts in their particular fields.

## **5 CONSIDERATIONS AND DETERMINATION**

- 5.1 In carrying out its licensing functions, a licensing authority must have regard to its 'Statement of Licensing Policy' and the guidance issued under section 182 of the Act. Relevant extracts of both documents are attached at Appendices 5 and 6. Members should note this does not preclude them from considering the remainder of the guidance and policy.

## **6 FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications arising out of this report.

## **7 EQUALITIES AND HUMAN RIGHTS**

- 7.1 Equalities/Human rights - Under the Human Rights Act 1998, the sub-committee needs to consider the balance between the rights of the applicant/licensee and those making representations when making their decision. The sub-committee has a duty under section 17 of the Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the District.
- 7.2 Legal Implications - The decision made by this sub-committee is subject to appeal rights to the Magistrates Court. Appeal rights must be included within the decision notice.
- 7.3 Where a decision is made that is contrary to the statement of Licensing Policy or is contrary to statutory guidance members must clearly state their grounds for departing from those documents within the decision notice.
- 7.4 The duties to take steps appropriate to promote the licensing objectives are referred to throughout this report.

## **8 CONCLUSION**

- 8.1 The sub-committee must consider the application on its own individual merits and take into account all relevant matters then determine the applications by taking the steps it considers appropriate to promote the licensing objectives. The options available to the committee are detailed within paragraph 2.3 of this report.

## **APPENDICES / CONFIDENTIAL APPENDICES**

- Appendix 1 – Existing premises licence**
- Appendix 2 – Morrison Supermarket Variation of Premises Licence Application Form**
- Appendix 3 – Site premises plan**
- Appendix 4 - Representations opposing the application**
- Appendix 5 - Relevant Extracts from Hart District Councils Statement of Licensing Policy**
- Appendix 6 – Relevant Extracts from the section 182 Guidance**

## **BACKGROUND PAPERS:**

**The Licensing Act 2003**

**Hart District Council – Statement of Licensing Policy**

**Guidance issued under section 182 of the Licensing Act 2003**