

**REPORT:** Regulatory Sub-Committee

**DATE:** 23 April 2024

**REPORTING OFFICER:** Operational Director – Legal and Democratic Services

**PORTFOLIO:** Resources

**SUBJECT:** Application for a Premises Licence – Espositos, Fairfield Road, Widnes, WA8 6SQ

**WARDS:** Appleton

## 1. PURPOSE OF REPORT

To assist Members of the Regulatory Committee in their consideration of an application by Espositos in the Park Limited for the grant of a premises licence for Espositos, Fairfield Road, Widnes, WA8 6SQ.

## 2. RECOMMENDATION that

The committee considers the contents of the report and makes a determination on the application.

## 3. BACKGROUND INFORMATION

3.1 The premises is situated in Victoria Park, Widnes and is in close proximity to residential premises. A copy of a plan is attached at **Appendix A**.

3.2 The premises is currently open as a café offering coffees, sandwiches, ice creams and cakes to the public.

## 4. THE APPLICATION

4.1 The application has been made under section 17, of the Licensing Act 2003 (“the Act”).

4.2 A copy of the application can be found at **Appendix B**.

4.3 According to the application, the applicant seeks the following

Hours open to the Public Monday to Sunday 09.00 to 21.00

Supply of alcohol Monday to Sunday 09.0 to 21.00

4.5 Within the operating schedule set out in Part 3 of the application, the applicant has set out the steps they intend to take to promote the four licensing objectives. These include:-

- A written notice of authority records for all staff who sell alcohol;
- Adequate training for staff and records kept for inspection;
- Contact details of the Designated Premises Supervisor available to staff and the authorities;
- Challenge 25 Policy;
- No self service to customers;
- CCTV Recording at all times;
- Policy in place for maintain a safe venue for customers and staff;
- The DPS will liaise with the authorities to ensure all aspects of public safety are adhered to;
- Appropriate firefighting equipment, fire risk assessments;
- Effective lighting;
- Areas kept free of litter;
- Any noise, smells, light pollution and any other potential nuisance to be monitored and kept to a acceptable level;
- Notices displayed asking customers to be considerate of local residents;
- Deliveries to and waste removed from site are undertaken at a time in a manner that does not cause disturbance;
- The emptying of bins into skips, the removal of refuse from the building and the refuse collections will not take place between 23.00 to 07.00;
- Supplier deliveries will not take place between 23.00 to 07.00;
- Refusal register to be maintained;
- Under 18 will not be permitted to remain on the premise without adult supervision after 8.00pm unless attending a pre booked private function;
- Notices advising adults that it is an offence to purchase alcohol on behalf of under 18 years old will be prominently displayed.

4.6. These steps will form the basis for conditions on the licence.

## **5. REQUIREMENT FOR A HEARING**

5.1 The application was submitted on 28 February 2024 and was advertised in the local newspaper on 7 March 2024. Officers have confirmed that the advertisement requirements were complied with.

- 5.2 During the 28 days representation period, the Licensing Authority received relevant representations from Cheshire Police as detailed below.
- 5.4 Where relevant representations have been made and not withdrawn, the licensing authority must hold a hearing to consider them (unless otherwise agreed by the parties).
- 5.5 The hearing is held in accordance with the Act and the Licensing Act 2003 (Hearings) Regulations 2005. The procedure to be followed has been circulated to all parties and will be repeated at the beginning of the hearing.
- 5.6 The hearing is solely concerned with those aspects of the application, which has been the subject of the relevant representations as defined in the Act. These are the representations made by Cheshire Police.
- 5.7 The applicant has offered amended hours to the application since the objections from Cheshire Police. The new hours are as follows:

**Hours open to the public**

Monday to Sunday 09.00 to 17.00

**Supply of alcohol**

Monday to Sunday 11.00 to 17.00

- 5.8 The Applicant and the Police have indicated that they will be making submissions to the Sub-Committee at the hearing. The other parties have all been informed of the hearing.

## **6. THE REPRESENTATIONS**

### **6.1 RESPONSIBLE AUTHORITIES**

#### **Cheshire Police**

Relevant objections have been received from Cheshire Police and are appended to this report at **Appendix C**.

The Police have asked the Sub-Committee to refuse the application on the grounds of Crime and Disorder and, in the event that the application is granted, they recommend a condition, that SIA registered door supervisors shall be employed when licensable activity is taking place.

- 6.2 No other representations have been received from the Responsible Authorities.

### 6.3 EVIDENCE

In accordance with the normal procedure it is noted that the relevant representations do not amount to evidence. The objectors have been requested to supply the evidence they intend to rely on no later than 5 working days prior to the hearing. When received this will be forwarded to the applicant and members of the committee.

## 7. LEGAL AND POLICY FRAMEWORK

7.1 The Sub-Committee must determine the application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- The prevention of public nuisance;
- Public Safety;
- The protection of children from harm.

7.2. In making its decision, the Sub-Committee must also have regard to the national guidance issued under section 182 of the Licensing Act 2003 (“the Guidance”) and the Council’s Statement of Licensing Policy (“Policy”).

7.3 Relevant sections from the Guidance can be found at **Appendix D**.

7.4 Members’ attention is also drawn to the following paragraphs of the Council’s Statement of Licensing Policy:-

#### **Introduction**

...

5. The Council wish to promote these objectives whilst still encouraging a vibrant and sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live and the importance of safe and well-run entertainment and leisure facilities to the area.

11. The Council will carry out its functions under the Act with a view to promoting the licensing objectives, namely;

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm

...

12. No one objective is considered to be of any more importance than any other.

...

13. In carrying out its functions the Council will also have regard to this Policy and to the Guidance as issued by the Secretary of State under section 182 of the Act from time to time

...

14. Individual applicants will be required to address the licensing objectives and address the issues of the needs of the local community, the way in which the premises is to operate, the size, location and type of premises, and any entertainment which is to be provided.

...

15. The Council's vision as set out within the Corporate Strategy 2018/2020 and within Halton's fifteen year Sustainable Community Strategy 2011–2026 is that:

“Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality, sustained by a thriving business community; and safer, stronger and more attractive neighbourhoods”.

...

17. Locally due to the high levels of alcohol-related harm Halton experiences the Halton Health and Wellbeing Strategy 2017/2022 includes the reduction in the harm from alcohol as a priority area.

18. The strategy identified a number of issues which may be affected by the licensing regime in Halton including:

- A significant proportion of cases of domestic violence are alcohol related
- Alcohol related crime and alcohol related violent crimes are worse in Halton than for both the North West and England as a whole
- Alcohol specific admissions (both among adults and those aged under 18) are much higher than the national and regional averages.

19. In addition due to the high levels of alcohol-related harm Halton was one of only twenty areas in the country to be awarded the status of being a “Local Alcohol Action Area” (LAAA). This award provided support from the Home Office

and Public Health England during 2014/15 related to addressing the harm from alcohol across three areas – health, crime and anti-social behaviour, and diversifying the night time economy.

...

20. Working in collaboration a local alcohol strategy has been developed and agreed. The Halton Alcohol Strategy: Reducing alcohol-related harm across the life course, 2014-2019 makes the case that the impact of drinking on public health and community safety in Halton is so great that radical steps are needed to change our relationship with alcohol.

...

21. The vision of the strategy is to: “Enable people in Halton to have a sensible relationship with alcohol that promotes good health and wellbeing and ensures Halton is a safe place to live”.

22. In order to achieve this vision and minimise the harm from alcohol in Halton the strategy will seek to deliver three interlinked outcomes:

- 1) Reduce alcohol-related health harms
- 2) Reduce alcohol-related crime, antisocial behaviour and domestic abuse
- 3) Establish a diverse, vibrant and safe night-time economy.

22. So far as is consistent with the licensing objectives, the Council will carry out its licensing functions with a view to promoting these priorities and themes (including priorities and themes which may be adopted from time to time).

33. Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, the Council will focus its attention on the premises being used for licensable activities and the vicinity of those premises

...

34. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the

licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

[...]

### **35 The need for licensed premises**

36. There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for the Council in discharging its licensing functions. “Need” is a matter for planning committees and for the market.

[...]

46. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres. Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. The general public needs to be made aware that there is a much broader strategy for addressing these problems than the licensing regime of the Act. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;

- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- closure notices and orders under the Anti-Social Behaviour, Crime and Policing Act 2014; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

[...]

#### **48. Licensing hours**

49. With regard to licensing hours, consideration will be given to the individual merits of an application.

- The Council recognises that, in certain circumstances, longer licensing hours with regard to the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- The Council also wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time local economy.

50. The term “zoning” is used in the Guidance to refer to the setting of fixed trading hours within a designated area. At the moment the Council sees no need to adopt such a policy. The Council has followed the advice in the Guidance and will not be adopting such a Policy within the Borough. However, stricter conditions with regard to noise control will be expected in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

...

#### **57. Protection of children from harm**

58. The Body the Council judges to be competent to act as the responsible authority in relation to the protection of children from harm is Halton Borough Council People Directorate: contact details are set out in Appendix A.

[...]



### **73. Proof of Age**

74. It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. It is also an offence for an over 18 to purchase alcohol for an under 18 – this is called proxy purchasing. To prevent such crimes, it may be necessary to require a condition to be applied at certain licensed premises going beyond the mandatory minimum requirements requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. Trading Standards regulate the sale of alcohol to under 18s and can provide advice and materials relating to the prevention of underage sales. They can also provide free staff training.

[...]

### **87. CCTV**

88. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time. The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

### **92. Crime prevention**

93. Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises. Conditions will, where appropriate, also reflect the input of the local Crime and Disorder Reduction Partnership.

- 7.5 A full copy of the Guidance and the Council's Policy will be available at the hearing.
- 7.6 Every case must be considered on its own merits. The Sub-Committee may depart from the Guidance and Policy if there is good reason to do so. However, proper reasons must be given.

7.7 In addition to the above, the Committee must have regard to its wider duties under section 17 of the Crime and Disorder Act 1998 and Article 1 of the First Protocol of the Human Rights Act 1998.

## **8. OPTIONS**

8.1 The Committee has the following options under Section 18 of the Act:

- (1) Grant the application subject to such conditions that are consistent with the operating schedule and any mandatory conditions;
- (2) Modify the conditions of the licence, by altering or omitting or adding to them;
- (3) Reject the application in whole or in part.

## **9. POLICY IMPLICATIONS**

9.1 None

## **10. FINANCIAL CONSIDERATIONS**

10.1 There are no special financial considerations to the Authority which need to be highlighted at this stage. However, it should be noted that the decision of the sub-committee is subject to appeal to the Magistrates' Court. If an appeal is made, there will be costs associated with this.

## **11. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

### **11.1 Children and Young People in Halton**

None

### **11.2 Employment Learning and Skills in Halton**

None

### **11.3 A Healthy Halton**

None

### **11.4 A Safer Halton**

None

### **11.5 Halton's Urban Renewal**

None

## **12. RISK ANALYSIS**

- 12.1. The Council is required to hold the hearing in accordance with the Licensing Act 2003. Failure to do so, may mean that the Council is acting in breach of its obligations under that Act.

## **13. EQUALITY AND DIVERSITY ISSUES**

- 13.1 There are no equality and diversity issues to highlight.

## **14. CLIMATE CHANGE IMPLICATIONS**

- 14.1 There are no climate change implications since the decision will have no effect on the environment.

## **15. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
Guidance issued under Section 182 of the Licensing Act 2003	Licensing Section/ Government Website see link 1 below.	Kim Hesketh
Halton Council's Statement of Licensing Policy	Licensing Section/ Council website see link 2 below.	Kim Hesketh

1. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)
2. <https://www3.halton.gov.uk/Documents/business/licencing/alcoholent/StatementofLicensingPolicy.pdf>