

## Appendix 1

### DECISION RECORD

Licensing Act 2003 (all section references in this record are references to the Act)

### LICENSING AUTHORITY FOR BRISTOL

### LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 30 January 2014

#### AGENDA TITLE

Conduct of a hearing into an application for the GRANT of a licence made by: Global Food Mart

in respect of: Global Food Mart, 95-97 Fishponds Road, Eastville, Bristol BS5 6PN

#### MEMBERS PRESENT:

1. Councillor Hance (Chair)
2. Councillor Morgan
3. Councillor Leaman

#### OFFICERS PRESENT

Pauline Powell, Legal Advisor  
Abigail Holman, Licensing Policy Adviser  
Allison Taylor, Committee Clerk

#### REPRESENTATIONS RECEIVED FROM:

PC 2400 Hudd

#### Applicants, responsible authorities and interested parties

#### PARTIES & REPRESENTATIVE (IF ANY) in attendance

Applicant

P Rosser – Melrose  
Associates  
Boby Varghese - Applicant

Chief Officer of Police (s.13(4)(a))

Inspector Rowland  
Louise Mowbray

Fire Authority (s.13(4)(b))

Not a party to the hearing

Health and Safety Enforcing Authority (s.13(4)(c))

Not a party to the hearing

Local Planning Authority (s.13 (4) (d))

Not in attendance and the  
Committee noted that the  
written representation had  
been withdrawn

<b>Environmental Health (Pollution Control) (s.13 (4) (e))</b>	<b>Not a party to the hearing</b>
<b>Social Services Authority (s.13 (4) (f))</b>	<b>Not a party to the hearing</b>
<b>Any other relevant Licensing Authority (s.13 (4) (g))</b>	<b>Not a party to the hearing</b>
<b>Weights and Measures Authority (s.13. (4) (i))</b>	<b>Not a party to the hearing</b>
<b>Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))</b>	<b>Not a party to the hearing</b>
<b>Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))</b>	<b>Not a party to the hearing</b>
<b>Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))</b>	<b>Not a party to the hearing</b>
<b>Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))</b>	<b>Not a party to the hearing</b>

#### **RECORD OF HEARING:**

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

#### **DECISION MADE:**

1. (a) That the application be GRANTED subject to the conditions on the licence as modified as follows:
  - (i) the alteration of conditions as to hours for licensable activities as detailed in the standard times.
  - (ii) The addition of conditions as detailed in Annex 3 below
  - (iii) The mandatory conditions included in the licence under section 19 of the Act

Accordingly the licence is to be issued subject to the following:

Licensable activities authorised by the licence and the times the licence authorises the carrying on of licensable activities

#### **STANDARD TIMES**

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities.**

Sale of Alcohol

Monday to Sunday 06:00 - 23:00

Should the licence be granted the supply of alcohol will be authorised as follows:  
Supply of alcohol authorised for off the premises only.

<b>The opening hours of the premises</b>	
Monday to Sunday	06:00 - 23:00

<b>NON STANDARD TIMINGS</b>
Non standard timings not applicable.

### **Annex 1 – Mandatory conditions**

Conditions to be applied should the application be granted

Mandatory condition Licensing Act 2003 - Supply of Alcohol

1.No supply of alcohol may be made under the premises licence-

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Licensing Conditions - Additional conditions imposed by Policing and Crime Act 2009

Conditions numbered 1,2, and 3 shall be in force as of the 6 April 2010

Conditions 1, 2, 3 and 5 shall not apply where the premises licence authorises sale by retail or supply of alcohol only for consumption off the premises.

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than

any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Conditions numbered 4 shall be in force as of the 1 October 2010

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

## **Annex 2 – Conditions consistent with the Operating Schedule**

1. CC01. CCTV shall be in use at the premises.

(i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed it shall be fully operational by commencement of Licensable activity. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by commencement of Licensable activity and the system be fully operational on that date.

(ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

(iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority

(iv) The correct time and date will be generated onto both the recording and the real time image screen.

(v) If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

(vi) The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into

a removable format at the request of an authorised officer of the Licensing Authority or a constable.

(vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all periods of Licensable activity.

2. SA01 All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.

3. SA02 (a) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as "Challenge 25" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

(b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.

4. SA03 The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

None

### **Annex 4 – Plans**

Plans as submitted to the Licensing Authority on 09th December 2013.

2. That the GRANT here agreed will take effect immediate effect.

3. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:

(a) Global Food Mart

(b) The Chief Officer of Police

And the following bodies that made representations:

(a) PC 2400 Hudd

## REASONS FOR DECISION

The following paragraphs summarise the sub-committee's reasons for granting the application and for modifying the conditions on the Licence.

The sub-committee carefully considered the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The Committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Committee first noted:-

- that the premises was a convenience store wishing to selling alcohol;
- that the Planning Authority representation had been withdrawn;
- a number of conditions had been proposed in the operating schedule to promote the licensing objectives such as CCTV, Challenge 25, a refusals book and spirits being located behind the counter

It was reported that some agreement had been reached with the Police and applicant outside of the meeting as follows:-

- The terminal hour had been pulled back to 23:00;
- The premises would open at 06:00 but would not sell alcohol until 08:00;
- A sign would be displayed stating no alcohol sales until 8am.

The Committee had regard to its policy 6.5.3 concerning alcohol sales in stores which stated that these should be in line with the opening hours unless there was good reason by way of evidence not to.

The Inspector, in response, stated that sex workers were prevalent in the area and lead to anti-social behaviour and criminality. These activities were frequently fuelled by alcohol so restricting its availability during the times they were around would promote the licensing objectives. He added that recent studies put forward that there was greater link with prostitution and alcohol. He therefore believed there was a strong argument for departing from the policy. It was noted that there was already a 24 hour licenced premises nearby.

The Committee heard that the applicant did not intend to put shutters up or physically separate the alcohol sales during the 2 hour period the shop was open. The Police confirmed that they were content with the arrangement of good signage outside and inside and proactive management with good sight of alcohol.

The Committee, having carefully deliberated, agreed to grant in part subject to conditions agreed and reject in part.

The Committee noted the concession made by the applicant in pulling back his terminal hour to 23:00 and acknowledged the good reason behind it.

The Committee also noted that after discussion with the Police the applicant was willing to not sell alcohol until 08:00 even though the premises was open from 06:00. The Committee understood the concerns of the Police but could not find sufficient evidence to depart from their policy regarding alcohol sales hours mirroring opening hours. Moreover,

the Committee was concerned that thwarted alcohol sales between 6am and 8am might cause greater problems from customers and lead to flashpoints.

**SIGNED:**

A handwritten signature in black ink, appearing to read "C. Hance". The signature is written in a cursive style with a large initial "C".

**CHAIR**

**Name: Councillor Hance**