

## **Post Office 7 Queens Road Buckhurst Hill Response to Representations**

Note: Have put the Councillor Representations into numbered segments to make the content and responses clearer to read

### **Cllr. Chambers**

1/ My concern re small post office in an area where there is some ASB

**Response:** The fact that this Premise is also a Post Office means that there is a rigorous vetting procedure. There is no evidence whatsoever to support the inference that there is any problem emanating from the Post Office or, that should the License be granted for the modest hours applied for that this would in any way undermine the Licensing Objectives or add to ASB.

None of the Licensing Authorities, each recognised in law, as an expert, in their respective field, believe that this Application will in any way undermine the Licensing Objectives. In particular, this includes Police Licensing recognised as lead experts in this area and Environmental Health Officers who also have a direct responsibility for ASB.

2/May encourage youngsters to drink in the nearby underpass tunnel.

**Response:** There is no evidence whatsoever to reinforce the supposition that this may encourage youngsters to drink in the tunnel. Mr Sarwar is a responsible person who has been running this shop for 5 years.

Mr. Sarwar has offered a Condition of Challenge 25 and will not be serving to underage persons. Running a Post Office, he also has a lot more to lose than the average Off -Sales Premises.

He is also advised by an ex Police Inspector with 30 years Exemplary Service

3/Further up we have a Waitrose and plenty of Businesses that sell alcohol. However, this is far enough away from the TFL underpass.

**Response:** Believe that this is a grossly unfair statement. People can easily walk to the underpass from Waitrose at 27 Queen's Road, and indeed other premises. There is a Pub, Railway Tavern at number 5

Queen's Road. This is an Application from a small family business trying to survive and thrive during these difficult times.

Why should a small established family run business asking for less Licensing hours than a Premises the size of Waitrose be penalised when Waitrose is in such close proximity. Let alone the Railway Tavern which is even nearer the underpass.

The fact that other Premises sell alcohol is a moot point. Polite reminder that this application is not in a Saturated Area there is no Cumulative Impact Area. There is a presumption in Law that the License be granted as opposed to the opposite in lawfully appointed saturated areas.

4/This area selling alcohol relates to a potential increase in youths attempting to buy alcohol and hanging around outside.

**Response:** This application relates to this Premise, not other Premises. With each application taken on its' own merits. Again, there is no proof whatsoever to support the assertion that granting a license for modest hours to this professional responsible man who has run this shop for 5 years and who lives in Queens Road, would lead to these issues.

5/Knowing the local community, this area is not a good idea and will have an impact on ASB in my opinion.

**Response:** Clearly a Councillor has a powerful voice. Mr Sarwar is a small reputable business man. However, in Licensing Law, opinion is the preserve of Expert Witnesses.

We offered to speak with Councillor Chambers with a view to discussing his perceived issues and looking to allay his concerns as per Best Practise under the Sec 182 Guidance of the Licensing Act 2003.

It is regrettable that Cllr. Chambers didn't avail himself of this opportunity, whilst within his rights to refuse.

## **Cllr Share- Bernia**

1/I object to the granting of an alcohol license for this small post office packed out with the stock you describe. This stock draws a lot of business into the existing post office.

**Response:** Not aware of any provision under the Licensing Act or Guidance for this to be a barrier to applying for a License. Surely innovation and entrepreneurial spirit are to be encouraged.

2/ There is a convenience store very close to the post office the other side of the underground that sells alcohol and a post office at the top of Queens Road that sells alcohol.

We have Waitrose on Queen's Road already selling mountains of alcohol.

It is ludicrous to grant an alcohol license to this post office, given the 3 existing alcohol outlets.

**Response:** Fail to see the relevance. This is not a Saturated Area. Under the Human Rights Act and Licensing Law Mr Sarwar is perfectly entitled to make an Application and not be deprived of his lawful right of doing so.

"Mountains of alcohol" is an interesting phrase. Mr Sarwar is applying for this License for three reasons:

A/ To help the Business survive and thrive through difficult times.

B/ To help support his parents and relatives in Bangladesh.

C/ Due to Customer Demand where his customers have asked for this option to make their lives easier.

Should a small reputable Businessman be deprived of his lawful right to help his Business survive and grow just because there is a Waitrose nearby?

3/ I notice that the proprietor intends extending the opening hours to 7pm hoping to catch the business from the busy time at the underground.

**Response:**

Firstly: Mr. Sarwar is applying for the hours that are consistent with his established Business. Not extending them.

Secondly: Why would it be wrong, in any case, to apply for any reasonable hours that make good business sense?

Thirdly: this opinion has no relevance to the Licensing Act 2003

4/ Furthermore, there are a great number of elderly people who live nearby and use this post office regularly, we do not want any Anti -Social incidents in this neighbourhood cul de sac.

**Response:** As previously stated there is no evidence to suggest that any ASB would be caused as a result of this Application. Mr & Mrs. Sarwar as Queen's Road residents, and responsible people would not want any increase in ASB.

This does not appear to be a cul de sac but the lower part of Queens road.

**Further observations on both Representations.**

Noteworthy that there is another Licensing Application listed in the same Hearing. That Application is for Il Vino at number 28 Queens Road. This will be a new Business in Queens Road.

My Client, Golam Sarwar, is both by name and appearance, BAME as opposed to Mr Anthony Long, the other applicant.

Given the comments regarding the area having enough existing Licensed Premises, why have the two Councillors made Representations about my client with an existing established business in the road, and not about Il Vino?

In terms of fairness and proportionality, and given what has been adduced, this is a very different approach to two separate applications

that are very near to each other. This does seem surprising and rather concerning. Hopefully this is merely an oversight by two hardworking Councillors.

## Specific Relevant Law and Guidance

Licensing Act 2003

Sec 182 Guidance to the Licensing Act 2003

Equalities Act 2010

Section 182 Guidance to the Licensing Act 2013

## 2. The licensing objectives

Crime and disorder

1. 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

Licensing objectives and aims

2. 1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
  - (3<sup>rd</sup> paragraph) recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;

Epping Forest Licensing Policy

Equality Duty

1.13 The Council recognises its responsibilities under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, harassment and victimization; to advance equality of opportunity; and foster good relations between persons with the characteristics mentioned in the Act. These characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The impact of this policy on its services will be monitored through the Council's Equality scheme 2012-2016. This Statement of Licensing Policy has been assessed to take account of equality issues.

38. 1.38 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders.

Decision of the High Court in *Daniel Thwaites plc v Wirral Borough Magistrates' Court* [2008] EWHC 838 (Admin)

The licensee successfully judicially reviewed that decision. Mrs. Justice Black criticised the Justices for disregarding what had happened in the past as an aid to predicting what would happen in the future. She was also critical of the way the Justices used their local knowledge, saying "There can be little doubt that local magistrates are also entitled to take into account their own knowledge, but ... they must measure their own views against the evidence presented to them." She particularly made that point because the evidence was that the responsible authorities were untroubled and that the history of the premises when operating to the longer hours did not substantiate the Justices' fears.

In her conclusions, Black J stated that the Justices should have looked for "real evidence" that greater regulation was required in the circumstances of the case. Their conclusion that it was required was, in her judgment, not a conclusion to which a properly directed bench could have come. Here, it was said, they proceeded without proper evidence, gave their own views excessive weight and the police views none at all.

