

Licensing Authority  
Leicester City Council  
City Hall  
115 Charles Street  
Leicester  
LE1 1FZ

Also by email to: [licensing@leicester.gov.uk](mailto:licensing@leicester.gov.uk)

17 December 2014

Dear Sir/Madam

**Re: Representation as regards the grant of an application for a Premises Licence made by WM Morrison Supermarkets plc in respect of Morrisons M Local, 11-13 Market Street, Leicester, LE1 6DN**

It is my submission that the above application does not promote the licensing objectives, and that also that the application cannot be mitigated by way of conditions.

I would further respectfully submit that the licensing authority cannot, acting consistently with the Licensing Act 2003 ('Act'), reasonably determine such an application in the positive.

I would also remind the committee that the licensing authority must have regard to the national guidance ('Guidance') and its own licensing policy statement ('Statement') which it cannot depart from without cogent, substantial reasoning which will rarely be permitted (see for instance *R (JD Wetherspoon plc) v Guildford Borough Council* [2006] EWHC 815 (Admin), paragraphs 52-65; *R (X) v Tower Hamlets LBC* [2013] EWHC 480 (Admin), paragraph 35)

My grievances with the application are set out below.

Licensing objective: prevention of crime and disorder

The application is contrary to the promotion of the prevention of crime and disorder, and the applicant's proposed conditions are inadequate. In particular I draw the licensing committee's attention to the following facts.

1. There is good reason to believe that the application will result in increased crime and disorder within the proposed premises, the immediate vicinity and the wider city centre locality.
2. The application fails to demonstrate that the premises will not contribute to increases, not least because the proposed licensable hours are excessive.

3. The application does not disclose any conditions to prevent the entrance of known or unknown drunk or violent customers, which is relevant for the proposed late-night opening times in particular.
4. The conditions should be designed with the aim of prevention and deterrence. The application fails to include conditions which require a CCTV system to be installed and operative at all times while the premises are trading; that the equipment be maintained to the satisfaction of the chief of police; that recorded images be retained for 31 days and made available to a police officer on request at any reasonable time; that if the CCTV equipment is inoperative the police and licensing authority will be informed as soon as reasonable practicable and immediate steps will be taken to put the equipment back into action; and that a legible notice will be displayed in a prominent position at the entrance to the premises advising that CCTV is in operation. As set out in paragraph 2.3 of the Guidance, it is further appropriate that the location of cameras be disclosed on plans, and be sited both internally and externally.
5. Considering paragraph 2.5 of the Guidance, it is suggested that the city centre has real and concerning problems with crime and disorder, which apply to the Market Street area also. An early-opening and late-closing premises will add to these difficulties.
6. No provision is made for door security staff, which is essential in the context of late-night sales in an area which suffers excessive levels of crime during the proposed opening times. Such a provision would be consistent with paragraph 7.4 of the Statement.
7. As the premises will be open to all members of the public, I expect signage to be displayed at the entrance indicating the age restrictions relating to alcohol.
8. The police authority has in recent months been promoting the prohibition of the sale of high-strength, low-cost alcohol. Consistent with the logic of the police force's campaign, it would be appropriate to restrict the sale of such alcohol varieties.
9. Alcohol promotions should not be promoted where these encourage drinking or additional drinking above that which a person would consumer without marketing. The implementation of such a condition would promote public health, but be lawful as it would also prevent crime and disorder (see *Blackpool Council Licensing Authority v Howitt [2008] EWHC 3300 (Admin)*).
10. The application is likely to promote excessive drinking, especially as drinkers are likely to take alcohol home after already having drunk in the late evening.
11. The city centre has notable problems with crime and disorder, which apply to the Market Street area also. An early-opening and late-closing premises will add to these difficulties.

Licensing objective: public safety

The application is contrary to the promotion of public safety, and the applicant's proposed conditions are inadequate. In particular I draw the licensing committee's attention to the following facts.

1. Each point raised above on the promotion of crime and disorder is repeated here, but the text is not included here for the sake of brevity.

2. I would remind the committee that paragraph 2.9 of the Guidance specifies that a number of matters should be considered in relation to public safety. These include:
  - a. fire safety;
  - b. ensuring appropriate access for emergency services such as ambulances;
  - c. good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;
  - d. ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - e. ensuring the safety of people when leaving the premises;
  - f. ensuring appropriate and frequent waste disposal;
  - g. ensuring appropriate limits on the maximum capacity of the premises; and
  - h. considering the use of CCTV in and around the premises.
3. I submit that the application fails to demonstrate adequate measures as regards fire safety, first aid, customer safety, disposal of customer waste, disposal of company waste, maximum capacities in the context of large numbers of customers, and communication with authorities.
4. It is suggested that there is also limited access for emergency services on Market Street.
5. The application does not demonstrate that all parts of the premises and all fittings and apparatus and other installations will be maintained at all times in good order and in a safe condition.
6. There are no provisions for the safe departure of customers in the context of late-night shoppers who may be likely to be seeking alcohol purchases in order to continue further alcohol consumption after having visited city centre on-licences, and a proportion may also be nearing intoxication or already be drunk.
7. There is no provision for all safety certificates and inspection reports to be kept on site and made available for inspection by officers of relevant statutory bodies, as suggested by paragraph 2.12 of the Guidance.
8. There is no provision for appropriate external lighting to ensure the safety of visitors and other members of the public in the context of late-night and early-morning opening.

Licensing objective: prevention of public nuisance

The application is contrary to the promotion of the prevention of public nuisance, and the applicant's proposed conditions are inadequate. In particular I draw the licensing committee's attention to the following facts.

1. The committee is reminded that 'public nuisance' is not narrowly defined in the Act, and retains its broad common law meaning as reinforced by paragraph 2.19 of the Guidance; and includes low-level nuisance, and living and working amenity and environment to local employees and local businesses.
2. The late-night, early-morning opening times is likely to constitute a nuisance.
3. It is submitted that there is inadequate parking facilities to accommodate a shop of this type and size, as a result of its large-volume, quick transaction, low-value purchases.

4. The application is likely to result in large remote-condenser refrigeration units and air conditioners, with multiple high-capacity external condensers, which will generate excessive noise.
5. The application fails to disclose adequate facilities for the storage and disposal of waste which would prevent the release of noxious smells.
6. The proposed premises is likely to result in large quantities of waste from immediate consumption of products bought from the store by customers outside the premises.
7. Proposed store of this type often incorporate excessive artificial external lighting, sufficient to constitute a nuisance.
8. The late-night opening is likely to generate objectionable noise for local residents.
9. There is insufficient access to the premises and parking to support extended stay, multiple, daily deliveries to the proposed store which is likely to have complex stock delivery arrangements. The excessive number of deliveries which the applicant will require will become a nuisance.
10. The proposed premises is likely to generate large crowds congregating outside the premises, as premises of this type often do, which is unprecedented on Market Street.
11. A store of this type is likely to use swing 'A' boards, which will clutter Market Street and obstruct safe and convenient passage of pedestrians.
12. Store of this type often engage in personal solicitation as part of store launch marketing, which is likely to become a nuisance.

Licensing objective: protection of children from harm

The application is contrary to the promotion of the protection of children from harm, and the applicant's proposed conditions are inadequate. In particular we draw the licensing committee's attention to the following facts.

1. The licensing committee is reminded that the definition of harm, pursuant to paragraph 2.25 of the Guidance, includes moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. Moreover, pursuant to paragraph 2.32, licensing authorities should give considerable weight to representations about child protection matters.
2. The application fails to demonstrate that it will adopt store design to ensure that alcohol is displayed only in specific, distinguished, identifiable areas of the store which children are not immediately exposed to, and which they cannot easily access.
3. The application does not demonstrate a commitment to the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks as regards the promotions which would apply to the premises (ie own brand products, and co-marketing), as is suggested by paragraph 10.9 of the Statement.
4. Stores of this type often display alcohol promotions at the front of the premises to which children will be exposed.
5. The application fails to demonstrate that any sex-related material of an age-restricted nature ('top shelf') are not on display openly.
6. The application fails to demonstrate how the proposed premises will protect late-night or early-morning visits from young children.

7. There is considerable under-age drinking in the locality, which the premises will only exacerbate.
8. The city centre has notable problems with crime and disorder, which apply to the Market Street area also. An early-opening and late-closing premises will add to these difficulties.
9. No provision is made for door security staff, which is essential in the context of late-night sales in an area which suffers excessive levels of crime at the proposed opening times.
10. As the premises will be open to all children, it would be expected that signage be displayed at the entrance, and regularly in-store, indicating the age restrictions relating to alcohol and other goods.
11. There is no measure to ensure that every member of sales staff, including temporary or seasonal employees, are receiving accredited training to prevent under-age sales, and that training logs will be maintained at the premises.
12. The application fails to disclose a proposal not to permit the employment at the premises of persons who have been convicted of the sale of alcohol to minors, noting paragraph 10.2 of the Statement.

Moreover, there are a large number of similar establishments in the vicinity and local area. The cumulative impact of such premises is contrary to the promotion of the licensing objectives, not least because of the extended hours the application promotes. The licensing authority is reminded that cumulative impact is a live consideration even in the absence of a special policy on cumulative impact in licensing policy statement. The refusal of the application, or otherwise severe restriction of permitted hours, is consistent with the licensing authority's licensing policy statement and local factors.

I also wish for the Applicant to confirm that they will not be playing recorded or live music, as they often do at this time of season in their other stores.

If there are any queries, I am at the committee's disposal.

Yours faithfully

