

Committee: Licensing Sub Committee

Date: Wednesday 12 September 2018

Time: 10.00 am

Venue Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Colin Clarke Councillor G A Reynolds Councillor Douglas Webb

AGENDA

1. Appointment of Chairman of the Sub-Committee

2. Declarations of Interest

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

Note: Any Member with a disclosable pecuniary interest will not be able to participate in the hearing, and should therefore notify the Assistant Director: Law and Governance in advance so that arrangements may be made for an alternate Member to attend.

3. **Premises Licence Review Hearing** (Pages 1 - 20)

Report of Assistant Director, Environmental Health and Licensing

Purpose of report

To consider a request from Oxfordshire Trading Standards (OTS) for a review of the premises licence relating to:

Wisla Supermarket, 12 The Parade, Kidlington, Oxfordshire, OX5 1EE.

Recommendations

1.1 There are no recommendations, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

4. Exclusion of the Press and Public

The following item contains exempt information as defined in the following paragraphs of Part 1, Schedule 12A of Local Government Act 1972.

- 1 Information relating to any individual
- 2 Information which is likely to reveal the identity of an individual

3– Information relating to the financial or business affairs of any particular person (including the authority holding that information).

7 - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

Members are reminded that whilst the following item has been marked as exempt, it is for the meeting to decide whether or not to consider it in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make consider the item in public, they are recommended to resolve as follows:

"That under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that, if the public and press were present, it would be likely that exempt information falling under the provisions of Schedule 12A, Part I, Paragraphs 1, 2, 3 and 7 would be disclosed to them, and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information."

5. **Premises Licence Review Hearing - Exempt Appendices** (Pages 21 - 70)

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to <u>democracy@cherwellandsouthnorthants.gov.uk</u> or 01295 227956 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Aaron Hetherington, Democratic and Elections aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Yvonne Rees Chief Executive

Published on Tuesday 4 September 2018

Agenda Item 3

Cherwell District Council

Licensing Sub-Committee

12 September 2018

Premises Licence Review Hearing

Report of Licensing Manager

This report is public

Appendices 2, 3, 4 and 6 to this report are exempt from publication by virtue of paragraph 1, 2, 3 and 7 of Schedule 12A of Local Government Act 1972

Purpose of report

To consider a request from Oxfordshire Trading Standards (OTS) for a review of the premises licence relating to:

Wisla Supermarket, 12 The Parade, Kidlington, Oxfordshire, OX5 1EE.

1.0 Recommendations

1.1 There are no recommendations, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

2.0 Introduction

2.1 To consider an application to review a premises licence submitted by OTS.

3.0 Report Details

- 3.1 Wisla Supermarket at 12 The Parade, Kidlington is a small convenience store, in a residential area, on the outskirts of the village centre. The store currently benefits from a premises licence ("the Licence") issued in accordance with the Licensing Act 2003 ("the Act"), covering the off sale of alcohol by retail.
- 3.2 A premises licence is granted once the applicant has satisfied the licensing authority that their proposed business will meet all of the licensing objectives, as prescribed in the Act.

For the promotion of the licensing objectives, mandatory conditions are attached on all premises licences, and premises' may also propose conditions to their licence which demonstrate their ability for their business to meet the requirements under the Act.

A copy of the Licence, listing the licensing conditions, is attached to this report as appendix 1.

- 3.3 Any sale of alcohol must be authorised by a person who holds a personal licence issued under the Act, and every premises selling in these circumstances must have a designated premises supervisor (DPS) in place. This is a person holding a personal licence who is ultimately responsible for all alcohol sales.
- 3.4 On the 17th July 2018 Cherwell District Council Licensing Department received an application from OTS requesting a review of the Licence.

A copy of the licence review application submitted by OTS is attached to this report as appendix 2; the details of which will be presented to the committee by the review applicants.

- 3.5 From time to time the licensing authority receives applications to transfer premises licences and applications to vary a DPS. Any applications must be accompanied by a fee and the applicant must send a copy of their applications to the relevant authorities
- 3.6 From 14th January 2016 until 29 January 2018 Mr Soran Mohammed Salih was the Licence holder and from 02 March 2017 until 23rd July 2018 Ms Monika Baranowska was the DPS.
- 3.7 Mr Erfan Gharib became the premises licence holder on 29th January 2018 following a transfer application being submitted.
- 3.8 An application to transfer the Licence holder from Erfan Gharib to Diyari Abdulla and to vary the DPS from Monika Baranowska to Diyari Abudulla was subsequently received on the 23rd July 2018. This was granted on the 7th August 2018. These changes are reflected on the copy of the Licence attached as appendix 1.
- 3.9 On the 13th August 2018 the Licensing Authority received further evidence from OTS in relation to the new Licence holder, Mr Diyari Abudulla, attached as appendix 3.
- 3.10 On 04th September 2018 the Licensing Authority received evidence from Mr Abdulla and this can be found in appendix 6.

4.0 Consultation

- 4.1 When an application to review a premises licence is received the licensing authority must display a notice at or near the relevant premises, at the council offices and on the council's website. The consultation period runs for 28 days from the day after the application is received. This gives interested parties and responsible authorities the opportunity to make representations in relation to the application.
- 4.2 Representations have been received from Thames Valley Police, details of which are attached to this report as appendix 4.
- 4.3 Environmental Health, Planning, Health Protection and Compliance and the Secretary of State responded with 'no objections" or "no comments" to make'. No response was received from:
 - Oxfordshire Fire and Rescue Service
 - Oxfordshire Safeguarding Children's Board
 - Public Health Board
- 4.4 All information and evidence from the License holder, interested parties, and responsible Authorities will be presented by the respective representative present.

5.0 Conclusion and Reasons for Recommendations

5.1 There is no recommendation

6.0 Alternative Options and Reasons for Rejection

- 6.1 At the end of the consultation period the licensing authority must hold a hearing. It must take such steps as it considers appropriate for the promotion of the licensing objectives, which are:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 6.2 The steps the Sub-Committee can take are to:
 - take no action;
 - modify the conditions of the licence;
 - remove the designated premises supervisor;
 - exclude a licensable activity from the licence;
 - suspend the licence for a period not exceeding 3 months;
 - revoke the licence.

7.0 Implications

7.1 Financial and Resource Implications

There are no financial implications arising directly from this report. Comments to be checked by Kelly Wheeler Principal Accountant, 01327 32230, <u>kelly.wheeler@cherwellandsouthnorthants.gov.uk</u>

7.2 Legal Implications

The decision must comply with relevant legislation and Council Policy. All parties have a right of appeal to the Magistrates' Court against any decision made by the Sub-committee.

Comments checked by Sophie Phillips, Solicitor 01295 753701 Sophie.phillips@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Wards Affected

Kidlington East

Links to Corporate Plan and Policy Framework

Not applicable

Lead Councillor

Not applicable

Appendix No Title Wisla Supermarket premise licence PRM0595 1 2 - EXEMPT Copy of application to review a premises licence issued by Oxfordshire Trading Standards, received 17 July 2018. Copy of additional evidence received on 13th August 2018. 3 - EXEMPT Copy of representations from Thames Valley Police dated 03 4 - EXEMPT August 2018. Copy of Licence premises plans, and maps displaying the 5 vicinity of the licensed premises. 6 - EXEMPT Copy of evidence from Mr Abdulla. **Report Author** Charlotte Lindop, Licensing Enforcement Officer. 01295 753744 Contact Information licensing@cherwell-dc.gov.uk

Document Information

LICENSING ACT 2003 PREMISES LICENCE



DISTRICT COUNCIL NORTH OXFORDSHIRE

PART A - Part 1

| Wisla Supermarket 12 The Parade Oxford Road Kidlington OX5 1EE | Licence Ref: | PRM0595 |
|--|---------------------------|------------------|
| | Date Granted: | 07.08.2018 |
| | Valid from: Valid to: | Not Time Limited |
| | Issue date: | 07.08.2018 |
| | Tel No.: | 01865 841 663 |
| Premises Licence Holder | Diyari Jabar Ab | |
| | The Flat Wisla Superma | rket |

| 12 The Parade | |
|---------------|--|
| Oxford Road | |
| Kidlington | |
| OX5 1EE | |

Licensable Activities - Alcohol Sales

| Activity | Days of Week | Open | Close |
|--|-----------------------|-------|-------|
| Sale of Alcohol Alcohol is supplied for consumption off the Premises | Sunday | 06:00 | 22:30 |
| | Monday to Saturday | 06:00 | 23:00 |

| Opening Hours | | |
|--------------------|-------|-------|
| Days of Week | Open | Close |
| Monday to Saturday | 06:00 | 23:00 |
| Sunday | 06:00 | 22:30 |

PART A - Part 2

Registered number of holder, for example company number, charity number

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Diyari Jabar Abdulla

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: Licensing Authority: '

> Nicholas Sutcliffe Licensing Manager 7 August 2018

Annex 1 – Mandatory conditions

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

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 then 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

3.1 The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises

3.2 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.

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 in a manner which carries a significant risk of undermining a licensing objective;

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 in a manner which carries a significant risk of undermining a licensing objective;

d) 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.

e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available

5.1 The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

5.2 The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

5.3 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 either:-

a. a holographic mark or

b. an ultraviolet feature

6. The responsible person must ensure that -

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-

i. beer or cider: ¹/₂ pint;

ii. gin, rum, vodka or whiskey: 25ml or 35ml; and

iii. still wine in a glass: 125ml; and

Page 6

b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price

2. For the purposes of the condition set out in paragraph 1 -

a. "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

b. "permitted price" is the price found by applying the formula -

P=D+(DxV)

Where: -

i. P is the permitted price

ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and

iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of alcohol;

c. "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

i. The holder of the premises licence

ii. The designated premises supervisor (if any) in respect of such a licence, or

iii. The personal licence holder who makes or authorises a supply of alcohol under such a licence;

d. "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the

member or officer to prevent the supply in question; and

e. "value added tax" means value added tax charged in accordance with Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.1 Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax

4.2 The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

Annex 2 – Conditions consistent with the operating schedule

General - all four licensing objectives

Ongoing staff training, internal & external CCTV.

Staff training on licensing issues as indicated.

Effective and responsible management of premises on all aspects of licensing objectives.

The prevention of crime and disorder

Provisions of effective CCTV in and around the premises.

Age restrictions on licensing product; accepting only accredited 'Proof of Age' cards, i.e. passport, driving licence or official identity card issued by HM forces or other accredited body (EU) country bearing photographic and date of birth bearer.

The premises shall implement and adhere to a Think 21 Policy.

Public Safety

Provisions of emergency lighting and first aid.

Visible access: Design and layout of the premises.

The use and ease of access to fire extinguishers in the event of a fire.

All public safety notices clearly and visibly placed in the premises.

Licensable hours of operation visibly displayed.

The prevention of public nuisance

Effective and responsible management of premises.

Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.

Install effective ventilation systems to create an odour free environment.

Keeping doors & windows closed while the licence is being used.

The protection of children from harm

'Proof of Age' cards: Policies, notices clearly displayed for licensable activities.

Acceptance of accredited 'Proof of Age' cards.

- Passport
- -Driver licence
- official identity cards issues by HM forces.
- EU country bearing photograph and date of birth of bearer.

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

Conditions Required by Committee

Conditions attached at hearing on 20th November 2017

- 1. **CCTV**
- 1.1 CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
- 1.2 CCTV cameras shall cover all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale supply of alcohol occurs.
- 1.3 The CCTV Equipment shall be maintained in good working order, be correctly time and date stamped with the CCTV recordings be kept in date order, sequentially numbered and kept for a period of 31 days.
- 1.4 The Premises Licence Holder must ensure at all times that a DPS or appointed member of staff is capable and competent to download CCTV recordings in a recordable media format.
- 1.5 The CCTV recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or appointed member of staff. An operational weekly log report must be maintained and endorsed by the signature of the DPS or the appointed member of staff indicating the CCTV system has been checked, is in working order and compliant, and in the event of any failings remedial actions taken are also to be recorded.
- 1.6 In the event of technical failure of the CCTV equipment the Premises Licence holder DPS shall report the failure to the Police on contact number 101 immediately.
- 1.7 The CCTV recordings must be available for inspection upon demand by the police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised Trading Standards Officer.

2. Incident Log

2.1 An incident log must be kept at the premises. Incident log records shall be retained for a period of 12 months from the date the incident occurred.

2.2 The incident log shall record:

- all crimes relevant to the licensing objectives reported at to the venue
- any complaints elevant to the licensing objectives received
- any faults in the CCTV system
- any refusal of the sale of alcohol
- any visit by a relevant authority or emergency services
- 2.3 The incident log shall be available for inspection upon demand by the police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised Trading Standards Officer.

3. Training

- 3.1 All staff engaged in the sale of alcohol to be trained in Responsible Alcohol Retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Trading Standards.
- 3.2 All existing staff shall be trained within one month of the date this condition appears on the Premises Licence.
- 3.3 All new staff shall be trained within one month of commencing employment.
- 3.4 All staff shall be retrained 12 twelve monthly thereafter.

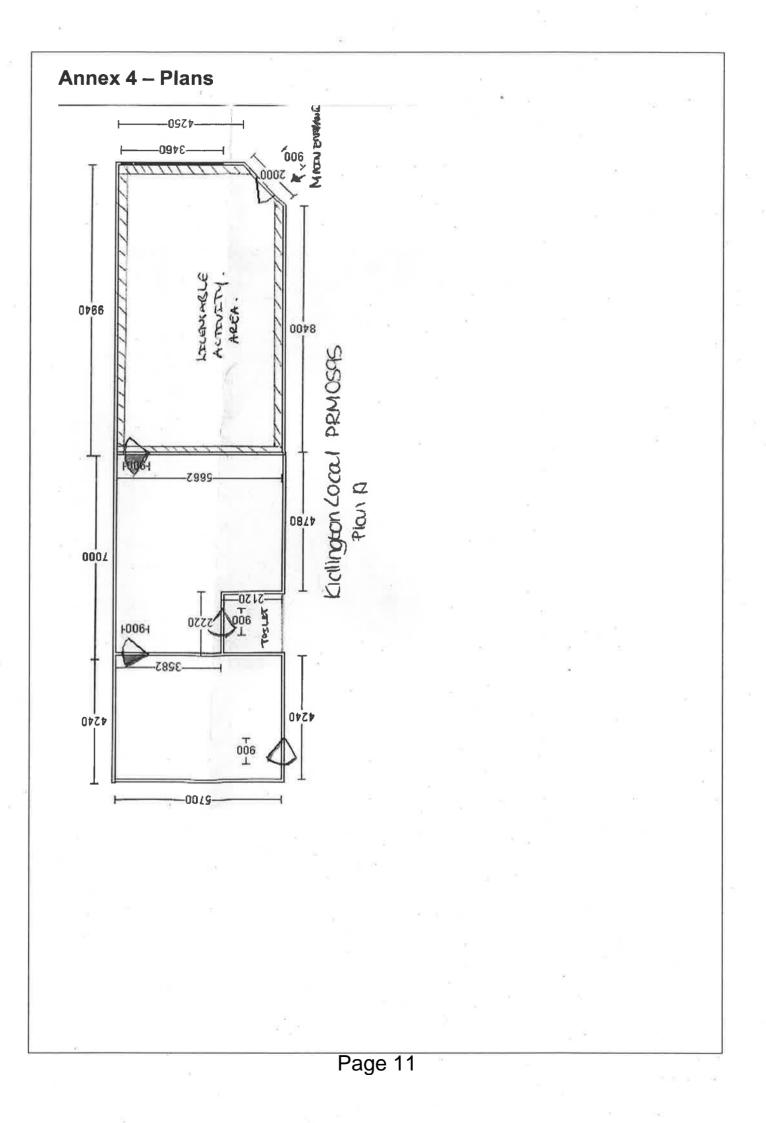
- 3.5 The training shall include:
 - Conflict resolution
 - Selling to under age person
 - Selling to drunks
 - Selling age restricted goods
- 3.6 Training records shall be kept on the premises which shall show the area of training covered, the date of the training, the name of the person and shall be signed by the trainer and trainees.
- 3.7 Training records shall available for inspection upon demand by the police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised Trading Standards Officer.

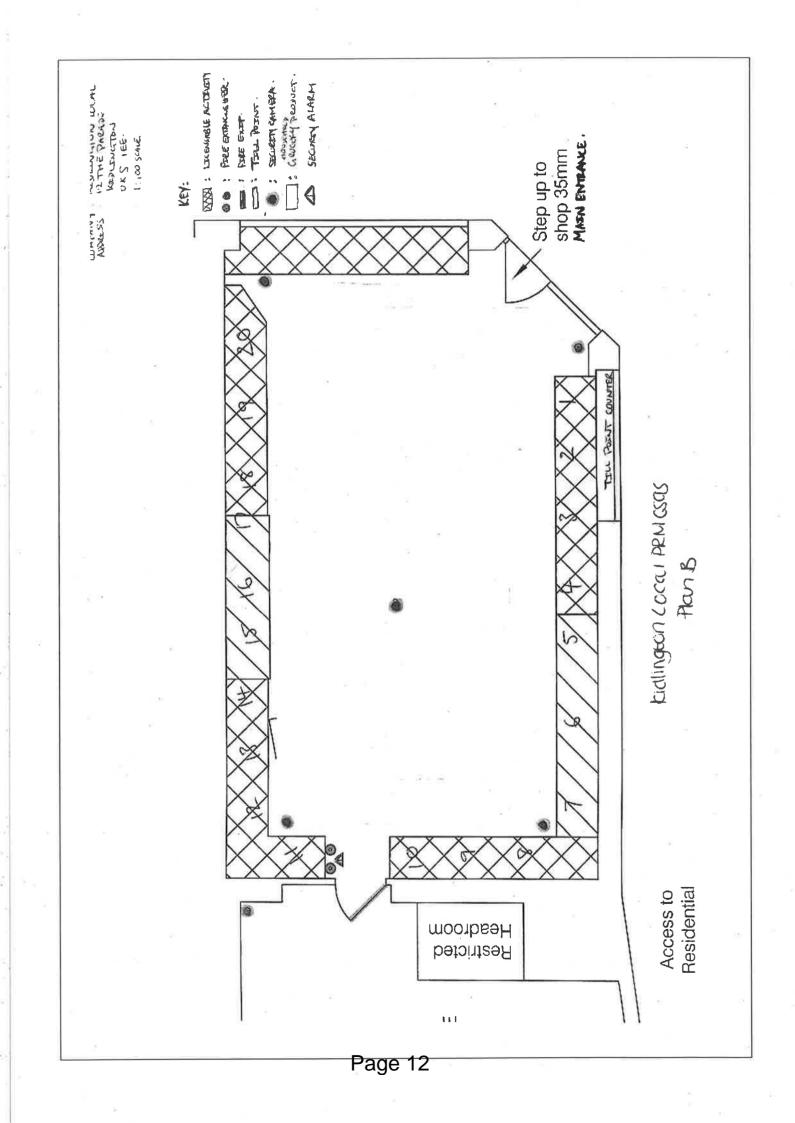
4. Challenge 25 Policy

- 4.1 The premises shall operate a Challenge 25 Policy. Such policy shall be written and a copy kept at the premises.
- 4.2 The policy shall be available for inspection upon demand by the police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised Trading Standards Officer.
- 4.3 Prominent, clear and legible signage in not less than 32 font bold shall be displayed at all entrances to the premises as well as at least one location behind any serving counter advertising of the operation of the Challenge 25 Policy.
- 4.4 Prior to any alcohol sale taking place, proof of the attainment of 25 years of age will be required through production of a PASS card a full or provisional photo card driving licence a photo passport, or official identity card containing the holders date of birth, or any other accredited body of a European Union country bearing a photograph of the bearer and his / her date of birth prior to any alcohol sale taking place.

5. Sales Refusal Register

- 5.1 A written or electronic register of sales refusals shall be kept including a description of refused product and of the person to whom the sales has been refused as s/he has been who have been unable to provide required identification to prove his/her age. Such records shall be kept for a period of 12 months.
- 5.2 The sales refusals registers shall be collected and reviewed on a weekly basis by the Designated Premises Supervisor.
- 5.3 The sales refusals register shall be available for inspection upon demand by the police, an officer authorised, as defined by Section 13 of the Licensing Act 2003, or an authorised Trading Standards Officer.





LICENSING ACT 2003 PREMISES LICENCE



DISTRICT COUNCIL NORTH OXFORDSHIRE

PART B

| Wisla Supermarket 12 The Parade Oxford Road Kidlington OX5 1EE | Licence Ref: | PRM0595 |
|--|---------------|------------------|
| | Date Granted: | 07.08.2018 |
| | Valid to: | Not Time Limited |
| | Issue date: | 07.08.2018 |
| | Tel No.: | 01865 841 663 |

| 12 The Parade Oxford Road Kidlington OX5 1EE |
|---|
|---|

| Days of Week | Open | Close |
|-----------------------|---------------------|---------------------------|
| Sunday | 06:00 | 22:30 |
| Monday to Saturday | 06:00 | 23:00 |
| | Sunday Monday to | Sunday06:00Monday to06:00 |

| Opening Hours | | |
|--------------------|-------|-------|
| Days of Week | Open | Close |
| Monday to Saturday | 06:00 | 23:00 |
| Sunday | 06:00 | 22:30 |

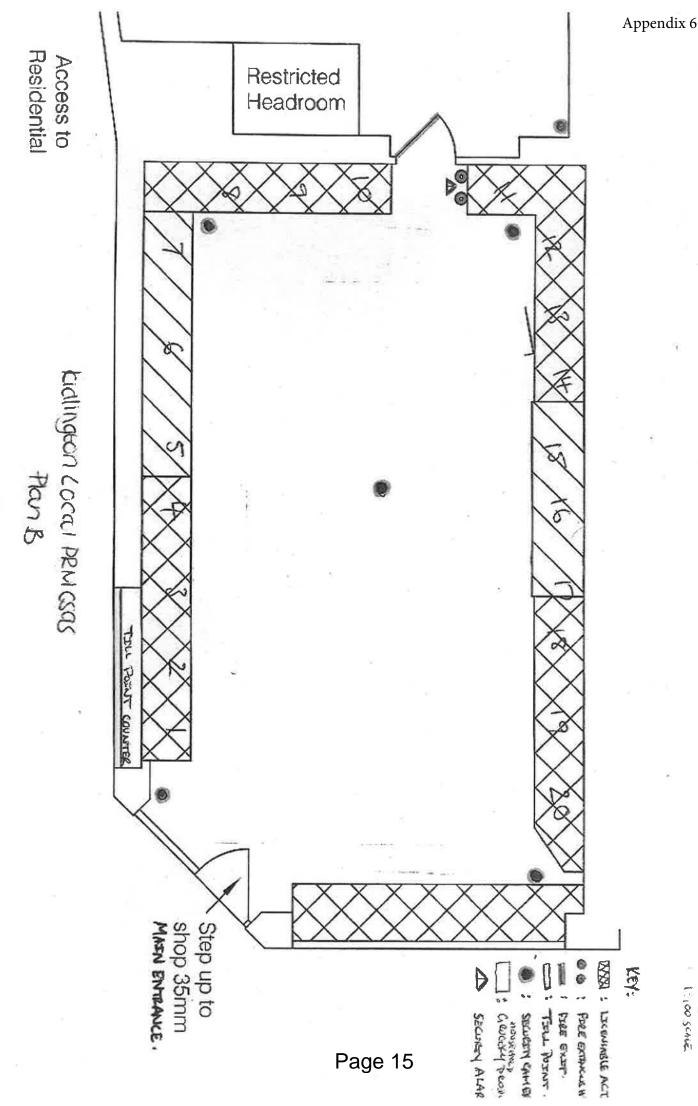
Registered number of holder, for example company number, charity number

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

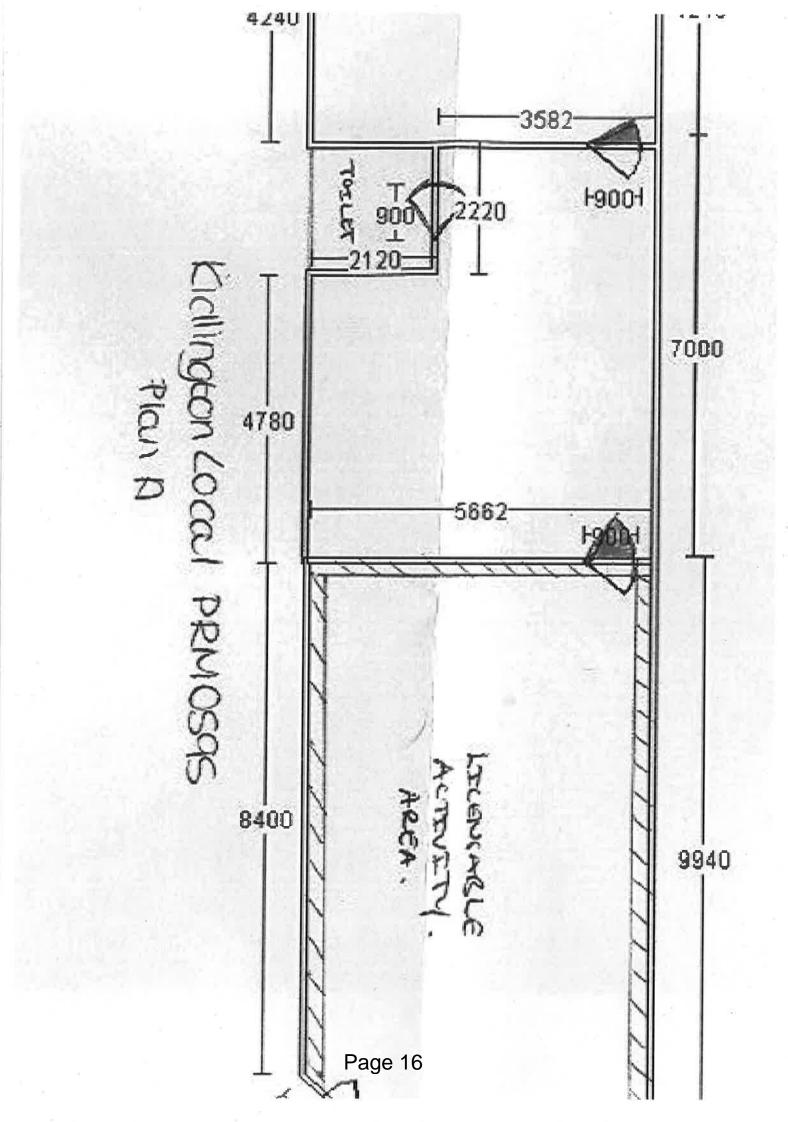
Mr Diyari Jabar Abdulla

State whether access to the premises by children is restricted or prohibited

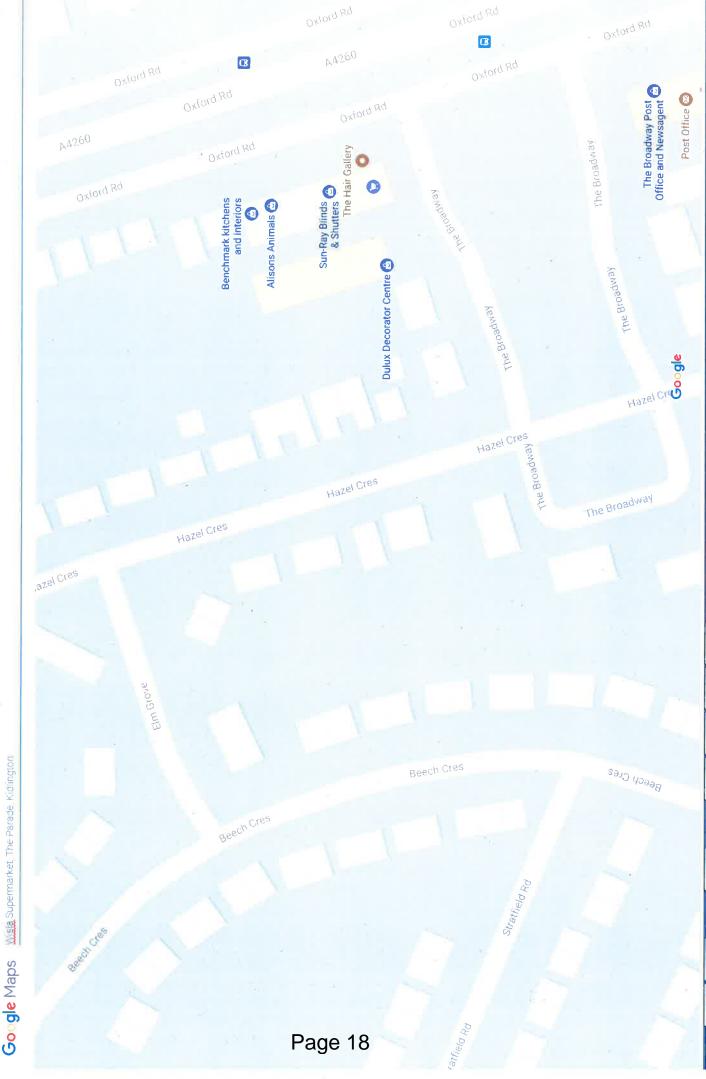
Nicholas Sutcliffe Licensing Manager 7 August 2018



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Agenda Item 5

Document is Restricted

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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