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27 September 2006

**APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT: "MAKRO SELF SERVICE WHOLESALERS LTD", ROYDS LANE, LOWER WORTLEY, LEEDS LS12 6HU**

On 18<sup>th</sup> September 2006 the Licensing Sub Committee heard an application by Makro Self Services Wholesalers Ltd, Liverpool Road, Barton Moss, Eccles, M30 7RT for the variation of a premises licence currently held at the premises known as Makro Self Service Wholesalers Ltd, Royds Lane, Lower Wortley, Leeds LS12 6HU .

The applicant sought the following variation:

Supply of alcohol (for consumption off the premises):

Sunday to Saturday            00:00 hours until 23:59 hours

The applicant proposed to open the premises twenty four hours per day, seven days a week.

This letter represents the formal decision of the Sub Committee in respect of the application.

**Preliminary Procedural Issues**

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee then decided that the procedure for the hearing would not be varied. The Sub Committee also considered if the public should be excluded from any parts of the hearing.

The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.



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Prior to the hearing the Sub Committee had considered the Licensing Officers Report and the written representations received from West Yorkshire Police (WYP) and two local residents. The local residents did not attend the hearing

The Sub Committee permitted each party 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

### **The Hearing**

The Sub Committee considered the verbal submission of Mr M Stafford, the applicants' solicitor, who addressed the application and the comments of the interested parties.

In determining the application the Sub Committee took into account written submissions from the interested parties contained within the report and circulated to the Parties prior to the hearing.

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

### **Reasons for the decision**

The Sub Committee noted that the following agreements had been reached between the applicant and West Yorkshire Police regarding their suggested conditions having regard to the prevention of crime and disorder:

- The premise shall have in place a written "Check 21" policy by the 1<sup>st</sup> November 2006. This policy shall state that any person to whom the sale or supply of alcohol is being made, who looks or appears to be under 21 years of age shall be asked to provide identification that they are 18 years of age or over. The following are the only forms of identification acceptable :
  - a) Passport
  - b) Photo driving licence
  - c) Pass accredited holographic proof of age card
  - d) Any other form of identification agreed with West Yorkshire Police Licensing Unit.Signs promoting this policy shall be prominently displayed at the public entrance and alcohol sales area

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- The premise shall be equipped with a CCTV system that shall meet the following criteria :
  - a) The system shall comprehensively cover the 4 public areas of the premises including all public entry, exit and till points
  - b) The system shall be maintained in proper working order
  - c) The system shall display on any recording the correct time and date of the recording
  - d) The system shall be recording during all times the premise is open to the public
  - e) The recorded VCR tapes or digital recording media shall be held for a minimum of 31 days after the recording is made and shall be made available to the police for inspection on request

These conditions would be included in the applicant's Operating Schedule, and eventually the licence, should the application be granted.

The Sub Committee then went onto consider the submission of Mr Stafford who began by explaining the application had not been made for the sole purpose of serving alcohol twenty four hours per day seven days a week, rather to allow the Makro company the flexibility to be able sell alcohol for longer than they currently did at this site. This would be particularly useful at busy times of the year, such as Christmas, when customers required longer opening hours.

Mr Stafford further explained that the premises were not open to the public as such. Customers had to acquire membership of the company, and customers mainly comprised of business men or representatives of small business who purchased goods, including alcohol, for re-sale at their own premises.

With regard to the comments of the objectors contained within their written representations, Mr Stafford reiterated that alcohol sales were not permitted to persons under the age of 18 years, customers had to acquire membership, and that it was difficult to quantify whether the sale of alcohol for 24 hours per day at this site would increase the traffic noise and disturbance generated.

In answer to questions from the Sub Committee Mr Stafford confirmed the premises had planning permission to open 24 hours per day already, however not for the sale of alcohol. The Sub Committee expressed concern about the impact the grant of this variation might have on deliveries to the store itself and subsequent collections by customers which may generate more traffic at later hours. Mr Stafford explained that the delivery times to the store were governed by another set of conditions and also covered by the Environmental Protection Act. Mr Stafford additionally explained that the premises was currently open 08:00 hours until 23:00 hours every day and reiterated it was not the intention to open 24 hours per day. At peak periods of business the premise would most likely open for an additional hour in the morning and evening. Furthermore, as a wholesale business, current Sunday trading hours did not apply.

In conclusion, he added that LCC Department of Development (Planning Services) had been notified of the application and no representations had been received.

The Sub Committee adjourned to deliberate the application, however sought clarification from Mr Stafford regarding the current delivery times to the premises. Mr Stafford contacted the premises directly; however the information was not forthcoming in time for the decision

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## **The Decision**

The Sub Committee were largely persuaded by Mr Stafford's submission that granting the application would not undermine the promotion of the prevention of public nuisance objective, however Members remained concerned that the premises was adjacent to a residential area and noted the submissions made by local residents.

The Sub Committee also the agreements already reached between the applicants and WYP and these agreed measures would now form part of the Premise Licence.

The Sub Committee felt that the points raised by residents were valid with regard to potential noise nuisance and therefore resolved to grant the application as requested with an additional condition imposed on the Premise Licence, as detailed below:

### **Supply of alcohol (for consumption off the premises):**

Sunday to Saturday            00:00 hours until 23:59 hours

## **Conditions**

- There shall be no deliveries to the premises between the 23:00 hours and 07:00 hours

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:  
Clerk to the Justices  
Leeds Magistrates Court  
Westgate  
Leeds  
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

**Helen Gray**  
**Clerk to the Licensing Sub Committee**