

Licensing Act 2003



Licensing and Gambling Acts Casework Sub-Committee

Notification of determination

Hearing under Sections 17 and 18 of the Act, and the Licensing Act 2003 (Hearings) Regulations 2005 in respect of an application made to Oxford City Council for a Premises Licence

Date of hearing:	6th July 2021
Place:	Remote hearing via 'Zoom'
Case No.	21/01553/PREM
Applicant	Gorillas Technologies UK Ltd
Premises:	Gorillas
Premises address:	78-81 Magdalen Road, Oxford, OX4 1RF
Licensing Sub-Committee Councillors:	Cllr Mary Clarkson (Chair), Cllr Katherine Miles, Cllr Paula Dunne
Legal Advisor:	Daniel Smith
Licensing Officer:	Emma Thompson
Clerk:	Katie Thorp

The Sub-Committee heard representations from the following:

Licensing Authority: Emma Thompson (Senior Licensing Compliance Officer)

Emma Thompson (**ET**) presented the Licensing Authority's report, stating that the application had attracted eight representations from Interested Parties, all of which highlighted concerns in relation to how the application may fail to promote licensing objectives. **ET** stated that Thames Valley Police had commented that they were satisfied with the measures as stated in the application to promote the licensing objectives, and the additional conditions that they have agreed with the Applicant. **ET** stated records show there are currently seven licensed premises on Magdalen Road with off sales of alcohol, and the latest terminal hour of these seven licenses is 23:00 hours.

Councillor Mary Clarkson (**CMC**) asked about the other licensed premises in Magdalen Rd, whether they are all walk in premises, are exclusively alcohol premises or mixed groceries as well?

ET stated three premises are grocery stores and the remaining four are cafes / restaurants. **ET** stated there are another two premises that do not have off sales but do have sales of alcohol for walk in sales (on sales).

ET confirmed that the premises are not all off licenses, that they are food and drink premises.

Daniel Smith (**DS**) asked what the current use of this premises is?

ET confirmed the premises are currently an empty unit that was used by ORAC, Oxford Refrigeration and Air Conditioning Company, assuming as their office base.

Craig Baylis (solicitor for Applicant)(**CB**) clarified further, it is part of a small development of light industrial warehouses, this premises was previously operating as a light industrial warehouse selling large air conditioning refrigeration units to and from the premises.

Councillor Katherine Miles (**CKM**) asked for clarification that the Saturation Policy for Cowley Road does not apply to Magdalen Road.

ET confirms the Special Saturation Policy (SSP) is currently removed, however this part of the Cowley Road is just outside of the SSP anyway, and believes from recollection that Magdalen Road would not be incorporated in the original SSP.

DS confirms that is correct and that even if the SSP was operating, which it is not at the moment, Magdalen Road is not in it.

Applicant: Gorillas Technologies UK Ltd Jessica Kilbourne Designated Premises Supervisor. Craig Baylis, solicitor for the Applicant.

Craig Baylis (**CB**) began by providing more information about Gorillas, he stated there are some misconceptions within the resident's representations about what Gorillas is. Gorillas is purely an online grocery delivery service. The public do not have access to the premises. Alcohol only makes up around 10-15% of the products that Gorillas sells, it is primarily groceries. The 'unique selling point' of Gorillas is speed of delivery, if you live in the area and download the app, you can choose your groceries and enjoy guaranteed delivered within ten minutes. Deliveries are made by way of delivery riders, who are all employed directly by Gorillas, and all use e-bikes, there are no noisy cars or vans. **CB** also stated that deliveries can take place at all times, between 8:00am and midnight.

CB confirmed that the lease for the premises has been signed so the Applicant is taking on the premises whether they obtain a premises licence or not, the business will operate between 8:00am and midnight. Stock is delivered to the premises every day via a seven-ton truck, which can deliver at the rear of the premises down a side road, the rest of the day may include top up deliveries from small sprinter vans. **CB** confirmed there is also a small forecourt at the front of the premises where the larger truck can park up and deliver the stock and so this would not obstruct the highway itself.

CB advised that the bikes and riders are all kept inside the premises, unless on a break, and as there is a yard at the rear of the premises, there would be no-one on the pavements or at the front of the premises itself.

Daniel Smith (**DS**) asks whether a fresh planning permission is required for the intended use or

is the Applicant intending to operate under an existing consent?

CB explained the existing consent in place allows the business to carry out what they wish to carry out, therefore no further planning is required for this particular operation.

Cllr Mary Clarkson (**CMC**) asked whether, if the Sub-Committee were to refuse the licence, the business would still operate as a grocery delivery store, but without the sale of alcohol.

CB confirms that is correct, and the operating hours would remain the same, 08:00am until midnight.

Cllr Paula Dunne (**CPD**) asked what steps will be in place to prevent public nuisance such as noise and light pollution from the premises itself on Magdalen Road.

CB stated there is a very large yard to the rear of this premises and so all of the deliveries and any potential problems that could be associated with noise nuisance can all be put to the back of the premises.

CKM asked to what extent is the Applicant committing to only deliver groceries by using e-bikes / bicycles as the mode of transport.

CB stated that the Applicants are happy to have a condition added to the licence that says deliveries will only be made by e-bikes or bicycles.

CMC asked if the Applicant could provide examples of their other stores and how they have operated, if they have been near to residential areas and how this has been managed.

CB states they have a particularly difficult location in Brent, North London, where the residents were very against it initially. One of the things the Applicant has committed to do is hold quarterly meetings with the residents as a condition of the licence, and if it was deemed appropriate, would be happy to include that condition also on this new licence.

Jessica Kilbourne (**JK**) agreed with **CB** and stated in relation to the location in North London, the Applicants have committed to having quarterly meetings with local residents and agreed if the committee felt that this was something they would like to put in place, the Applicant is more than happy to agree this. Having a good relationship with local residents is important to the business.

CKM asked in terms of public nuisance and public safety, where the Applicant has stated that deliveries can be at the back of the premises instead of the zone at the front, one concern was if the delivery lorries were to be parked on the front forecourt, the vehicle would have to go across a pavement in order to park on the forecourt, this would create potential safety issues. **CKM** asks whether the Applicant is willing to take steps to ensure deliveries are at the back of the premises rather than on the forecourt?

CB states the applicant is willing, there is only one large delivery every day, early in the morning, which usually takes between fifteen and twenty minutes to unload. He says he is conscious of the concerns around safety. During the day there is possibly three or four top up deliveries, in smaller sprinter vans, and those vans could go to the rear of the premises away from the pavement and pedestrians.

CMC asked what the peak time is for deliveries during the day?

JK says business tends to have peak times on Friday, Saturday and Sundays from around 5:00pm until around 10:00pm.

CB continued by saying the business is a top up business, the delivery riders have shoulder bags that can carry only limited amounts of groceries, they deliver to one address at a time to customers in a small local radius.

Helena Feinstein (**HF**), interested party, asked for clarification from the Applicant around the delivery of stock to the premises early in the morning, and what time that would likely be.

CB stated the business has a limited discretion over stipulation of delivery times, it can be anytime from 07:00am until 08:00pm or 09:00pm depending on where the delivery is coming from. **CB** had concerns about receipt of deliveries after 7:00am when children and parents would be walking to school, and the same around 3:00pm or 4:00pm.

HF expressed concerns around deliveries at 7:00am, which could be disruptive in addition to operation of the business between 08:00am and midnight.

JK stated deliveries on a Sunday would be similar to other days, while there are fewer deliveries on a Sunday in terms of the smaller sprinter vans the 7-ton truck delivery would still come on a Sunday.

CKM asked whether, as this premises is in a 'low traffic neighbourhood' (LTN), are any other of the Applicant's stores within LTNs and if so, what have been the experiences there in terms of managing deliveries? **CKM** also asks in relation to the use of e-bikes has the Applicant explored the use of other less polluting forms of delivery to get the larger deliveries of stock to the premises?

CB advised that he was not aware of the LTN concept being implemented in London and the areas where the London premises are, are in high traffic areas. The Applicant would be happy to look at alternatives methods of delivery, however in the short term they have established providers that they will need to use them to start stocking the premises initially.

CKM stated that a number of residents had raised concerns about public disorder around the premises itself, and that there is potential for thieves to target the premises, and asks what security measures are in place to avoid that.

CB states the applicant has CCTV installed and the conditions that were agreed with the Police.

JK stated they have a contract in place with a security company for an alarm system. CCTV in place with access remotely. The premises also has facility managers in place who are on call 24/7.

CPD asks whether the employees will be aged 18 and over?

CB confirmed that all the riders employed are over 18 years of age and they are also directly employed by Gorillas.

Interested Parties: Helena Feinstein (**HF**)

HF stated that objections are set out by the residents in their own individual responses, their major concern is that this premises could change the neighbourhood. There are concerns around how the business fits into the low traffic neighbourhood (LTN), and that the environment the residents live in is important, the community has a high footfall and having 7-ton trucks

delivering early in the morning, 7 days a week, will have an impact on the neighbourhood. **HF** stated she had concerns about school children, parents, and elderly residents. **She** was sceptical about the business working with the community as residents had not been consulted prior to the application and stumbled across the application from the notices. **HF** doesn't think the business will add a significant benefit to the people who live in the area.

DS stated that there were a number of other interested parties who had not attended the hearing and asked for confirmation from the Chair that their written representations have been noted by the Sub-Committee and taken into account?

CMC confirmed they have been noted.

CB in summing up stated that the premises isn't isolated, there are a number of other light industrial units on Magdalen Road and it was unlikely that this business would be the only one receiving large deliveries, nor did he believe the Applicant's business would be the only business generating traffic in the area. **CB** re-iterated the Applicant is happy to have a condition on the licence that requires them to have regular meetings with residents, and also impose a condition that makes the applicant provide a contact telephone number for residents if there are concerns about the operation of the business, delivery times for example.

ET mentioned that there was another premises, not mentioned earlier, the Magdalen Arms at the end of Magdalen Road, which has both on and off sales. So there are other licensed premises in the vicinity of this proposed premises, with a terminal hour of 23:00 hours.

Decision and Reasons of the Sub-Committee

1. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance, in particular para 10.15 (hours of trading) and the Council's own Statement of Licensing Policy, in particular policy PP11 (Supply of alcohol 'Off-sales') and LH8 (Hours for 'Off sales' of Alcohol).
2. The Policies made clear that it is not for the Licensing Authority to restrict the sale of alcohol for consumption off the premises unless there are good reasons to do so relevant to the licensing objectives.
3. The Sub-Committee acknowledged that the premises can already operate as an online supermarket with deliveries from 08:00 hours until midnight. The purpose of the hearing was to assess the impact on the licensing objectives of the addition of the 'off sale' of alcohol to that operation. Wider concerns over increased commercial use, 'need' for the premises and traffic/parking issues in the area were not matters for a licensing hearing.
4. The Sub-Committee noted that the Applicant and Thames Valley Police (TVP) had agreed on thirteen conditions proposed by TVP prior to the hearing (found at **Appendix Two** of the report) and that TVP had no objection to the Application with the addition of those conditions.
5. The Sub-Committee noted that the premises already had the benefit of planning permission appropriate to allow the proposed use and there was no objection from the Planning Authority or Environmental Health.
6. The Sub-Committee also noted the Applicant's indicated consent to additional conditions restricting the mode of delivery transport, and access for local residents to register concerns.

7. The Sub-Committee understood the points raised by the interested parties but was satisfied that with the attachment of the all conditions agreed with the Police (Appendix Two) the Application was in accordance with objective of preventing crime and disorder and protecting children from harm. In order to promote the objectives of preventing public nuisance and promoting public safety it was appropriate to attach two further conditions:

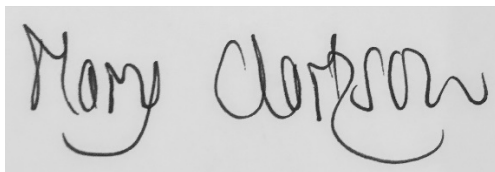
1. *The Premises Licence Holder shall ensure that all deliveries to customers are carried out by all electric 'e-bikes' or conventional bicycles only.*
2. *The Premises Licence Holder shall ensure that there is a contact telephone number available for local residents should they wish to raise concerns regarding the premises and that reasonable concerns will be addressed constructively.*

The Sub-Committee found the application otherwise in accordance with the Licensing Objectives.

The Application is therefore **GRANTED** subject to the conditions as set out above.

Separate to the formal record of the decision the Sub-Committee wished to note the co-operative approach of the Applicant and also to encourage it, in the interests of responsible operation, to consider the following:

- *the benefits of restricting deliveries of stock to the rear of the premises to avoid obstruction to footpath users at the front;*
- *where possible avoidance of stock deliveries in the early hours of the morning so as to minimise disturbance to local residents;*
- *exploring the possibility of stock delivery by low carbon vehicles in support of the Council's wider policies on carbon reduction and lowering emissions.*

A handwritten signature in black ink on a light grey background. The signature reads "Mary Clarkson" in a cursive, flowing script.

Signed:
Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.