



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

MONDAY, 12TH JANUARY 2009, AT 10.00 A.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors D. Hancox, Ms. J. A. Marshall, Mrs. C. J. Spencer and L. J. Turner

AGENDA

1. Appointment of Chairman for the Meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To consider an application to vary a Premises Licence in respect of ASDA, Market Street, Bromsgrove (Pages 1 - 24)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

19th December 2008

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

12TH JANUARY 2009

APPLICATION FOR A VARIATION OF A PREMISES LICENCE – ASDA, MARKET STREET, BROMSGROVE

Responsible Portfolio Holder	Cllr. P. Whittaker
Responsible Head of Service	Head of Planning and Environment Services

1. SUMMARY

- 1.1 To consider an application to vary a Premises Licence in respect of ASDA, Market Street, Bromsgrove.

2. RECOMMENDATION

- 2.1 That Members determine the application. The application may be refused, or it may be granted in whole or in part (with additional conditions, if appropriate), and all of it or part of it may be applied to the whole or part of the premises provided that the Sub-Committee's decision is consistent with the licensing objectives and the Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 The Licensing Authority has received an application to vary the Premises Licence, in accordance with the Licensing Act 2003.
- 3.2 The application is seeking the following new permissions:

Retail sale of alcohol for consumption off the premises

- 24 hours every Monday through to Sunday

Provision of late night refreshment

- 11.00 p.m. – 5.00 a.m. every Monday through to Sunday

Proposed store opening hours

- 24 hours every Monday through to Sunday

In addition to extending the operating hours, the applicant is also seeking to remove a number of conditions which were retained by the transition process from the Licensing Act 1964 to the Licensing Act 2003. The conditions are set out Appendix 'A'.

3.3 The current hours of operation are as follows:

Retail sale of alcohol for consumption off the premises

- 08.00 a.m. – 11.00 p.m. every Monday through to Saturday;
- 10.00 a.m. – 10.30 p.m. every Sunday;
- 08.00 a.m. – 10.30 p.m. every Good Friday; and
- Noon – 3.00 p.m. and 7.00 p.m. – 10.30 p.m. every Christmas Day.

Opening hours of the premises

- At the discretion of the licence holder.

3.4 Details of licence conditions currently attached to the licence are set out at Appendix 'A'. There are three areas on the licence where conditions can be attached.

- **Mandatory Conditions** – these are conditions that must be attached to a Premises Licence in accordance with the Licensing Act 2003.
- **Conditions consistent with the operating schedule** – these are conditions that are volunteered by the applicant at the time of making their application for a premises licence, which sets out how the applicant will address the four licensing objectives in line with the type of business they intend to operate.
- **Conditions attached after a hearing by the Licensing Authority** – these are conditions, if any, that are imposed by the Licensing Authority if the application has been determined by the Council's Licensing Sub-Committee following an application to review the licence or valid representations were received during the statutory consultation period following the receipt of an application to grant a licence or vary it.

3.5 As part of the application process, applicants are required to carry out a risk assessment of the effect the proposed variation would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the variation application be granted.

3.6 The four licensing objectives are as follows:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

3.7 On this occasion the applicant has not put forward any additional steps they intend to take to promote the four licensing objectives as a result of the proposed variation.

- 3.8 In accordance with the Licensing Act, a responsible authority is entitled to make representations. Responsible authorities include the Police Authority, Planning Authority, the Council's own Environmental Health Department, Fire Authority, Trading Standards and the Area Child Protection Committee.
- 3.9 On this occasion, a representation had been received from the Council's Environmental Health (Pollution Control) Section on the grounds of public nuisance. A copy of their report is attached at Appendix 'B'. However, the applicant has accommodated the concerns expressed by Environmental Health and have agreed to include a condition on their licence to restrict deliveries to the store between 6.00 a.m. and 10.00 p.m. As a result of this the Council's Environment Health Section had withdrawn their representation.
- 3.10 No representations have been received from the other responsible authorities.
- 3.11 In accordance with the Licensing Act, anyone residing in the vicinity of a premises for which an application has been made is entitled to make representations. 'Vicinity' is not defined in the Licensing Act.
- 3.12 Representations have been made by 13 residents living near to the premises. A copy of each representation and the petition is attached at Appendix 'C'. The basis of their representations relate problems associated with binge drinking, young people purchasing alcohol from the Store and consuming it in the vicinity of their residential properties, and noise nuisance from the potential increase in delivery schedules to the Store. They feel that the extension in hours would only exacerbate the problems highlighted and it is considered that the proposed variation would undermine the licensing objectives, prevention of public nuisance and crime and disorder.
- 3.13 A plan showing the location of the premises is attached at Appendix 'D'.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this Report. However if either party made a successful appeal to the Magistrates' Court against the decision of the Council, the Council may be liable for any legal costs.

5. LEGAL IMPLICATIONS

- 5.1 Each party is entitled to appeal to the Magistrates' Court if they are dissatisfied with the decision of the Council, within 21 days from the date of decision.

- 5.2 The Sub-Committee must have regard to the Statutory Guidance, issued by the Secretary of State under Section 182 of the Licensing Act 2003, in particular the determination of a review. The following is an extract taken from the Statutory Guidance:

“Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.”

- 5.3 The Sub-Committee must have regard to the Council's Statement of Licensing Policy.
- 5.4 The conduct of the Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005, as amended.
- 5.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

6. COUNCIL OBJECTIVES

- 6.1 This item links with the Council Objective CO2.

7. RISK MANAGEMENT

- 7.1 The main risk associated with the details included in this report are:
- Decision made without having regard to Council Policy, Guidance issued by Secretary of State and governing legislation.
- 7.2 This risk is being managed as follows:
- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
 - Risk Register: Planning and Environment Services
 - Key Objective Ref No. 7

8. CUSTOMER IMPLICATIONS

- 8.1 All parties will be notified of the Council's decision in writing.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

- 9.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None.

11. OTHER IMPLICATIONS

Procurement Issues – None
Personnel Implications – None
Governance/Performance Management – None
Community Safety including Section 17 of the Crime and Disorder Act 1998 – None
<ul style="list-style-type: none">▪ Policy – The Council’s Statement of Licensing Policy applies to this application. This reads: <i>“We will have a flexible approach to hours when alcohol can be sold or supplied. We will give more freedom to responsible licensees, but we may impose stricter controls on particular licensed premises, such as those affecting residential properties.</i>▪ <i>We will not generally restrict times when shops, stores or supermarkets can sell alcohol for consumption off the premises. But we may do so if the Police consider individual premises to be a focus of disorder and disturbance.”</i>
Environmental - None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards.

14. APPENDICES

Appendix A – Conditions attached to the current licence.

Appendix B – Report received from the Council's Environmental Health Section.

Appendix C – Letters of representation received from interested parties.

Appendix D – Location plan of the area.

15. BACKGROUND PAPERS

Application form received on 28th October 2008

Letters of representation received from interested parties received during the consultation period from 28th October to 24th November 2008.

Memorandum received from Council's Environment Health (Pollution Control) Section dated 20th November 2008 and an email received 8th December 2008.

Email from the Police Authority dated 18th November 2008.

Letter received from the Hereford & Worcester Fire and Rescue Service dated 14th November 2008.

Letter received from Trading Standards dated 31st October 2008.

Contact officer

Name: Sharon Smith, Principal Licensing Officer

E Mail: sharon.smith@bromsgrove.gov.uk

Tel: (01527) 881626



Bromsgrove District Council

The Council House, Burcot Lane, Bromsgrove, Worcestershire, B60 1AA

Telephone: 01527 873232 www.bromsgrove.gov.uk

Licensing Act 2003

Premises Licence

33

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Andre BATCHELOR

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 No. SOL/PE/084/2005

Issued by Solihull

ANNEXES

Annex 1

Mandatory Conditions

- (a) No supply of alcohol may be made under this Premises Licence at a time when:
- There is no designated premises supervisor in respect of the Premises Licence; or
 - At a time when the designated premises supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.
- (b) Every Supply of alcohol under this Premises Licence must be made or authorised by a person who holds a Personal Licence.

Conditions retained by the transition process as embedded in the Licensing Act 1964 s.60, 63 and 86.

- (a) Alcohol shall not be sold or supplied except during permitted hours.
Permitted hours means:
- On weekdays, other than Christmas Day, 8.00 a.m. to 11.00 p.m.
 - On Sundays, other than Christmas Day, 10.00 a.m. to 10.30 p.m.
 - On Christmas Day, 12 noon to 3.00 p.m. and 7.00 p.m. to 10.30 p.m.
 - Good Friday, 8.00 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;



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Licensing Act 2003

Premises Licence

33

ANNEXES continued ...

- The sale of alcohol to a trader or club for the purposes of the trade or club;
- The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess or members of Her Majesty's naval, military or air forces.

Annex 2

Conditions consistent with the operating schedule

Not applicable.

Annex 3

Conditions attached after a hearing by the licensing authority

Not applicable.

Memorandum

To: Principal Licensing Officer

From: Environmental Health Unit

Date: 20.11.08

My ref: NDP/08/00245/LICOTH

Your ref:



bromsgrove council
www.bromsgrove.gov.uk

**LICENSING ACT 2003, PREMISES LICENSE VARIATION.
ASDA SUPERMARKET, MARKET STREET, BROMSGROVE, B61 8DA.**

I refer to the above application for the variation of the premises licence to extend the supply of alcohol to twenty four hours a day, seven days a week and to include the provision of late night refreshment from 2300 hours to 0500 hours.

Having considered this application, I am concerned that the proposed variations may lead to additional deliveries to the store, potentially resulting in noise nuisance to local residents.

There is a previous history of complaints concerning noise from deliveries to this store, particularly with respect to night time deliveries. As a result of this, an agreement has been in force since 2005 limiting deliveries to between 0600 hours and 2200 hours. A trial extension of these hours was undertaken in April this year but was abandoned due to noise complaints, in the light of which I would not wish to see the delivery hours extended beyond the existing agreed hours.

I would therefore recommend that should the variation be granted, that in the interests of the prevention of public nuisance it is conditional upon the delivery times to the store remaining between 0600 hours and 2200 hours.

I trust this information is sufficient for your purposes, please do not hesitate to contact me if I can be of further assistance.

A handwritten signature in black ink, appearing to read 'N. Poole'.

Nathan Poole
Environmental Health Officer

21st November, 2008

Sharon Smith,
Principal Licensing Officer,
Bromsgrove District Council
The Council House,
Burdock Lane,
Bromsgrove, B60 1AA.

Dear Ms. Smith

Re: Asda Store, Market Street, Bromsgrove.
Application for variance in premises license to extend the
hours of supply of alcohol 24 hours a day, 7 days a week
and to include the provision of late night refreshment
from 2300 hrs to 0500 hrs. the following morning, 7 days a week

I was completely unaware of the above application until this week.

I fail to see why this extension is required as Asda already has a license for the time when it is open to sell alcohol.

There is already a problem in Bromsgrove fuelled by drinking in the town. Alcohol is already freely available.

Only last Friday a group of youths were congregated in church lane. Hanging around in the middle of the road, on the pavements and in residents gardens. They were drinking from bottles and cans. They were noisy, they were urinating in neighbours gardens. We did ring the police twice but we are unaware as to whether they attended as we were intimidated by the situation which was most disturbing; especially after dark. The following morning the debris left behind was disgusting! broken bottles, squashed beer cans, empty carling black label boxes which were on special offer in Asda!

To grant an extension for the supply of Alcohol is only going to exacerbate the existing problem of drinking in the town and surrounding streets. Residents are already putting up with noise, rubbish pollution fuelled by bad behaviour from drink. I believed the Town was an "ALCOHOL FREE ZONE".

We already suffer from this unsocial behaviour; any further supply will obviously result in an increase of out of control youngsters who seem to have no regard for themselves, residents and the Church, church and surrounding areas.

We can only assume, Asda in applying for this license, intend to extend their opening hours. We already have to endure noisy deliveries from 6.00 am until 10 p.m. This agreement is often abused causing a constant battle to contain this issue. With telephone calls to Environmental Health and Asda Head Office.

Already Asda attracts youths which congregate around the entrance of the Store. The outward appearance of the store also has deteriorated with the church street grounds now neglected. Shrubs have died, not replaced, rubbish regularly visible. Furthermore, it seems an additional bar Park has emerged on the corner of Church Street, adjacent to the Staff Smoking area, complete with galvanised buckets.

We have lived in Bromsgrove for 34 years and are saddened to see its decline. Granting of this license will only add to the towns problems and we strongly object to any further erosion of our peace and enjoyment of our home.

Yours sincerely

23rd November 2008

Licensing Section
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove B60 1AA

For the attention of Ms Sharon Smith

Dear Ms Smith

ASDA, Market Street, Bromsgrove

Application for variance in premises licence to extend the hours for the supply of alcohol 24 hours a day 7 days a week and to include the provision of late night refreshment from 2300 hours to 0500 hours the following morning 7 days a week

Following our meeting on the 18th November in connection of the above application I would like, on behalf of the local residents of Crown Close, Church Street, Church Lane, Church Road and Churchfields, to object strongly to this application on the following basis:

There is widespread concern across the whole country about alcohol consumption, in particular binge-drinking by young people. Asda's proposal flies in the face of this serious issue. Longer opening hours will encourage alcohol consumption, when most other agencies and individuals want to curtail it. This is utterly irresponsible.

It is unclear who needs refreshment throughout the night. More importantly it is unclear where this refreshment will be consumed. We face the prospect of Asda shoppers eating and drinking throughout the night in open spaces around the town centre, creating noise and leaving litter. The social nuisance is likely to be considerable. Asda's proposal is ill-conceived. They are not thinking about the town or its residents. The firm is putting profit before health, and before social responsibility.

As local residents we currently do constant battle with the litter left from alcoholic beverage, purchased from Asda, and consumed in the area by local youths. This is mainly around the Crown Close area where there are benches that encourage the gathering of youths many of whom appear to be under age.

The debris from this is so bad that we have to do our own "litter patrol", particularly at weekends, to ensure that the area does not degenerate further.

This activity results in a high level of unsocial behaviour that the local police are aware of and are doing their best to contain. Recent alcohol induced activity has resulted in criminal damage to a bench by the Burma Star War Memorial and the riding of scooters across the lawns on the Close. Again the local police and Council are aware of this.

There has already been one fatal incident outside the store and activity should be concentrated on reducing rather than increasing the risk factors

We believe that consideration should be given to the fact that where we live is a designated conservation area and we feel that the granting of the above extension would only exacerbate the current problems that we experience. Over the last 12 months we have seen a distinct improvement with the Council reacting and rectifying problems in the area very quickly. We have seen examples of this with street lights having bulbs replaced in a few days (previously this was taking months to rectify), railings being painted and the vast improvements on the general upkeep of lawns and hedges. We do not want to see this effort go to waste.

Only last night (Saturday) at around 8pm we had 5 youths sat on the footpath in Crown Close consuming alcohol. On Sunday morning empty bottles and debris, including the receipt were left behind – see enclosed photo and copy receipt. The youths all looked under age and I know it is likely that the drinks were bought by someone else but it does demonstrate the problem

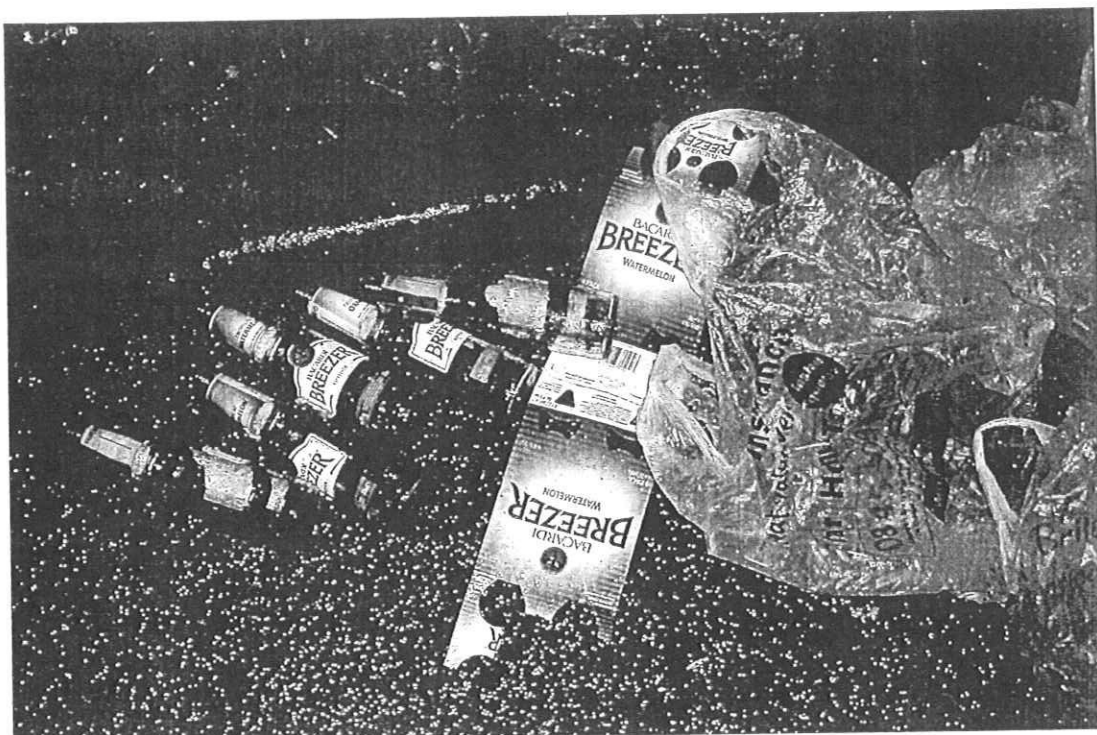
We also have concern over the potential increase of the Asda delivery schedules that would add to the frequency of high noise levels currently experienced by residents in Church Street and Church Lane. Asda are well aware of this issue as residents have made them aware of the problems in the past and some action has been taken but there are still regular issues that arise

We have little confidence in the Asda Store Management containing this potential problem as currently they seem unconcerned about the general state of the immediate area outside the store. Rubbish festers around the entrance, particularly at weekends, and it seems to take forever to remove it. Youths are allowed to congregate around the store entrance and around the covered side section fronting Market Street and entering the store can be very intimidating when they are around.

Asda staff smoke cigarettes, in full view of their customers, on the junction of Market Street and Church Street. On this same junction there was a well kept small grassed area with trees that is now being used as a mini car park for Asda staff/visitors destroying the grass and shrubs.

In an age where we are all trying to improve our local environment (encouraged by our Council) we will feel that we have been let down if the request is allowed and hope that common sense will prevail by not granting this application

Yours sincerely





there's no place like ASDA

ASDA STORES LTD.
WWW.ASDA.COM
MANAGER ANDRE BATCHELOR
TELEPHONE 01527-839500

ST. 4918 OP.	00001355	TE. 21 TR.	05646
B BREEZER	501067755450L		£3.82V
B BREEZER	501067755450L		£3.82V
B BREEZER	501067755450L		£3.82V
B BREEZER	501067755161L		£3.82V
B BREEZER	501067755161L		£3.82V
B BREEZER	501067755161L		£3.82V
ALCOPOP	501067755760L		£2.74V
ALCOPOP	501067755760L		£2.74V
BACARDI BRZR	501067755820L		£2.72V
BACARDI BRZR	501067755820L		£2.72V
WKD BLUE	502499372794L		£2.74V
WKD BLUE	502499372794L		£2.74V

TOTAL £39.32

MULTIBUY SAVINGS

ALCOPOPS 2 FOR £5	223L	
x3 MULTIBUY SAVINGS		-£1.40
4PK ALCOPOPS 3 F £10	903L	
x2 MULTIBUY SAVINGS		-£2.92

YOU SAVED £4.32

TOTAL	£35.00
CASH	£35.00
CHANGE DUE	£0.00

No. ITEMS SOLD 12

TC# 2087 5672 8471 1595 9643



"DRESSING GOWNS AND
SLIPPERS 20% OFF"
22/11/08 19:26:11

We also have concern over the potential increase of the Asda delivery schedules that would add to the frequency of high noise levels currently experienced by residents in Church Street and Church Lane. This is caused by lorries left with engines running whilst they wait in Church Street prior to offloading and Asda are well aware of this issue as residents have made them aware of the problems

We have no confidence in the Asda Store Management containing this potential problem as currently they seem unconcerned about the general state of the immediate area outside the store. They allow rubbish to fester around the entrance, particularly weekends, and seem to take forever to remove it. They allow youths to congregate around the entrance and around the covered side section fronting Market Street and entering the store can be very intimidating when they are around.

They allow their own staff to smoke cigarettes, in full view of their customers, on the junction of Market Street and Church Street. On this same junction there was a well kept small grassed area with trees that is now being used as a mini car park for Asda staff/visitors destroying the grass and shrubs

In a age where we are all trying to improve our local environment (encouraged by our Council) we will feel that we have been let down if the request is allowed and hope that common sense will prevail by not granting this application

Yours sincerely

I am pointing my views to paragraph 4, about alcohol & youths
on Sat morning 15th Nov. I looked out of my front window to
find broken glass, bottles & cans thrown across my drive & garden,
when I went to collect them up, which isn't the first time.
There were 5 or 6 cans thrown into the road along with broken
glass, as I pay a high council tax, I expect something to
be done about the situation, and also there are supposed to
be CCTV camera's looking across, are they working or not,
specially when its supposed to be a non alcohol zone

We also write to strongly object to the application from Asela. We totally agree with all of the comments in the letter attached hereto.

We are saddened to hear that the residents in Crown Close are now also suffering from the same problem of antisocial behaviour from drunken local youths that we in Church Lane have had to endure for many years.

We have on many occasions, had these youths coming onto our front drives to urinate and be sick. Also on numerous occasions on Saturday, Sunday & Monday mornings have to go out to pick up broken bottles, beer cans and other debris that has been thrown onto our drives or in the road in front of our homes.

If this application is allowed it will make the problems we are all suffering on a regular basis many times worse, as it will obviously attract many more youths to the area in search of Alcohol day and night.

We ask you please to do the right thing and Refuse this application.
yours Sincerely

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Yours sincerely

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