



## Licensing Act 2003 Sub-Committee

<b>Date:</b>	Thursday, 25 April 2013
<b>Time:</b>	10.00 am
<b>Venue:</b>	Committee Room 3 - Wallasey Town Hall

**Contact Officer:** Anne Beauchamp  
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**e-mail:** [annebeauchamp@wirral.gov.uk](mailto:annebeauchamp@wirral.gov.uk)  
**Website:** <http://www.wirral.gov.uk>

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### AGENDA

- 1. APPOINTMENT OF CHAIR**
- 2. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.
- 3. EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The following items contain exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.
- 4. APPLICATION FOR THE GRANT OF A PERSONAL LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 (Pages 1 - 10)**

**5. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR  
(PART 1)**

To consider any other business that the Chair accepts as being urgent.

**11.00 AM**

**6. APPLICATION TO VARY A PREMISES LICENCE - CONVENIENCE  
STORE, 7 OXTON ROAD, BIRKENHEAD (Pages 11 - 34)**

**7. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR  
(PART 2)**

# Agenda Item 4

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

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**LICENSING ACT 2003 COMMITTEE  
LICENSING ACT 2003 SUB-COMMITTEE**

25 APRIL 2013

<b>SUBJECT:</b>	<b>APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003</b>
<b>WARD AFFECTED:</b>	<b>BIRKENHEAD AND TRANMERE WARD</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF REGENERATION &amp; ENVIRONMENT</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to consider an application to vary a Premises Licence under the provisions of the Licensing Act 2003. The application is made by **Mr Milosz Kwiecien** and relates to the premises known as the **Convenience Store, 7 Oxtan Road, Birkenhead**.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 These premises currently have a Premises Licence with the following hours:

#### **Sale by Retail of Alcohol**

Monday to Saturday 08:00 to 23:00  
Sunday 09:00 to 23:00

#### **Hours Open to the Public**

Monday to Saturday 08:00 to 23:00  
Sunday 09:00 to 23:00

### 3.0 APPLICATION

- 3.1 The application to vary the Premises Licence is to extend the Licensed area so that the premises located at 9 Oxtan Road is included on the Licence.
- 3.2 The hours stated within 2.1 of this report are to remain unchanged.

### 4.0 PROMOTION OF LICENSING OBJECTIVES

- 4.1 Applicants are required to submit as part of their application an operating schedule that sets out how they will conduct/manage their business in accordance with the four Licensing Objectives. A copy of the full application is available.
- 4.2 Members of the Licensing Act 2003 Sub-Committee are advised that the proposals set out in the operating schedule may become conditions of licence should the licence be granted.

## **5.0 RELEVANT REPRESENTATIONS**

5.1 The following Representation has been received in respect of the above application.

A representation has been received from Birkenhead and Tranmere Ward Councillors. The representation relates to anti-social behaviour and the issue of street drinkers within the vicinity of the premises. The Councillors are concerned that if this application is granted the availability of alcohol may increase which will have a negative impact in relation to anti-social behaviour and street drinkers within the vicinity of the premises. A copy of the representation is available.

5.2 There have been no representations received from the following Responsible Authorities:

Wirral Safe Guarding Children Board  
Trading Standards  
Merseyside Police  
Planning Authority  
Fire Authority  
Environmental Health  
Primary Care Trust  
Wirral Licensing Authority

## **6.0 RELEVANT RISKS**

6.1 There are none arising directly from this report.

## **7.0 OTHER OPTIONS CONSIDERED**

7.1 There is no provision for other options to be considered.

## **8.0 CONSULTATION**

8.1 Statutory consultation has been undertaken in respect of this application.

## **9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

9.1 There are no specific implications arising from this report.

## **10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

10.1 There are no specific implications arising from this report.

## **11.0 LEGAL IMPLICATIONS**

11.1 A decision of this Committee can be subject to Appeal.

## **12.0 EQUALITIES IMPLICATIONS**

12.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

## **13.0 CARBON REDUCTION IMPLICATIONS**

13.1 There are no specific implications arising from this report.



## **14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

14.1 There are no Planning implications arising from this report.

## **15.0 RECOMMENDATION**

15.1 The Licensing Act 2003 Sub-Committee are asked to consider the application to vary the Premises Licence in respect of the above premises.

## **16.0 REASONS FOR RECOMMENDATION**

16.1 It is a statutory requirement for this Committee to determine the application due to relevant representations received.

**REPORT AUTHOR:**            **Richard Leyland**  
Licensing Team Leader  
telephone: 0151 691 8478  
email: [richardleyland@wirral.gov.uk](mailto:richardleyland@wirral.gov.uk)

## **APPENDICES**

- Application to vary a Premises Licence
- Representation received from a Ward Councillors

## **REFERENCE MATERIAL**

- None

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Licensing Act 2003 Sub-Committee</b>	<b>04/11/2011</b>

# Location Plan of Premises



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## Application to vary a premises licence under the Licensing Act 2003

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We MILOSZ KWIECIEN

*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Remises licence number LN/211001566

#### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description

7 OXTON ROAD

Post town

BIRKENHEAD

Postcode

CH41 2QQ

Telephone number at premises (if any)

653 7781

Non-domestic rateable value of premises

£

#### Part 2 – Applicant details

Daytime contact telephone number

078 10004932

E-mail address (optional)

Current postal address if different from premises address

Post town

Postcode

**Part 3 - Variation**

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?  Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

I would like to extend Convenience Store - Polish Shop at 7 OXTON ROAD to 9 OXTON Road.

I am running out of space due to number of different products. I would also like to sell more frozen food, fresh vegetables or vacuum packed meat, hams and sausages.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

**Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment**

**Please tick all that apply**

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Sale by retail of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed					
Thur					
			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Tue			
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri			
Sat			
Sun			



D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Wed					
Thur			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 3)</u>		
Mon					
Tue					
Wed					
			<u>State any seasonal variations for the playing of recorded music (please read guidance note 4)</u>		
Thur			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)</u>		
Fri					
Sat					
Sun					

G

<b>Performances of dance</b> Standard days and timings (please read guidance note 6)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)					
Mon								
Tue								
Wed						<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 4)		
Thur								
Fri						<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sat								
Sun								

H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 3)		
Wed					
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 4)		
Fri					
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sun					

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b><u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b><u>Please give further details here</u></b> (please read guidance note 3)		
Tue					
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sat					
Sun					

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 7)	On the premises	<input type="checkbox"/>			
				Off the premises	<input checked="" type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)					
Mon	8 <sup>00</sup>	23 <sup>00</sup>						
Tue	8 <sup>00</sup>	23 <sup>00</sup>						
Wed	8 <sup>00</sup>	23 <sup>00</sup>						
Thur	8 <sup>00</sup>	23 <sup>00</sup>				<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Fri	8 <sup>00</sup>	23 <sup>00</sup>						
Sat	8 <sup>00</sup>	23 <sup>00</sup>						
Sun	9 <sup>00</sup>	23 <sup>00</sup>						

K

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children** (please read guidance note 8).

Alcohol sell till 23<sup>00</sup>.

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	8 <sup>00</sup>	23 <sup>00</sup>	
Tue	8 <sup>00</sup>	23 <sup>00</sup>	
Wed	8 <sup>00</sup>	23 <sup>00</sup>	
Thur	8 <sup>00</sup>	23 <sup>00</sup>	
Fri	8 <sup>00</sup>	23 <sup>00</sup>	
Sat	8 <sup>00</sup>	23 <sup>00</sup>	
Sun	9 <sup>00</sup>	23 <sup>00</sup>	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

This variation I am asking for is NOT to increase the alcohol sell but to bring more food and non-food products that customers are asking for but can't be done due to lack of space. I also need more space to store all the products.



Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)**

Follow Challenge 25 Policy  
Working closely with trading standards  
Follow the licensing Policy  
Supply legal alcohol and tobacco.  
Staff training every 3 months

**b) The prevention of crime and disorder**

Working closely with Merseyside Police  
Refuse to sell alcohol to drunk or looking drunk people as well as looking under 25 years old without ID.  
Follow 4 licencing objectives  
Display all information to the customers about who can be sold alcohol.  
~~CCTV to be installed~~ to WBC minimum specification.

**c) Public safety**

Looking after the premises and around it.  
Making sure staff, customers, people who live around and myself are safe.  
Supply legal alcohol and tobacco from legal cash & carries.

**d) The prevention of public nuisance**

Making sure there are no drunk people around  
Refuse to sell alcohol to drunk people or after 23<sup>00</sup> or before 8<sup>00</sup>  
Making sure there are no rubbish around the shop

**e) The protection of children from harm**

Follow Challenge 25 Policy.  
Checking ID to anyone who looks under 25 years old  
Keep on recording in refusal book.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 11). **If signing on behalf of the applicant, please state in what capacity.**

Signature	<i>Milor Kmiecien</i>
Date	20 - 02 - 2013
Capacity	

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application** (please read guidance note 13)

Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

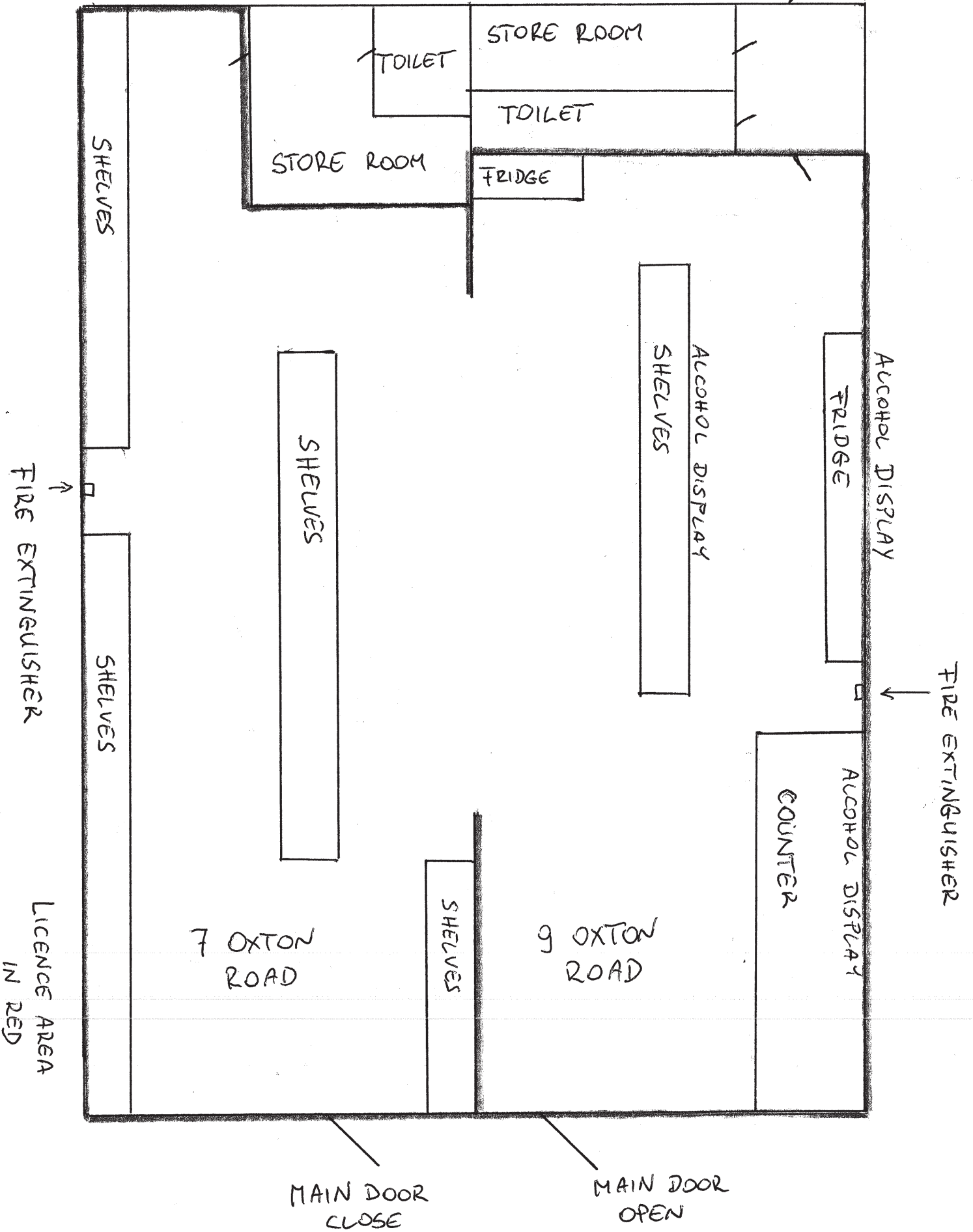
## Notes for Guidance

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

CONVENIENCE STORE POLISH SHOP  
7-9 OXTON ROAD

DOOR TO REAR



*Please reply to:*

Councillor Jean Stapleton  
85 Grange Road West  
Birkenhead  
Wirral, CH43 4XB

Ms. Margaret O'Donnell,  
Licensing Manager  
Regeneration & Environment  
Directorate  
Wirral Borough Council  
Town Hall,  
Wallasey.

Tel: 0151 201 5057  
Mob: 07929 780 326  
jeanstapleton@wirral.gov.uk

1 April 2013

Dear Ms. O'Donnell,

**Convenience Store, 7 Oxtan Road, Birkenhead – Mr. Milosz Kwiecien.**

I am writing, on behalf of my ward colleagues, Councillors Phil Davies and Brian Kenny and myself, to object to the application for the doubling in size of the above shop in Oxtan Road, Birkenhead.


My colleague, Councillor Phil Davies, objected to the original application for a licence on the grounds that there were too many similar facilities servicing a very small area and would add to the anti-social behaviour that was already being experienced by local residents.

I am sad to say that Councillor Davies has been proved right. Anti-social behaviour has, indeed, increased in this area which will be evidenced, no doubt, by the Police's objection to this application.

However, I can tell you that I am frequently contacted by local residents and, in particular, a local landlord whose tenants are constantly suffering from the affects of drunken people congregating to socialise and drink together on the street. Their subsequent behaviour is intolerable. Bad language and fighting occurs and we local residents have to suffer the blight of their abandoned empty beer cans and other forms of litter which obviously has to be cleared by the Council.

I would implore the Committee not to agree to this application as it will only increase the sale of alcohol and will undoubtedly impact on the levels of drunkenness and anti-social behaviour which have already contributed to a decline of the area.

Yours sincerely



Councillor Jean Stapleton.