

# **Licensing Act Sub-Committee**

## **Agenda**

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**Date:** Wednesday, 8th December, 2010  
**Time:** 9.30 am  
**Venue:** Council Chamber, Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Variation of Premises Licence - Wm Morrisons Supermarket, Station Road, Nantwich** (Pages 5 - 32)

To consider an application to vary the Premises Licence for Wm Morrisons Supermarket, Station Road, Nantwich.

### **PART 2 – THERE ARE NO PART 2 ITEMS**

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For requests for further information

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## CHESHIRE EAST COUNCIL

## PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

**NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.**

1	<b>Chairman</b>	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	<b>Committee Members</b>	May ask questions of the Licensing Officer
4	<b>Applicant</b>	Will present his/her case, calling witnesses, as appropriate.  <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	<b>Responsible Authorities (who have made representations)</b>	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	<b>Local residents</b> (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification.  <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	<b>Committee Members</b>	Each in turn may ask <u>questions</u> of the applicant.
8	<b>Applicant</b>	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	<b>Responsible Authorities</b>	Will make their representations.
10	<b>Applicant</b>	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	<b>Local residents</b> (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification.  <b>(Note: This is not the point at which local residents should be stating their objections.)</b>
12	<b>Committee Members</b>	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	<b>Local residents</b> (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <b><u>to make observations on the application</u></b> and present the bases of their objections.
15	<b>Applicant</b>	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	<b>Committee Members</b>	May ask <u>questions</u> of the Local Residents.
17	<b>Chairman</b>	To invite both <b>Responsible Authorities</b> and <b>Local Residents</b> to make their closing addresses.
18	<b>Applicant</b>	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	<b>Committee</b>	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	<b>Committee</b>	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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**Notes**

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

## SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

## CHESHIRE EAST COUNCIL

### LICENSING ACT SUB-COMMITTEE

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**Date of meeting:** 8<sup>th</sup> December 2010  
**Report of:** CAROLE KERR, LICENSING OFFICER  
**Title:** APPLICATION FOR VARIATION TO PREMISES LICENCE.  
WM MORRISONS SUPERMARKET, STATION ROAD,  
NANTWICH

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#### **1.0 Report Summary**

- 1.1 The report provides details of an application to vary the Premises licence for Wm Morrison Supermarket, Station Road, Nantwich. Representations to the variation have been received from three residents in the vicinity of the application site.

#### **2.0 Recommendations**

- 2.1 The Licensing Act Sub-Committee is requested to:
- 2.1.1. consider the representations received; and
- 2.1.2. determine the application for the grant of the variation to the Premises Licence

#### **3.0 Reasons for Recommendations**

- 3.1. The Licensing Sub-Committee has the power to determine this application. The Sub-Committee is asked to make the decision within 2.1 above taking into consideration the promotion of the licensing objectives and must also have regard to the Councils Statement of Licensing Policy and Guidance published under section 182 of the Licensing Act 2003.

#### **4.0 Wards affected**

- 4.1. Nantwich Ward

#### **5.0 Local Ward Members**

- 5.1. Cllrs A.Moran, A Martin and B.Dykes

#### **6.0 Policy Implications**

- 6.1 The Council has adopted a Statement of Licensing Policy under the 2003 Act relating to its functions as a Licensing Authority under the Act.

**7.0. Financial Implications 2010/2011 and beyond ( Authorised by the Borough Treasurer)**

7.1 None.

**8.0. Legal Implications (Authorised by the Borough Solicitor)**

- 8.1. In accordance with the provisions of section 35 of the Licensing Act 2003, in determining the application, the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. Section 35(4) provides that the steps the authority may take are:
- (a) to modify the conditions of the licence;
  - (b) to reject the whole or part of the application.

**9.0 Risk Management**

- 9.1 The Licensing Act Sub-Committee will hear representations made on behalf of both the applicant and the objectors and will make a decision on the basis of the evidence presented to it. The Act provides a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.

**10.0 Background and Options**

- 10.1 Morrisons Supermarket is licensed for the sale of alcohol as follows:-

**08:00am to 23:00 – (Mon – Sat)**

**10:00am to 22:30 - (Sun)**

The opening hours of the premises are as follows:-

**08:00am to 20:00 – (Mon-Wed and Sat)**

**08:00am to 21:00 - (Thurs/Fri)**

**08:00am to 16:00 - (Sun)**

A copy of the current licence is attached at **Appendix A** .

- 10.2 The application is to vary the licence to permit the sale of alcohol from 06:00 to 23:00 Monday to Sunday inclusive and to permit the premises to open from 06:00 to 23:00 Monday to Sunday inclusive.
- 10.3 There are no additional steps detailed in the operating schedule forming part of the application in relation to the promotion of the four Licensing objectives.
- 10.4 The supermarket is situated in a residential area bounded on all sides by residential properties, with a large car park to the front directly opposite a row of terraced properties. A location plan is attached at **Appendix B**.



**10.5 Relevant Representation  
Responsible Authorities.**

10.5.1 The Police do not object to the application.

10.5.2 Environmental Health do not object to the application.

10.5.3 There are no other comments from any of the other responsible authorities.

**10.5.4 Public Objections.**

Written representations have been received from three residents in the vicinity of the application site. The letters of objection are attached at **Appendices C – E.**

The writers state that longer opening hours at the store will mean higher levels of pollution, an increase in traffic and disturbance both late night and early morning.

The representations have been made under the prevention of public nuisance.

10.6 In making its decision, the Sub-Committee must have regard to comments from received from interested parties.

**11.0 Overview of year one and Term one issues.**

11.1 Not applicable.

**12.0 Access to Information.**

There are no background papers associated with this report.

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Designation: Licensing Officer

TEL No: 01270 537124

E-mail: [carole.kerr@cheshireeast.gov.uk](mailto:carole.kerr@cheshireeast.gov.uk)

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## Part A

**PREMISES LICENCE****Cheshire East Borough Council**

Premises licence number	<b>047</b>
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## Part 1 - Premises details

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

**Wm Morrison Supermarkets plc**  
**Station Road**

Post town **Nantwich**Post code **CW5 5SP**Telephone number **01270 627426**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**Sale by retail of alcohol**

The times the licence authorises the carrying out of licensable activities

<b>Monday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Tuesday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Wednesday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Thursday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Friday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Saturday</b>	<b>08:00</b>	<b>to</b>	<b>23:00</b>
<b>Sunday</b>	<b>10:00</b>	<b>to</b>	<b>22:30</b>

The opening hours of the premises

<b>Monday</b>	)	<b>Transitional conversion - times not stated on the application</b>
<b>Tuesday</b>	)	
<b>Wednesday</b>	)	
<b>Thursday</b>	)	
<b>Friday</b>	)	
<b>Saturday</b>	)	
<b>Sunday</b>	)	

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

**Off**

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Annex 1- Mandatory conditions

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 the Designated Premises Supervisor does not hold a Personal licence, or his/her 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.

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

The following conditions are effective from 06 April 2010-06-21

3. The responsible person shall take all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children –

- 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 price or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the licensing Act),
- 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,

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the premises of a sporting event, where the provision is dependent on-

- i. the outcome of a race, competition or other event or process, or
  - ii. the likelihood of anything occurring or not occurring,
- e) 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 the effects of drunkenness in any favourable manner.
4. The responsible person shall ensure that no alcohol is dispersed directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The following conditions are effective from 01 October 2010

6. a) The Premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- b) The policy must require individuals who appear to the responsible person to be under the age of 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 birth and a holographic mark.
7. The responsible person shall 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 half pint
  - ii. gin, rum, vodka or whisky 25ml or 35 ml; and
  - iii. still wine in a glass: 125ml; and
- b) customers are made aware of the availability of these measures.

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Annex 2 - Conditions consistent with Operating Schedule

None

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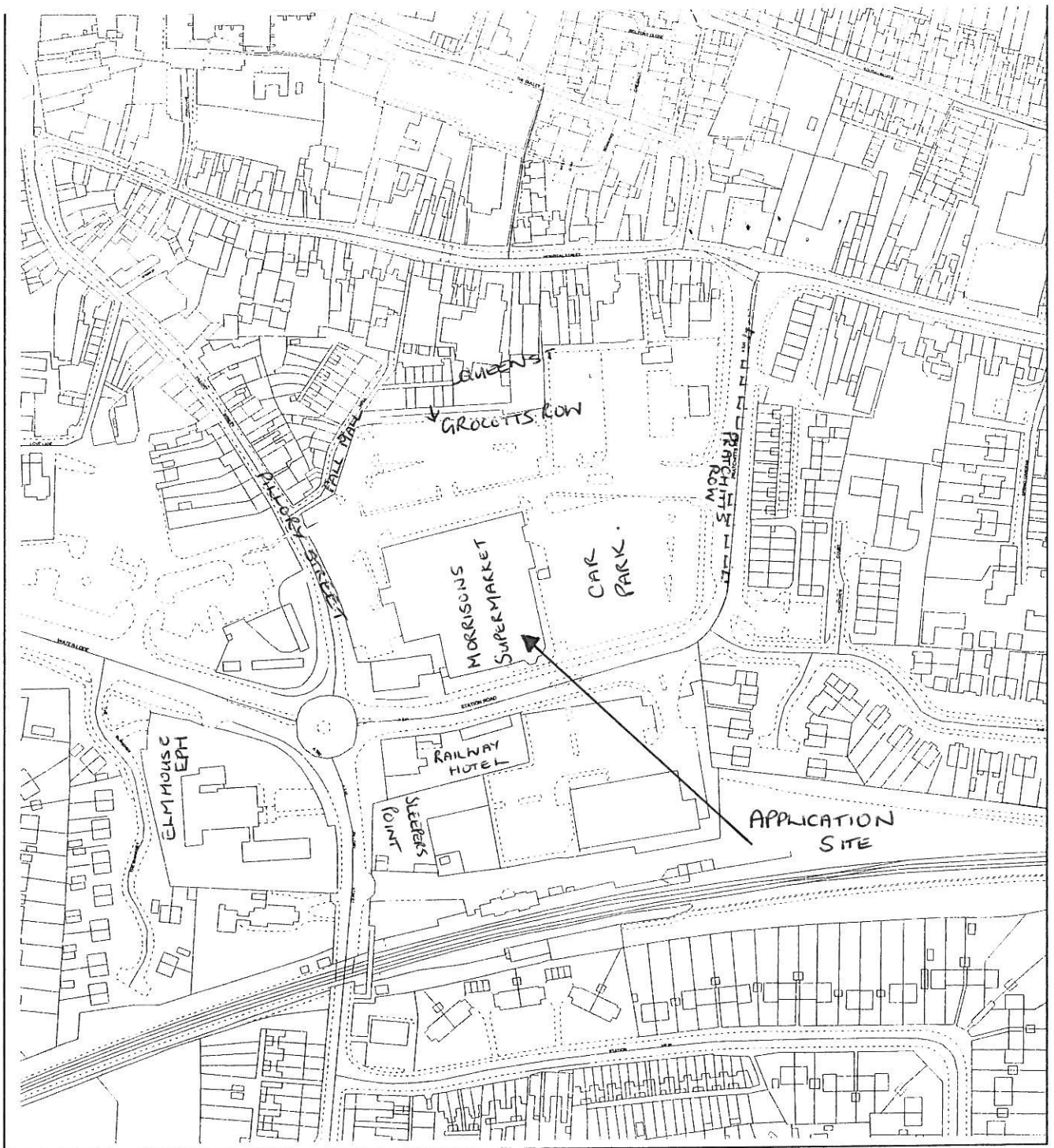
Annex 3 - Conditions attached after a hearing by the licensing authority

None

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LOCATION PLAN

WM MORRISON SUPERMARKET, NANTWICH.



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Dear Sir / Madam,

It has come to our attention that Morrisons (Nantwich store) has applied for longer opening hours, to include licensing hours. At the moment delivery lorries are not permitted to unload before 6 am (for a 8 am opening), but lorries are using local residential roads well before that.

Morrisons is in a very central location in Nantwich, and I believe that early and later opening hours would be very detrimental to not just local residents, but also to residents who are slightly further afield.

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Please consider us before these  
new opening hours are agreed to.

Many thanks, in anticipation;

Confirmation of receipt of this  
objection would be appreciated.

Thank you.



12 NOV 2010

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The Licensing Department,  
Cheshire East Council.  
Municipal Buildings,  
Earl St.,  
Crewe.  
CW1 2BJ

31<sup>st</sup> October 2010

Dear Sir/Madam,

Re WM Morrisons Store Station Road Nantwich

I believe that WM Morrison supermarket plc in respect of the above store have applied to Cheshire East Council to:

1. sell alcohol from 0600 to 2300 hours Monday to Sunday inclusive.
2. open the store from 0600 to 2300 hours Monday to Sunday inclusive.

I live opposite the above store and would like to object to these proposals on the following grounds.

- The store is situated in an Air Quality Management Area where there are elevated levels of Nitrogen Dioxide. Longer store opening hours would

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inevitably mean more traffic both cars and delivery vehicles producing higher levels of pollution.

- Pratchitt's Row is already an extremely busy road. We don't want more traffic.
- The noise and lights from the traffic leaving the store late at night will disrupt my sleep.

For the above reasons I ask that you refuse this application.

Yours faithfully.

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The Licensing Department,  
Cheshire East Council.  
Municipal Buildings,  
Earl St.,  
Crewe.  
CW1 2BJ

31<sup>st</sup> October 2010

Dear Sir/Madam,

Re WM Morrisons Store Station Road Nantwich

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Yours faithfully,

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