

## **LICENSING PANEL**

**WEDNESDAY, 5 JULY 2017**

PRESENT:- Councillors Vera Tomlinson, Peter Watts and Nick Martin.

An apology for absence was received from Councillor Emma Faramarzi.

### **48. Appointment of Chair**

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.  
(Councillor Tomlinson took the Chair.)

### **49. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

### **50. Application to vary Premises Licence, Unit 4, 1-8 Manchester Road, Swindon, SN1 2AB together with a copy of each relevant representation made and supporting documents**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application to vary the premises licence held by Unit 4, 1-8 Manchester Road, Swindon, SN1 2AB, (b) written representations opposing the application received from a local resident, (c) oral submissions opposing the application for variation from a local resident, (d) oral submissions in support of the application from the applicant and Mr Miah (Landlord), (e) questions from members to the applicant and objector and answers received, (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager introduced the report noting:

- The member of the public objecting to the application had made an objection against the premises during a previous application in September 2016.
- The objection was based on the undermining of the Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- The application for a variation of the Premises Licence had been made by Mr Mohammed Rasul Kader, the Premises Licence holder.
- The application for variation of the Premises Licence was being considered for a second time because of a discrepancy in paperwork at the original hearing and because an objector had not been invited to attend the original hearing.
- The application was to include both units 5 and 6 within the Premises Licence.
- The Premises Licence holder had complied with the conditions of the current licence in respect of the sale of alcohol even though he was currently trading from units 4, 5 and 6.
- Should the application for a variation of the Premises Licence was refused alcohol sales from unit 4 would still be permitted under the licence issued in

January 2016.

- The application also requested an extension to the sales of off sales only between 08:00 and 23:00 hours.
- Wiltshire Police had asked for the inclusion of conditions on the Premises Licence should the variation be approved and these were set out in the agenda papers. These had been accepted in their entirety by the applicant.
- The objection from one member of the public was the only objection received.
- The premises was currently trading as one shop and had no internal walls.

The Public objector's case can be broadly summarised as follows:

- That his objection remained similar to that made, but not considered, in September 2016.
- A licence was granted in 2016 for a premises situated in a locality that already had too many outlets selling alcohol.
- When the original application for a variation of the premises was considered in September 2016 it was for the sale of alcohol in units 4, 5 and 6.
- The shop's stock had been rearranged to sell alcohol in areas other than unit 4.

Responses from the objector to questions from Councillors can be summarised as follows:

- That the objection was as a local resident who had no commercial interest in the locality.
- The public disorder from street drinkers and litter arising from the concentration of shops with off-licences in Manchester Road and County Road together with the public houses and clubs in the close vicinity.
- That he believed because of the number of outlets selling alcohol in the vicinity this had led to shopkeepers standards dropping to gain customers.
- That he had lived in the area since 1983 and had seen it deteriorate through the cumulative effect of the increase of units selling alcohol and price war amongst them. This was evidenced by the recent decisions to revoke Premises Licences in the vicinity.
- That he recognised that the premises already had the right to sell alcohol and that this right would remain regardless of the Panel's decision.
- His views on the undermining of the Licensing Objectives was an accumulation of issues in the area and was not a specific reference to the shop in question.
- That the area was an Cumulative Impact Area which should mean that higher standards were required from outlets selling alcohol.

The applicant's case can be broadly summarised as follows:

- The premises already had a premises licence and could sell alcohol.
- The application was to extend the internal area of the shop for the sale of food including poultry and meat, the alcohol stocked would be moved closer to the till to allow staff to better monitor it.
- The shop had one entrance and had no internal divisions.
- He understood the concerns raised in respect of the sale of alcohol but it was not his intention to increase the levels of alcohol he kept which was currently

- on three shelves. This would be moved to a chiller cabinet.
- He did not sell single cans of alcohol nor high strength beers or ciders.
- He understood his obligations under the Licensing Act and had complied with the conditions on his Premises Licence and had further agreed to additional conditions requested by Wiltshire Police.
- There was to be no change in the Premises Licence holder or Designated Premises Supervisor.

The responses to questions from Members of the Panel can be broadly summarised as follows:

- He had six members of staff, two of whom had worked for him for ten years, and all these had been trained in the sale of alcohol and in maintaining the licensing conditions on his Premises Licence.
- The change in hours for the sale of alcohol had been made to reflect the opening hours of the shop.
- He was aware of the recent reviews undertaken against Premises Licences within the Borough and was aware of his duties under the Licensing Act.
- His staff had been trained to operate the stores CCTV equipment.

The objector had no questions.

Resolved – That after considering: -

1. The application for variation to the licence made by the Licensee; and
2. Representations and material put forward on behalf of the Objector;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular: -

- i. The prevention of crime and disorder;
- ii. The prevention of public nuisance

The Panel has determined the following: -

1. The permitted hours for the sale of alcohol be:  
Monday to Sunday 08:00 until 23:00.
2. The permitted Premises Licence be varied to include units 5 and 6, 1-8 Manchester Road, Swindon.
3. That the conditions requested by the Police as set out on page 29 of the agenda papers, and agreed to by the applicant, that are not currently attached to or modify the conditions on the existing premises licence shall be incorporated on the premises licence.

Reasons

1. The Panel noted that there were no representations received from the Statutory

Authorities.

2. The Panel in considering the evidence from the objector noted that the concerns raised in relation to the failure to uphold the Crime and Disorder and Public Nuisance Licensing Objectives were in relation to the vicinity in general and not related to the premises in question or its management.
3. The Panel noted that units 4, 5 and 6, 1 - 8 Manchester Road formed a single retail property without internal divisions.
4. The Panel noted that the Licensee had previously demonstrated he was a responsible licensee complying with the licensing conditions attached to his premises licence and had complied with all requests of the Council's Licensing Team.
5. The Panel heard evidence that the requested licensable hours are consistent with other premises in the vicinity.
6. The Panel was satisfied from the evidence provided by Mr Kader in relation to the management of the premises, together with the conditions imposed by the Panel and agreed to by him, that he would ensure that the Licensing Objectives would be upheld.
7. The Panel was satisfied through hearing evidence from Mr Kader that he understood his obligations to uphold the Licensing Objectives and to fully comply with all conditions attached to the Premises licence. No evidence was produced to indicate that the premises were poorly managed.

The Chair reminded both parties that they had a right of appeal to the Magistrates' Court against the determination of this panel and that such an appeal, must be commenced within 21 days of this determination.