

LICENSING PANEL

WEDNESDAY, 11 APRIL 2018

PRESENT:- Councillors Wayne Crabbe (Chair), Nick Martin and Eric Shaw

Apologies for absence were received from Councillors Peter Watts.

98. Appointment of Chair

Resolved – That Councillor Wayne Crabbe Chair this meeting of the Panel.
(Councillor Crabbe took the Chair.)

99. Minutes

Resolved – That the minutes of the meetings held on 19th December 2017 and 26th January 2018 be confirmed and signed.

100. 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.

101. Application for a Premises Licence, Super Pizza, 39 Fleet Street, Swindon, SN1 1RE

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Premises Licence for Super Pizza, 39 Fleet Street, Swindon, (b) written representations from the Licensing Authority and Wiltshire Police objecting to the grant of a Premises Licence, (c) oral submissions in support of the application, (d) oral submissions by the Licensing Authority and Wiltshire Police in support of their objections, (e) questions from Members to the applicant and objectors and answers received, and (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 options available to the Panel when considering the application.
- That there was currently no Premises Licence in operation at the premises following a review of the Premises Licence, previous held by Mr Suliman Aruby, on 7th September 2017.
- An appeal against the revocation of the previous Premises Licence had been made to the Magistrate's Court but had been withdrawn prior to the hearing.
- The current application made by Mr Amanullah Adil was set out in Appendix A to the agenda papers.
- Mr Adil had obtained three Temporary Event Notices since 12th December 2017 to operate the store prior to the Panel meeting.
- The application before the Panel was to permit Late Night Refreshments between 23:00 hours and 04:00 Hours daily.
- Objections from the Licensing Authority and Wiltshire Police were attached to

the agenda papers as appendices D, E and F.

The Licensing Authority's case for objecting to the grant of a Premises Licence and a summary of points raised can be broadly summarised as follows:

- That the application submitted by Mr Adil contained a false statement in respect of his home address which had been listed as 154 Manchester Road, Swindon, when in fact his home residence was 131 Beatrice Street, Swindon.
- That when the property had been visited during the periods of operation of the three Temporary Event Notices Mr Adil had not been present.
- That the application did not meet the criteria of Section 16(1)(a) of the Licensing Act 2003.
- Case Law in respect of the Guildford Case.
- Supporting documentation for the application did not suggest Mr Adil would be operating the business; noting there had been no submissions in respect of a range of documentation in his name relating to the business including a tenancy agreement, PAYE records, Pension scheme records, VAT records, National Insurance records, a business bank account, rent records, health certificates, Employee Liability Insurance or Public Liability Insurance.

Wiltshire Police's case for objecting to the grant of a Premises Licence and a summary of points raised can be broadly summarised as follows:

- That Mr Aruby was still in charge of the premises and operating illegally after 11:00pm.
- On each occasion the Police visited the premises following the withdrawal of the appeal to the Magistrates Court in respect of the removal of the Premises Licence Mr Aruby was present.
- That the application sought an additional two hours of operation which the Police objected to on the grounds they did not feel the present management was competent to operate.
- That a new nightclub was going to be operating in the vicinity and this would increase the risk of Crime and Disorder.
- That no proof of the transfer of ownership had been provided to the Police and a vehicle used for deliveries was still registered to Mr Aruby.

Responses to questions to the Police and Licensing Authority in respect of their objections can be broadly summarised as:

- It was believed Mr Aruby was still the owner of the premises at the time of the application.
- Mr Aruby had been present at the premises during visits undertaken by the Police.

Submissions in support of the application by the applicant can be broadly summarised as:

- That he had paid a deposit for the business to Mr Aruby, which if the application failed would not be returned.
- Mr Aruby had been helping at the premises during a period when his manager's wife was having a baby.
- He had been undertaking renovations on a part-time basis to 131 Beatrice

Street which was why he was living at 154 Manchester Road.

Responses to questions to the applicant can be broadly summarised as:

- That his address was 131 Beatrice Street but he was currently not resident there due to renovation work.
- Mr Aruby was at the premises on 10th April to help out at the shop and to transfer paperwork.
- The renovation at 131 Beatrice Street were taking a while to complete because of his work commitments.
- That Mr Aruby was not the owner of the premises.
- That a 4:00 am licence application had been made because the business was struggling financially under its current hours and there was a market for pizzas later than 2:00 am.
- He was not sure where the contract to take over the business was.
- He ran a chicken and grocery shop in addition to Super Pizza with his brother and a manager.
- He didn't know where documentation relating to employee records and Insurance was kept.

After considering: -

1. The application for the premises licence and representations made by the Applicant; and
2. Representations and material put forward on behalf of the Objectors;

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
- iii. Public Safety

The Panel has determined the application be refused. The reasons for this determination are that the Panel heard evidence: -

1. From the Police that during a number of inspections Mr Aruby, the previous premises licence holder was present and that Mr Adil was absent.
2. That the premises was open for business and serving customers after 11pm on 16 December 2017, without a valid Premises Licence in place in breach of section 136 of the Licensing Act 2003.
3. That Mr Adil informed the Panel that Mr Aruby was present and working at the premises on the day prior to the licensing hearing, indicating that he has an on-going involvement with the business.
4. Mr Adil gave evidence to the Panel that he had no knowledge of where the contract for his purchase of the business from Mr Aruby was located.

5. Mr Adil further gave evidence that he had no knowledge if employer liability insurance and other business related documentation for the premises was in place, and if such policies were in place in whose name they were held.
6. Mr Adil gave verbal evidence to clarify his residence, however no documentation in support of his submission was produced to the Panel or to the Licensing Authority when previously requested in breach of section 158 of the Licensing Act 2003.
7. That given the previous breach of the Licensing Act 2003 the panel had no confidence in Mr Adil's ability to promote and uphold the licensing objectives

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