

## LICENSING PANEL

**MONDAY, 23 APRIL 2018**

PRESENT:- Councillors Derique Montuat (Chair), Paul Dixon and Steph Exell.

Apologies for absence were received from Councillors Alan Bishop and Vera Tomlinson.

### **102. Appointment of Chair**

Resolved – That Councillor Derique Montaut Chair this meeting of the Panel.  
(Councillor Montaut took the Chair.)

### **103. 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.

### **104. Application for the grant of a Premises Licence in respect of 37 Cricklade Road, Swindon, SN2 1AA 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 for a Premises Licence for 37 Cricklade Road, Swindon, (b) written representations from Councillor John Ballman (Ward Councillor), three local residents and a 43 signature petition opposing the grant of a Premises Licence, (c) oral submissions in support of their objections by Councillor John Ballman and a local resident, (d) oral submissions in support of the application by the applicant, (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.
- That Miss Walker (applicant) had discussed an amended application with the Licensing Authority.
- That the application was for on sales of alcohol only.
- The application was set out from page 11 of the agenda papers pack.
- The hours requested for Recorded Music, Late Night Refreshments and Sale of Alcohol were Monday to Thursday 10:00 until 23:30 hours and Friday to Sunday 10:00 to 02:00 hours.
- That objections received were set out in the agenda papers from page 45 of the agenda papers and objectors and petitioners had been invited to attend the hearing.
- Any request for off sales of alcohol would need to be the subject on a variation should a Premises Licence be granted.
- Complaints, set out with representations against the grant of a Premises Licence, in respect of noise nuisance had not be substantiated by Council

officers but were the subject of current investigation.

- The consultation process had been undertaken in accordance with the appropriate regulations.

The case for refusing the grant of a premises licence by Councillor John Ballman and a local resident can be broadly summarised as follows:

- That the application if granted would not meet the test of the Licensing Objectives.
- That the proposed location was not suitable given that Gorsehill was primarily residential and retail business in nature. In addition Mervyn Webb Court, a residential sheltered housing development catering for 36 people aged between 60 and 90 years of age was situated immediately opposite the premises in question.
- That residential properties both to the sides of the premises and opposite were currently experiencing noise related problems.
- The vicinity already had two public houses, a club as well as smaller outlets for the supply of alcohol.
- The application was likely to lead to public nuisance late at night; especially given that custom was likely to be drawn from outside the immediate area.
- Public safety would also be impacted as late night drinkers would be drawn to the area.
- Gorsehill already had an issue with crime and disorder and a late night licence could only increase these problems at a time where a visible policing presence was diminishing.
- That Wilshire Police statistics on crime and disorder in the vicinity were understated.
- That music emanated from the premises up to 05:00 hours on occasions.
- The management of the premises had not engaged with local residents to deal with problems arising from the operation of the business.
- Glass bottles from the premises were being broken in the alleyway of the premises.
- Late night noise from the premises had been occurring regularly since October 2017.

Responses to questions to objectors can be broadly summarised as follows:

- The rear of the building had been used as a barbecue area.
- Music at the venue was currently provided by a small stereo player with speakers.

The case for the grant of a Premises Licence by the applicant can be broadly summarised as follows:

- That the applicant was content to remove music from the application.
- That it was intended to move the restaurant and bar to the Ferndale Club and use 37 Cricklade Road for retail purposes.
- That the applicant was content to amend the requested hours of operation for Late Night Refreshments and Sale of Alcohol to Monday to Thursday 10:00

until 23:30 hours and Friday to Sunday 10:00 to 00:00 midnight.

- The revised hours of operation requested were intended to address the concerns of local residents.

Responses to questions to objectors can be broadly summarised as follows:

- The premises were currently a restaurant and bar 11:00 until 23:00 hours and Temporary Event Notices had for a period of time permitted later hours.
- Customers currently brought their own alcohol to consume with their food.
- The current clientele was predominately African.
- The premises held six tables in the front of the building with a pool table in the rear room.
- The hours requested for Bank Holidays was intended to provide the business with flexibility should it so require it.
- The premises operated a challenge 25 policy and kept a refusals book.
- That there was not CCTV in operation but staff were vigilant.
- Children were occasionally on the premises if brought by patrons.
- The manager of the premises had management experience in operating two public houses.
- The management would endeavour to prevent noise nuisance emanating from the premises and when patrons left it.
- That the premises had experienced some racist graffiti due to its clientele.

Resolved – That after considering: -

1. The application for a premises licence as varied by the applicant at the hearing; 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 following: -

1. The permitted hours for the sale of alcohol be:  
Monday to Thursday 10:00 until 23:00.  
Friday to Sunday 10:00 am until 00:00am (midnight).
2. The permitted hours for regulated entertainment be:  
Monday to Thursday 10:00 until 23:30.  
Friday to Sunday 10:00 am until 00:00am (midnight).
3. The permitted hours for the Late Night Refreshments be:  
Monday to Thursday 10:00 until 23:30.  
Friday to Sunday 10:00 am until 00:00am (midnight).

4. The hours for non-standard timings that the premises shall be open shall be 10:00 to 02:00 on the following day for Christmas Day, Christmas Eve, Boxing Day, New Year's Eve and New Year's Day.

That in addition to the standard licensing conditions on the Premises Licence the following additional condition should be applied to the licence:

"That further to condition 2 above, a noise limiter shall be in operation during any amplified or unamplified music after 23:00 the level of which shall be set by the Licensing Authority".

### Reasons

1. The Panel determined that the revised application, reducing the requested hours of operation, together with the imposition of the additional condition requiring a noise limiter should be sufficient to protect the amenity of local residents.
2. The Panel heard evidence from local residents and the Ward Councillor regarding noise nuisance emanating from the premises. However the Panel noted that such instances had not be substantiated by the Council's Environmental Health team.
3. There was evidence from the Ward Councillor in respect of crime and disorder in the immediate locality however no representation was received from the police linking the premises to such activity.
4. The Panel noted that no objection had been received from any Statutory Authority.

The Chair reminded both parties that they had a 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.