

## **LICENSING PANEL**

**FRIDAY, 1 JUNE 2018**

**PRESENT:-** Councillors Alan Bishop (Chair), Steph Exell and Caryl Sydney-Smith

### **1. Appointment of Chair**

Resolved – That Councillor Alan Bishop Chair this meeting of the Panel.  
(Councillor Bishop took the Chair.)

### **2. Minutes**

Resolved – That the minutes of the meetings held on 9<sup>th</sup> March and 14<sup>th</sup> April, 2018 be confirmed and signed.

### **3. 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.

### **4. Application for the grant of a Premises Licence, Chicken Cottage, 116 Victoria Road, Swindon**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Premises Licence for Chicken Cottage, 116 Victoria Road, Swindon, (b) Oral submissions in support of the application by applicant's solicitor to the applicant, (c) written representations from local businesses and Ward Councillors opposing the grant of a Premises Licence, (d) oral representations opposing the application from Councillor Paul Dixon and Jane Milner-Barry (Ward Councillors) and the Chair of the Swindon Museum and Art Gallery, (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:

- That there is currently a Premises Licence in force at the premises but the licensee was not living in the Country and his status was unknown.
- That a new Premises Licence could be issued if Members were minded to approve the application.
- That the licensee was currently operating at the premises until 11:00pm daily which did not require a Late Night Refreshment Licence in accordance with the appropriate regulations.
- The hours requested within the application were set out within paragraph 3.5 of the report.
- Wiltshire Police had initially made comments regarding door supervisors but no Statutory Authority had made a formal representation.
- Three local businesses and Ward Councillors had made representations opposing the grant of a Premises Licence.
- That Members should have particular regard to Policy PN1 of the Council's

Statement of Licensing Policy (Protecting Local Amenity).

- That the current status of the Planning Permission in force at the premises was not a material consideration.
- Other premises in the vicinity with current Late Night Refreshment Licences.
- The options available to the Panel in reaching its decision.

The comments of Councillors Paul Dixon and Jane Milner-Barry and Mr Richard Hobden (Objector) in opposing the application can be broadly summarised as:

- That there had been a recent increase in anti-social behaviour arising from patrons leaving public houses and clubs in the area.
- That increasing the hours that take-away premises were open in the area would worsen the current situation and lead to an increase in Crime and Disorder by encouraging people to stay in the area for longer during the early hours of the morning.
- Local businesses were so concerned at the rise in anti-social behaviour that some were installing shutters and CCTV to protect their property.
- The premises was not ideally situated with double yellow lines and a zebra crossing on the highway outside.
- The concerns of local businesses and Ward Councillors who supported responsible businesses would not oppose the application if the hours requested were modified.
- That hours in line with other take-away premises in the vicinity would be more appropriate as the premises in question were on the edge of a Conservation Area.
- That there was a litter problem in the area and that the hours requested, including Bank Holidays, would likely lead to a worsening of this situation.
- The Museum and Art Gallery already experienced a considerable littering and issues which could be directly related to take-aways and the application as framed would be likely to increase this Public Nuisance.
- Additional Public Nuisance and anti-social behaviour in the vicinity included people urinating in doorways after they left late night entertainment venues.
- That the hours requested would be likely to increase the number of intoxicated people loitering on the streets in the vicinity.
- Insufficient thought had gone into the application in dealing with litter.

Responses to questions asked to Objectors can be broadly summarised as:

- A combination of a condition dealing with litter and reduced hours would allay many of the concerns of local people.
- There was currently one litter bin in the immediate vicinity of the applicant's premises.

The applicants' case in support of the application can be broadly summarised as:

- That under Section 182 of the Secretary of State's Guidance the primary advisor, and expert in the field of Crime and Disorder, was Wiltshire Police who was also responsible for the Late Night Economy and who had made no representations in respect of the application.

- That the lack of a submission from Wiltshire Police could be considered them being content with the grant of the application. Comments made outside of the formal response process were not relevant to the application.
- That Policy PN1 in the Council's Statement of Licensing Principles should be reflected upon as the application to strengthen the Night Time Economy and paragraph 1.4 confirmed that the Applicant was only responsible to issues relating to the immediate vicinity of his premises and could not be held to account for general Crime and Disorder and Public Nuisance that might occur in the wider vicinity.
- Crime and Disorder and Public Nuisance not directly related to the premises were the responsibility of the individuals concerned.
- The hours of operation and/or location of other take-away premises in the locality was not a matter for consideration for the Panel.
- The premises had cover for 20 places in the premises.
- Toilet facilities at the premises had disabled access and were open during the hours of operation. People urinating in doorways in the vicinity had no connection to the applicant and was irrelevant.
- All packaging material for the applicants refreshments were branded and therefore would be easily identifiable; comments relating to littering had been generic and not specific to the applicants' premises.
- That catering from late night refreshment premises could be deemed to help prevent anti-social behaviour.
- No representations had been received from any of the statutory consultees, including the Licensing Authority.
- Management at Chicken Cottage currently undertook a voluntary litter pick and maintained records of when these were undertaken. The applicant would be willing to have such an arrangement formalised through the imposition of condition on the premises licence if granted.
- The applicant had previously been manager of a busy late night refreshment premises for two years.

Answers to questions from Councillors and objectors can be broadly summarised as:

- That the anticipated level of clientele could not be accurately gauged at this time.
- That the toilet facilities on the premises would remain open for the duration of the trading period.
- That the last litter pick would be undertaken after the 30 minute consumption time following closing and would be undertaken by a minimum of two members of staff.
- That local crime statistics outlined by objectors were not relevant as there had been no formal police representation and that they had not been linked to the premises.
- Meetings had taken place with Wiltshire Police in respect of the application.
- That the ability to buy food would help the dispersal of people in the area as they would not congregate in areas such as taxi ranks.
- That the opening hours for other franchise premises were not relevant as the Panel would be required to consider the application on its own merit.

Resolved – That after considering: -

1. The application for grant of a Premises Licence and supporting evidence made by the Applicant and his Solicitor; 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 Public Nuisance
- ii. The Prevention of Crime and Disorder

The Panel has determined that the application, as submitted to the Licensing Authority be agreed, subject to the following conditions which shall be in addition to the Licensing Authorities Standard conditions and those set out in the application:

1. That the licensee shall undertake a minimum of two litter patrols a day outside the premises and outside the Swindon Museum and Art Gallery. One of the patrols shall be conducted at the close of business.
2. That the licensee shall maintain a record, including times, of all litter patrols undertaken, and that this record shall be available for inspection by statutory authorities.

### Reasons

1. Notwithstanding submissions from objectors the Panel noted that no representations had been received from Responsible Authorities.
2. The Panel considered the case law of R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others determined that any issues arising from the grant of a Premises Licence could be reasonably overcome by the imposition of conditions.
3. The Panel considered the imposition of a condition requiring management of the premises to undertake at least two litter picks per day and to maintain a record of such activities to be both reasonable and proportionate and noted that such a condition had been volunteered by the applicant's solicitor.
4. In granting a second Premises Licence for the property the Panel was mindful that the Licensing Act 2003 did not prevent this and that the judgement in Extreme Oyster, Star Oyster Ltd v Guildford Borough Council 2013 confirmed that multiple licences can have effect for the same premises.
5. That in giving consideration to the submissions of objectors, both written and oral, the Panel did not hear evidence directly linking Crime and Disorder or Public

Nuisance to the Premises.

6. Whilst sympathetic to the submissions of the objectors the Panel determined that the main issues relating to Public Nuisance, namely litter, could be addressed through the attachment of a condition to the Premises Licence.

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 the receipt of the determination including reasons.