

## **LICENSING PANEL**

**TUESDAY, 4 OCTOBER 2016**

PRESENT:- Councillors Alan Bishop, Maureen Penny and Vera Tomlinson

### **14. Appointment of Chair**

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

### **15. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. Councillor Vera Tomlinson made a non prejudicial declaration of interest in respect of Agenda Item No. 4 as she knew one of the objectors who made a submission.

### **16. Application for the grant of a Premises Licence in respect of Moredon Off Licence, 275 Whitworth Road, Moredon, Swindon**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Premises Licence for Moredon Off Licence, 275 Whitworth Road, Swindon, SN2 3BU, (b) written representations from Whitworth Road Residents Association, Rodbourne Cheney Residents Association, Mr S Hatt, Mr R Kimber and Miss P Strange (local residents) opposing the grant of a licence, (c) oral representations against the grant of a premises licence by Councillor Peter Watts (Ward Councillor), (d) oral representations by local residents in support of their written submissions opposing the grant of a premises licence, (e) conditions proposed by Wiltshire Police for inclusion on the premises licence, if granted, (f) oral submissions in support of the application by Ms Gonul Howell (applicant), (g) questions from Members to the applicant and objectors and answers received, and (h) 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 Officer introduced the report noting that:

- The application was for a premises licence for an Off-Licence at 275 Whitworth Road, Swindon.
- The premises had previously been a Post Office and had not previously held a premises licence.
- That a petition containing eight signatures opposing the grant of a premises licence had been received after the end of the consultation period. The wording of this petition had been included, for information, in the agenda papers pack but would not form part of the panel's consideration.
- The Police had submitted proposed conditions for inclusion on the premises licence, should this be granted, and the applicant had agreed to the conditions requested.
- The proposed designated premises licence holder lived within thirty minutes of the store location.

Councillor Peter Watts' made representations on behalf of local residents at Walker House, Whitworth Road Residents Association and Rodbourne Cheney Residents Association opposing the grant of a premises licence. These representations can be broadly summarised as:

- That local people believed that there was no need for an off-licence in the area around 275 Whitworth Road, Swindon as they believed the three supermarkets in the immediate vicinity catered for local needs (the opening hours of these stores covering Monday to Saturday 08:00 to 23:00 hours and Sunday 10:00 to 22:00 hours).
- There were currently parking problems on Whitworth Road and these would be exacerbated by an off-licence. There was currently one space with a maximum stay time of 30 minutes outside the premises and three others in close proximity on the road with a maximum one hour stay during daytime.
- After 5:00pm and on weekends the car parking spaces associated with the premises were used by local residents.
- The carparks for Farm Foods and Co-operative stores were for customer use only and were regulated by a local company.
- There were double yellow lines on both sides of Whitworth Road in the vicinity.
- The Road to the side of 275 Whitworth Road was private and offered access to the residential accommodation behind the proposed store.
- Residents already suffered problems of obstruction with cars blocking the alley.
- There were five flats that formed part of the 275 Whitworth Road premises (three accessed from the front and two from the rear) and they had the same landlord as the applicant.
- There was a real concern that the residents of these flats would suffer a loss of amenity through customers parking inconsiderately should the premises licence be granted.
- The site had previously been a post office and had operated at less intrusive hours.
- The Panel should give weight to the fact that so many local people had concerns in respect of the application.
- That should the premises licence be granted it was requested that this be through a temporary permission so that the effect of the business on the local community could be monitored and confirmed at a later date if there were no substantive problems. (It was noted that this was not an option available to the Panel.)

Representations were made by objectors on behalf of local residents, opposing the grant of a premises licence. These can be broadly summarised as:

- Parking problems along Whitworth Road had been a major issue when the Post Office at 275 Whitworth Road was operating and residents believed that, with the extended hours requested for the premises licence, this would become considerably worse; especially in the evening.
- Whitworth Road had previously been a B Road, which was not designed for high volumes of casual traffic and this was likely to cause problems for local residents.
- The extended hours of operation and the 08:00 start meant that it would add

to traffic during the morning school “run”.

- The operation until after 22:00 would lead to additional loss of amenity for residents through additional noise in the evening.
- There was restricted parking in the area and the car parks for Farm Foods and the Co-operative were only for use by customers of those shops.
- There was the real possibility that the premises could act as a magnet for younger people creating additional noise problems.
- There were two other outlets in the close vicinity that sold alcohol after 22:00 and local residents didn’t believe another one was required.

The objectors responded to questions put in respect of:

- Private parking provisions in the vicinity for local residents and in particular those in the area immediately adjacent to 275 Whitworth Road.
- Increased traffic problems on Whitworth Road arising from increased levels of traffic using the road.
- Residents’ views that an off-licence at 275 Whitworth Road would lead to increased volumes of traffic and parking problems.
- That the extended hours of operation requested would exaggerate the problems caused because they would be prevalent at later times.
- Access arrangements for the flats to the rear of 275 Whitworth Road.
- Whether the premises were currently in use.
- The planning permission in force for the premises allowing a convenience store to operate there.
- The opening hours of the other shops in the vicinity.
- Problems experienced at the premises when it operated as a Post Office.
- Previous levels of complaints regarding parking problems in that area of Whitworth Road.
- Parking restrictions currently in force on Whitworth Road.
- The potential for increased litter with the opening of an of-licence at the site.

The applicant commented on a number of issues, including, but not limited to:

- The application for a premises licence was intended to compliment the general store that was being opened.
- The store would include reference to Rodbourne Cheney to reflect its location.
- That parking was not considered to be an issue as the store was fairly small in size and was intended to cater for local residents.
- Due to its location and size it was not anticipated that it would attract a lot of passing trade.
- That the applicant was content to reduce the hours requested from 00:00 to 23:00 to help reduce the risk of noise nuisance to local residents.
- The premises had been run as a convenience store and/or Post Office for approximately 20 years.

The applicant responded to questions put by the Panel on:

- Issues with local car parking and where customers would be likely to park if the spaces available immediately outside the premises were taken.

- Whether the store would operate regardless of whether a premises licence was granted.
- Deliveries to the premises and whether these could be managed to avoid busy traffic periods and how they would be managed if no car parking spaces were available.
- The rationale for the hours of operation requested.
- The clientele that was expected to use the premises.

Resolved - After considering: -

1. The application for a premises licence 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;

the Panel determined that a Premises Licence be granted subject to: -

1. The permitted hours for the sale of alcohol be:  
Monday to Saturday 08:00 until 23:00.  
Sunday 08:00 until 22:30.
2. That the conditions requested by the Police and set out in the hearing papers shall be applied to the Premises Licence.

### Reasons

1. The Panel was satisfied that the conditions proposed by the Wiltshire Police, and agreed by the applicant (confirmed by the applicant at the hearing) would minimise the impact on the amenities of local residents and uphold the Licensing Objectives.
2. The Panel noted that the applicant had offered an amendment to the end sale time for alcohol and determined that in the light of this offer the end time be amended to 23:00 in order to help protect the amenity of local residents.
3. The Panel carefully considered the written and oral representations of those who opposed the application and the written and oral submissions of the applicant and were mindful that there had been no objections from the Statutory Authorities.
4. The Panel noted that applicants had confirmed the store would be opening regardless of the grant or otherwise of a premises licence.

5. Whilst carefully considering the objectors representations the Panel was mindful that harm caused by the grant of a licence needed to be definitively linked to the application and needed to be evidence based.

6. The Panel noted that whilst acknowledging current issues within the locality there was no evidence further nuisance would arise from the operation of the sale of alcohol at the premises give that the hours of operation were in line with nearby shops.

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 appeal, must be commenced within 21 days of the determination.