

## **LICENSING PANEL**

**WEDNESDAY, 23 JANUARY 2013**

PRESENT:- Councillors Junab Ali John Ballman, Alan Bishop and Wayne Crabbe.

An apology for absence was received from Councillor Alan Bishop.

### **59. Appointment of Chair**

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

### **60. 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.

### **61. Application to Review the Premises for The Village Inn, Ramleaze Drive, Shaw, Swindon**

The Panel considered (a) a report of the Council's Licensing Officer setting out details of an application to review the Premises Licence held by the Village Inn, Ramleaze Drive, Shaw, Swindon, made by a local resident, Mr. Vernon Montgomery and joined by six "other persons" (b) oral representations from Mr. Vernon Montgomery, Mrs. Simpson and Mr. Barnes in support of the application submitted, (c) written and oral representatives on behalf of Mitchells and Butler and Ms Greta Richardson (Manager and Designated Premises Supervisor, opposing the review in support of the application for a Premises Licence, (d) questions from Members to the applicants, representatives of Mitchells and Butlers, Ms. Richardson, Mr. Vernon Montgomery, Mrs. Simpson and Mr. Barnes, and (e) the Council's procedure for licensing hearings, Government Guidance and the Council's Licensing Policy.

After considering: -

1. The application for premises licence; 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's Licensing Statement:

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

- i. The Prevention of Public Nuisance

The Panel has determined the following: -

That the management and company is taking appropriate measures to reduce noise problems arising from smokers using the smoking area. Given the assurances of the solicitor acting on behalf of Mitchells and Butlers that the current voluntary

arrangement stopping the use of the smoking area after 11:00pm until effective remedial measures has been put into place, and given the Panel's opinion that reducing the hours of operation at this time is disproportionate, the Panel determined that no action be taken in respect of the review.

### Reasons

1. The Panel took into account the actions taken by Mitchells and Butlers and the manager of the Village Inn to interact with local residents by organising a meeting at the Village Inn.

2. The Panel took into account evidence from Mitchells and Butlers with respect to work being undertaken, on a voluntary basis, to reduce noise levels emanating from the smoking area.

3. The Panel heard, uncontested evidence, from Mitchells and Butlers that neither the company nor manager had been approached by local residents with concerns prior to the review application.

4. The Panel considered the request from those bringing the review that the smoking area be relocated to the side of the premises. However given evidence from Mitchells and Butlers as to the layout of the premises and from the manager that smokers using the current smoking area were unlikely to use a relocated smoking area the Panel determined that in this instance a remodelled smoking area designed to prevent unacceptable noise omissions was likely to be a more effective solution.

4. The Panel noted that no statutory authority had joined the review application.

6. The Panel heard evidence that only one noise complaint had been received in relation to the premises by the Council's Environmental Health team. Officers had not attended the site on this occasion to confirm noise nuisance or to take sound level measurements.

7. Given the absence of evidence from statutory authorities, the receipt of one noise complaint by the Council's Environmental team and the willingness of Mitchells and Butlers to seek remedial measures to reduce noise from the smoking area the panel considered that any reduction in hours in line with those set out in the review would be disproportionate given the evidence before it.

8. The Panel considered the alternative of altering opening hours that saw an earlier commencement time and closing time and an overall reduction of 5 hours of operation, as put forward by those bringing the review but determined that this was a management issue and to impose any such condition would be disproportionate given the evidence before it. Indeed the Panel heard evidence that there was no proportionate uplift in sales arising from operating between 11:00pm and midnight.

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 appeal must be commenced within 21 days of this determination.