

# **Application for a Premises Licence for 37-38 Fleet Street, Swindon**

**Licensing Panel**

**Date 22<sup>nd</sup> March 2013**

**Author: Licensing Manager**

**Wards Affected: Town Centre**

## **Purpose**

- To consider representations received in respect of a an application for the grant of a premises Licence application at 37-28 Fleet Street, Swindon

## **Recommendation**

The Licensing Committee is asked to, in light of the representations, to determine the application. The options available to the Committee are:

- To grant the application in its current form with conditions consistent with the operating schedule;
- To grant the application, but to modify the conditions by amending, altering or attaching new conditions; or
- To reject the application in whole or in part.

## **1. Reasons**

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

## **2. Detail**

- 2.1 An application for a premises licence has been received from Carmine Di Liso of 19 Torun Way, Swindon

- 2.2 The applications seeks the following:

- Provision of regulated entertainment to recorded music and performances of dance between the hours of 21.00 hours and 02.00 hours Tuesday to Wednesday and 21:00 hours to 04:00 hours Thursday to Sunday
- Sale of alcohol between the hours of 21.00 hours and 02.00 hours Tuesday to Wednesday and 21:00 hours to 04:00 hours Thursday to Sunday

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The hours open to the public will be between the hours of 21.00 hours and 02.00 hours Tuesday to Wednesday and 21:00 hours to 04:00 hours Thursday to Sunday

- 2.3 The applicant has offered measures contained within supporting evidence in order to promote the licensing objectives. A copy of this information and a copy of the application are attached as **Appendix A**.
- 2.4 The application was received on 8<sup>th</sup> February 2013 and was circulated to all responsible authorities and advertised in accordance with the Regulations. The last date for representations to be received was 7<sup>th</sup> March 2013.
- 2.5 Representations were received from Wiltshire police stating that should the application be granted it would undermine the Prevention of Crime & Disorder licensing objective. Copies of the representations are attached as **Appendix B**
- 2.6 Additionally 1 'other persons', namely residents stating that should the application be granted then it would undermine the licensing objective in respect of the prevention of crime & disorder. Copies of the representations are attached as **Appendix C**
- 2.7 There is currently no licence in force for the Premises. Previously the Premises has held a licence pursuant to the Licensing Act 2003 authorising sale of alcohol and regulated entertainment. This Licence was revoked in November 2011 and no Licence has been obtained since this time.
- 2.8(I) The Panel is requested to consider the application of a premises licence on its merits.
- (II) Subject to paragraph (III) below, Section 35(2) of the Licensing Act 2003 provides that the Sub-Committee must grant the application.
- (III) Having regard to the representations made by the interested parties, the Sub-Committee must take such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps are:
- To modify the conditions of the licence, whether by alteration or omission of conditions or the addition of new conditions. Any additional or altered conditions must be necessary for the promotion of the licensing objectives, proportionate and should address the matters raised in the representations. Additionally conditions can be imposed that are consistent with the steps set out in the operating schedule.
  - To reject the application in whole or in part.

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## **3 Alternative Options**

3.1 None

## **4 Implications, Diversity Impact Assessment and Risk Management**

### *Financial and Procurement Implications*

4.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to nuisance to the public or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

### *Legal and Human Rights Implications*

4.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

### *All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)*

4.3 This report relates to the requirements of Licensing legislation

### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

4.4 The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

### *Diversity Impact Assessment*

4.4 There is no DIA prepared in conjunction with this report

### *Risk Management*

4.5 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Policy is found not to comply with the requirements of the Licensing Act 2003 and associated legislation, regulations and guidance.

## **5 Consultees**

5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

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## **Alternative Options**

It would be possible to defer a decision or to defer the hearing itself to a later date but either step should be seen as an exceptional measure

## **Risk Management**

## **Background Papers and Appendices**

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| Appendix A | Premises Licence application    |
| Appendix B | Wiltshire Police representation |
| Appendix C | 'Other persons' representations |
| Appendix D | Representation from Pubwatch    |
| Appendix E | Site location plan              |
| Appendix F | Internal Premises Layout plan   |