

**Application for a Premises Licence for  
Morrisons, 47 Devizes Road, Wroughton, Swindon, SN4 0SA**

**Licensing Panel**

**Date 24<sup>th</sup> July 2013**

**Author: Licensing Officer**

**Wards Affected: Wroughton and Wichestowe**

**Purpose**

- To consider representations received in response to an application for a premises licence to be granted in respect of Morrisons, 47 Devizes Road, Wroughton, Swindon, SN4 0SA and to determine the application.

**Recommendation**

The Licensing Committee is asked, in light of the representations received, 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 W M Morrison Supermarkets Plc., Hilmore House, Gain Lane, Bradford BD3 7DL.
- 2.2 The application seeks a premises licence to be granted that authorises the following licensable activities:

Sale by Retail of Alcohol (for consumption off the premises).

Monday to Sunday inclusive                      07.00 hours to 23.00 hours.

- 2.3 The applicant has offered measures contained within the application to promote the licensing objectives. A copy of the application is attached as **Appendix A** and a plan of the proposed internal layout of the premises is attached as **Appendix B**.

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- 2.4 The application was made on 20 June 2013. It was circulated to all responsible authorities and advertised in accordance with the Regulations, with the last date for representations to be made being 18<sup>th</sup> July 2013.
- 2.5 Representations were received from 'other persons', namely residents, under the prevention of crime and disorder and the prevention of public nuisance licensing objectives. Copies of the representations are attached as **Appendix C**.
- 2.6 A licence had previously been issued by Swindon Borough Council under the Licensing Act 2003 that authorised the sale by retail of alcohol between the hours of 10.00 and 02.00, and the provision of regulated entertainment between 10:00 and 23:00 on Monday to Sunday and the provision of late night refreshment between 23:00 and 05:00 on Monday to Sunday. The premises is currently known as the Three Tuns Hotel but has ceased trading. The applicant has confirmed that the licence will be surrendered on determination of this application.
- 2.7 (I) The Panel is requested to consider the application for the grant of a premises licence on its merits, having regard to the Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- (II) Having regard to the information put forward by the applicant and the representations made by 'other persons', the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps, as set out in section 18(4) of the Licensing Act 2003, are:
- to grant the application, subject to such conditions that are consistent with the operating schedule which may be modified to such extent as the licensing authorities considers appropriate for the promotion of the licensing objectives, and also the relevant mandatory conditions that are applicable to the licensable activities authorised by the licence;
  - to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - to refuse to specify a person in the licence as the premises supervisor;
  - to reject the application.

### **3 Alternative Options**

- 3.1 None

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**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 crime & disorder or 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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**6 Alternative Options**

It would be possible to defer the determination of the application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

**7 Background Papers**

7.1 Licensing Act 2003

7.2 Swindon Borough Council's Statement of Licensing Policy

7.3 Amended Guidance Issued Under Section 182 of the Licensing Act 2003  
(*October 2012*)

**8 Appendices**

Appendix A Premises Licence application

Appendix B Internal Premises Layout plan

Appendix C Other Person's representations