

# Application for the grant of a Premises Licence in respect of LJ Food 'N' Wine Store, 42 Manchester Road, Swindon, SN1 1BT

Licensing Panel

Date: 21 November 2014

**Author:** Licensing Manager

**Wards Affected:** Central

## Purpose

- To determine the application submitted by LJ Food 'n' Wine Limited for the grant of a premises licence in respect of 42 Manchester Road, Swindon, SN1 2AG.

## Recommendation

Taking into account the representations made by all parties in respect of this application the Licensing Committee is asked 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, omitting 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 the grant of a premises licence in respect of 42 Manchester Road to vary the premises licence issued in respect of Food 'n' Wine Limited, 42 Manchester Road, Swindon SN1 2AG.

- 2.2 A copy of the application is attached as **Appendix A**.

- 2.3 The application seeks authorisation for the sale of alcohol for the following hours:

### Sale by retail of alcohol

Monday to Sunday inclusive 10.00 – 01:00

### Opening Hours

Monday to Sunday inclusive 08:00 – 01:00

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2.4 The applicant has offered conditions as contained within the Operating Schedule of the application and these will be attached to any licence if granted. These are as follows:

2.4.1 Records shall be kept in the form of an incidents log to cover escorting of patrons, complaints received, any incidents of crime and disorder, any refusal of sale of alcohol and any visit from a relevant authority or emergency service.

2.4.2 CCTV shall be installed within the premises and will cover all entrances and exits used by members of the public and also the alcohol sales area. The CCTV shall be made available to authorised officers on request

2.4.3 All fire safety equipment shall be maintained in accordance with fire regulations

2.4.4 Public areas shall be kept clean and free from obstruction. Clear signage shall denote all fire exits.

2.4.5 Clear and prominent signage shall be in place requesting customers to leave the premises quietly

2.4.6 A challenge 21 policy shall be in place at the premises and a record of refusals shall be kept on the premises.

2.5 A representation has been received from Wiltshire Police who consider that the granting of the application would undermine the prevention of crime & disorder licensing objective. A copy of this representation and additional information is attached as **Appendix B**. No representations were received from any other responsible authority or any other persons.

2.6 The Panel is requested to consider the application to vary the 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.

2.7 Having regard to the information put forward by the applicant and the representation made by the responsible authority, the Sub-Committee must take such steps (if any) that it considers appropriate for the promotion of the licensing objectives. The steps, as set out in section 35(4) of the Licensing Act 2003 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 appropriate for the promotion of the licensing objectives, proportionate and should address the matters raised in the representations.

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Additionally conditions can be imposed that are consistent with the steps set out in the operating schedule; or

- To reject the application in whole or in part.

## 3. Alternative Options

- 3.1 The determination of the application can be delayed to a date within five working days of the day (or the last day) on which the hearing is held, or the hearing itself can be deferred 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.

## 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*

- 4.5 There is no DIA prepared in conjunction with this report

### *Risk Management*

- 4.6 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

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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.

## **6 Background Papers**

- 6.1 Licensing Act 2003
- 6.2 Swindon Borough Council's Statement of Licensing Policy
- 6.3 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 (*October 2012*)

## **7 Appendices**

- Appendix A Application for the grant of a Premises Licence
- Appendix B Representation and additional received from Wilshire Police