

**Review of a Premises Licence in respect of;
'Best Barbecue'- 24 Victoria Road, Swindon SN1 3AW**

Licensing Panel

Date: 5 April 2017

Author:	Kathryn Ashton – Licensing Manager
Ward:	Eastcott
Locality Affected:	Central
Parishes Affected:	None

1. Purpose and Reasons

- 1.1 To consider the application for a review of a premises licence received from the Wiltshire Police in respect of Best Barbecue, 24 Victoria Road, Swindon SN1 3AW.

2. Recommendations

It is recommended that the Panel:

- 2.1 Considers the application made by the Wiltshire Police together with any supporting evidence, and determines the application for the review of the premises licence. The options available to the Panel are:
- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - To suspend the licence for a period not exceeding three months
 - To revoke the Licence

3.0 Detail

- 3.1 An application for the review of a premises licence in respect of Best Barbecue, 24 Victoria Road, Swindon, SN1 3AW has been received from Wiltshire Police who consider that the licensing objective in respect of crime and disorder is being undermined by current licensable activities at the premises. A copy of the Wiltshire Police's application and witness statement is attached as **Appendix A**.
- 3.2 Best Barbecue is a licensed premises, operating under a premises licence (ref: 881160360LAPV) attached as **Appendix B**. The licence was issued on 1st June 2016, and permits the sale of alcohol on Monday to Sunday from 15.00hrs to 00.00hrs; Late night refreshment Monday to Wednesday from 23.00hrs to

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01.00hrs, and Thursday to Sunday from 23.00hrs to 03.00hrs. The Designated Premises Supervisor is Mr Sinan KORKMAZ. Mr Mehmet SANCI ('Best Barbecue') is a sole trader.

3.3 The grounds for the review are stated in the Police's application as follows:

3.2.1 On 11th November 2016, Wiltshire Police officers conducted a routine licensing check at the premises. The Witness Statement of PC Diffin, attached as part of Appendix A, explains that at the time of his visit the DPS was not present and noted that a number of licensing conditions were being breached, namely conditions 8, 9 and 10. For clarification;

Condition 8 states-

A "Challenge 25" policy shall be operated, No member of staff shall be permitted to sell alcohol until trained in the operation of the "Challenge 25" policy. Any person who appears to be under the age of 25 who attempts to buy alcohol shall be challenged to provide age verification in the form of a passport, photo driving licence, or a PASS accredited card. Where proper verification is not provided the sale shall be refused. A record of the refusal shall be kept in a refusals book, identifying the member of staff who refused the sale.

Condition 9 states-

An incident book shall be kept on the premises to record the details of any instances of disorder or details of any persons who are detained on the premises or escorted from the premises. This shall be a bound book with sequentially numbered pages. The time the date and brief details of the incidents shall be recorded in the incident book and the names of the members of staff who dealt with the matter shall be recorded against each incident. The book shall be kept on the premises and shall be shown to any Authorised Officer on request at any reasonable time, and take copies if so needed.

Condition 10 states-

No staff shall be permitted to sell alcohol until they have completed training in relation to "Challenge 25" and the sale of alcohol to drunks this training shall be documented and kept on the premises and shall be documented and kept on the premises and shall be shown to a Police Constable or any authorised officer on request or at any reasonable time. Refresher training is to be conducted every 6 months and this is to be documented and available for inspection by a Police Constable or any Authorised Officer on request or at any reasonable time.

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- 3.2.3 At 22.00hrs PC Diffin spoke to Mr KORKMAZ, the DPS at the premises. Mr KORKMAZ advised PC Diffin that he was friends with Mr SANCI and had allowed himself to become the DPS at the premises until Mr SANCI had a personal licence himself. Mr KORKMAZ stated he had never attended the premises, or had he any involvement with the day to day running of it, and was not aware of the content of the premises licence.
- 3.2.4 On 12th November 2016 a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001 was served on Mr Mehmet SANCI and the premises was closed with immediate effect.
- 3.3 Since the lodging of the application for review the premises licence in respect of Best Barbecue, on 18th November 2016 Mr Mehmet SANCI submitted a minor variation application. The application sought to remove 'the sale by retail of alcohol' together with a number of conditions related to this licensable activity.
- 3.4 On 8th December 2016 the premises licence for 24 Victoria Road, Swindon SN1 3AW was varied and a new licence was granted.
- 3.5 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and supporting evidence, having regard to 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.

4. Alternative Options

- 4.1 It would be possible to defer the determination of the review 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.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime and disorder, 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.

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Legal and Human Rights Implications

- 5.2 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.

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

This report relates to the requirements of licensing legislation.

5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

5.5 **Consultees**

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

5.6 **Background Papers**

Licensing Act, 2003

Secretary of State revised Section 182 Guidance

Swindon Borough Council's Statement of Licensing Policy, (2016)

5.7 **Appendices**

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, (dated 18th November 2016), incorporating the Witness Statement of PC Diffin, (dated 12th November 2016).

Appendix B – Copy of Premises Licence, 24 Victoria Road, Swindon SN1 3AW (dated 1st June 2016).

Appendix C – Copy of extant Premises Licence dated 8 December 2016.