

**LICENSING PANEL (445)**

**15<sup>TH</sup> JUNE 2018 AT 10.00 A.M.**

**PRESENT:** COUNCILLORS: KEENS, D. TAYLOR AND WORLDING

**OFFICERS:** Colin Kenny – Licensing Officer  
Eunice Lewis - Democracy & Scrutiny Officer  
Brenden Delaney – Solicitor, Clerk to the Panel  
Rajesh Popat – Principal Solicitor – Luton Council (Observer)

**09. ELECTION OF CHAIR (REF: 1)**

**Resolved:** That Councillor D. Taylor be elected Chair of Panel No. 445-2018/19.

**10. MINUTES (REF: 2.1 & 2.2)**

**Resolved:** That the minutes of the Licensing Panel meeting held on 2<sup>nd</sup> May 2018, be agreed as true records and the Chair be authorised to sign them.

**11. APPLICATION FOR APPLICATION FOR VARIATION OF PREMISES LICENCE  
STREATLEY SF CONNECT – 91 BARTON ROAD, LUTON (REF: 5)**

**PRESENT**

**APPLICANT:** BP OIL UK LTD – CARL DAVIDSON - MANAGER

**APPLICANT'S  
REPRESENTATIVES:** BP OIL UK LTD  
ROBERT BOTKAI - SOLICITOR

**INTERESTED PARTIES:** MR O'NEILL  
MR BURCHELL  
TERENCE JLOTT

All parties present introduced themselves.

The Solicitor to the Panel explained the procedure at oral hearings before the Council's Licensing Panel.

The Licensing Officer reported on an application received for the variation of premises licence in relation to Streatley Service Station, 91 Barton Road, Luton LU3 2BL, Luton.

He advised that an application was received on 25<sup>th</sup> April 2018 for the variation of the Premises Licence that would allow the removal of all current conditions from their current licence, add new conditions and extend the hours for supply of alcohol to take place.

He reminded the Panel of the steps the applicant stated they would take to promote the licensing objectives, as set out in the report.

He further reported on representations objecting to the application from interested parties, Mr O'Neil (local resident), Mr Andrew Burchell (Representative of the Church supported by Mr Terrence (Witness)). The objection was mainly on the grounds of the prevention of public nuisance licensing objective relating to increased anti social behaviour if the variation application was granted.

There were no questions for the Licensing Officer from the applicant's representative and no questions from Members of the Panel.

The Chair of the Panel called on the Applicant's Representative to make representations.

Mr Robert Botkai Solicitor, addressed the Panel on behalf of the applicant, and made a number of key points in support of the application for the variation of licence including the following:

- In accordance with Sec 182 of the Home Office Guidance, the hours for the sale of alcohol should generally be able to match trading hours
- BP manages about 140 premises with 24 hours operation of alcohol licence
- The premises was not situated in one of the stress areas, as identified in the Council's Licensing Policy
- No representations had been received from responsible authorities including the Police and Environmental Health
- The store would operate with a minimum of 2 staff members at night with a remote door lock.
- The store manager and cashiers had worked in the store for a number of years and they know and work well with their regular customers
- There was no history of complaints caused by the store other than complaints raised by local residents about deliveries a few years ago
- Several attempts had been made to have a dialogue with Mr. and Mrs O'Neill but no response had been received as of yet. The company was willing to arrange a meeting to have discussions around this and to work together with neighbours to address any concern they may have
- That the concerns expressed about noise and congregation was mostly about perception and from experience would not materialise however, the company would do its utmost best to ensure they adhered to the licensing objectives and might consider reducing the hours should this become a problem.

- The Church also expressed concerns about the litters in the car park which had never been an issue in the area however, this could be addressed if the Church would agree a dialogue
- In terms of the car parking, it was unlikely that granting the application would result in use of the Church car park as this had never happened
- The issues and concerns expressed by the interested parties were likely to be fear of what may happen rather than what could actually happen

The Panel questioned the Applicant's Representative and he responded in the following terms:

- The company would be willing to have a working arrangements to manage litter that may impact on the Church if the application was to be granted
- BP was much more substantial in relation to door locks and the Police were satisfied with the proposed mode of operation
- The business was mostly about the brand and the quality of its food rather than alcohol and the sale of alcohol was only a small part of its business and possible less than 15%.

The interested parties questions the Applicant's Representative and he responded in the following terms:

- Most of the BP stations had schools within close proximity of its operation
- In relation to areas covered by CCTV operated by the store, this would only be made to cover the BP store area due to privacy rule

The interested parties were called to make representations and they made representations in support of their objections to the application and made a number of points in the following terms:

- The Grant of the License would impact on their worship services which take place from 8am in the morning and with lots of young people and children attending the Church. The Grant of the application could have a risk impact on the church and worshippers and breach one of the licensing objectives of the protection of children.
- Parking/Congregation and noise and traffic congestion would impact on local residents as a result of the variation to the licence

Members of the Panel asked questions of the interested parties and they responded in accordance to the Licensing Procedure as follows:

- In terms of congregating, it was not so much people in their cars, it was mostly the people on foot

In summing up, the Applicant's solicitor stated that there was no evidence that the grant of the licence would impact on noise, congregation or as a matter of fact breach any of the licensing objectives. He stated that the company would be willing to address the issues of litter with the church and extend their patrol to include the church. The company had never had any problems with any of their stores operated widely in other areas in the UK.

The Applicant asked the Panel to grant the application for the variation of licence.

The Church Representative welcomed the issue of a litter pick up and asked that this should be included as part of a condition if the licence was to be granted to ensure enforcement.

A request for the company to make arrangements in relation to picking up litter around private residences was rejected by the applicant.

Members considered whether the interest in retiring to make their decision without all the parties present outweighed the interest in holding their deliberations with them present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Following a brief discussion by Members, the Panel determined that the public interest of retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

**12. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)**

**Resolved:** That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, all the parties be excluded from the meeting during consideration of the decision in relation to the report of the Service Director, Business and Consumer Services (Ref:5) as referred to in Minute No. 11/18.

**13. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)**

**Resolved:** That all the parties be no longer excluded from the meeting.

**14. APPLICATION FOR APPLICATION FOR VARIATION OF PREMISES LICENCE STREATLEY SF CONNECT – 91 BARTON ROAD, LUTON (REF: 5)**

Following deliberations in private, the Panel was not satisfied that the concerns expressed by those making representations, that the grant of the application for variation would negatively impact on the licensing objectives, were founded. The Panel accepted that those making representations had genuine concerns about the granting of the application for the variation of the licence but did not consider that there was sufficient evidence to support refusing the application.

The Panel was mindful that to make such decisions required clear evidence, which it did not have, and that future issues and complaints about the company would render it susceptible to a review.

The Panel noted the premises license holder's position that resident's fears of anti-social behaviour etc, would not usually materialise after the grant of a 24

hour licence for the supply of alcohol. The Panel also noted the offer made by the license holder of their willingness to extend their litter patrol to the church car park.

At the Applicant's request the Panel determined that a condition relating to the provision of late night refreshment contained in the previous licensing conditions be imposed.

In addition the Council having regard to the licensing objectives set out in the Licensing Act 2003 ('the Act'), the Council's Statement of Licensing Policy and the Guidance issued under the Act;

**Resolved: (i)** Having carefully considered the papers before it and the oral representations made by Mr Robert Botkai on behalf of the Applicant and those made by the interested parties; Mr. O'Neill, Mr. Burchell and Mr. Jlott, together with their written representations the Panel determined to **GRANT** the variation application with the content of the operating schedule as contained in the applicant's application but subject to minor amendments;

(ii) The Panel determined to impose the condition relating to the provision of late night refreshment contained in the previous licensing conditions;

- a) That "Late night refreshment would be in the form of hot drinks and/or hot snacks such as, but not exclusively, coffee, tea, hot filled baguettes and other bakery items";
- b) That the condition in section b of the application, under the heading of licensing objectives, be amended to read:- "Any recording will be retrained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police and authorised officers of the Licensing Authority on request".

(iii) All other conditions remained as submitted in the application for variation of the licence.

**(Note: The meeting ended at 11.00 a.m.)**