

LICENSING PANEL (437)

8TH OCTOBER 2018 AT 10.00 A.M.

PRESENT: COUNCILLORS: KEENS, LEWIS AND RIVERS

OFFICERS:

Brenden Delaney	- Solicitor, Clerk to the Panel
Imran Tariq	- National Management Trainee (Observer)
Colin Kenny	- Licensing Officer
Raj Popat	- Principal Solicitor (Observer)
Bert Siong	- Democracy & Scrutiny Team Officer

30. ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Lewis be elected Chair of Panel No. 437.

(Note: All parties present introduced themselves)

31. MINUTES (REF: 2.1)

Resolved: That the minutes of the Licensing Panel meeting held on 13th August 2018, be agreed as a true record and the Chair be authorised to sign them.

32. APPLICATION FOR GRANT OF PREMISES LICENCE – D & S FOOD AND WINE, 85 ATHERSTONE ROAD, LUTON (REF: 5)

PRESENT

APPLICANT: Satishkumar Sivasubramaniam

APPLICANT'S REPRESENTATIVES: Frank Fender

INTERESTED PARTIES:

Tony Ireland	- Responsible Authority (Licensing)
	- Objector
Khtija Malik	- Resident - Objector
S.K.H Gilani	- Resident - Objector

IN ATTENDANCE:

Cllr Shaw	- Ward Councillor
Euan Duncan	- Press

The Solicitor, Clerk to the Panel informed Members that Cllr Shaw was present and wished to speak as an objector, although his representation by e-mail was deemed not valid, as not relevant to the licensing objectives. He advised the Panel that allowing him to speak would be contrary to the Licensing Act and may render any decision made on the application unsafe. He also advised that the Panel could not see his e-mails, as Members would then be aware of what he was saying.

From a question from Mr Frank Fender, representing the applicant, the Clerk also advised that Cllr Shaw should not interfere by taking and passing notes to any of the objectors present.

Resolved: The Panel considered the matter and decided that Cllr Shaw would not be allowed to speak, but could remain in attendance, as long as he did not interfere with the proceedings in any way.

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

The Licensing Officer reported on an application received from Satishkumar Sivasubramaniam of D & S Food and Wine, 85 Atherstone Road, Luton for the grant of a premises licence that will allow supply of alcohol for consumption off the premises, Monday to Sunday, from 7.00 am to 11.00 pm.

He drew the Panel's attention to pages 31 to 33 of the report (Ref: 5) setting out the steps the applicant would take to promote the licensing objectives.

He also drew the Panel's attention to the written representations in the pack, from a responsible authority and other objectors at appendices C and D, in relation to the prevention of crime and disorder, the prevention of harm to children and prevention of public nuisance and public safety licensing objectives.

There were no questions for the Licensing Officer from the Panel or any other parties present.

Mr Fender addressed the Panel on behalf of the applicant, setting out the case for the application. He said it was an application for a new premises licence, although the premises had previously held a premises licence under a previous ownership, which was surrendered.

He said the applicant was a Designated Premises Supervisor and experienced in alcohol sales, being the owner of 3 other licensed premises, 2 in Luton and 1 in Watford, all situated in residential areas, managed by himself and his staff. He added they were run in accordance with the legislation and had not been the cause of any issues and the applicant intended to manage the Atherstone Road shop in the same way.

In relation to the representation from the Licensing Authority on the basis of the licensing policy restricting off licences operating hours in residential areas, he advised that they had met with Mr Ireland and the applicant was prepared to amend his application to close at 10.00 pm, instead of 11.00 pm, a concession they would like the Panel to consider.

He added there had been no representations from the Police or Trading Standards.

Referring to the other representations and the petition objecting to the application on the basis of concerns about further alcohol sales in an overcrowded residential area, with parking issues, he summarised the concerns as set out in the

appendices. He drew the Panel's attention to the striking similarities between the representations and the same handwriting on the petition, suggesting they might have been written by the same person. He went on to say that the representations were nothing to do with the licensing objectives and speculative, as not evidenced and the issue of other licensed premises in the area was not a consideration for the Panel.

He reiterated that there had been no representation from the Police or Trading Standards and that if the issues with children had any substance, then why no representation from Children Services?

He reminded the Panel of the proposed measures the applicant would take to promote the licensing objectives, including CCTV, staff training, no congregating outside the shop, Challenge 25 and events register to show staff were doing their job.

He reiterated the applicant was an experienced operator with a proven record of not having caused any issues for the responsible authorities or residents, intent on promoting the licensing objectives and not undermine them. He requested that the application be granted, in line with the concession made to cease alcohol sales at 10.00 pm.

Mr Fender and the applicant were questioned by the Panel and they responded in compliance with the approved procedure, providing clarifications on a number of points, as follows:

- There was no accusation of impropriety intended in relation to the comments about handwriting on the petition;
- Other licensed premises in the area believed closed at 11.00 pm, not 7.00 pm.

Mr Gilani commented that some of the entries were written by the same person on behalf of and the request of other people who wished to make the same representations.

Mr Fender and the applicant were questioned by the interested parties and responded in compliance with the approved procedure, confirming that the applicants' other licensed premises, including the ones in Dunstable Road were all corner shops next to houses, operating between 6.30 am to 11.00 pm.

Mr Ireland addressed the Panel about his objection, which was mainly based on the council's licensing policy restricting off-licences hours to 10.00 pm in residential area, due to concerns from the community. He confirmed his meeting with the applicant and Mr Fender and the concession made to reduce licensing hours to 10.00 pm, which was acceptable to the Licensing Authority in line with the policy. He added that earlier interaction with the Licensing Unit before the application was made, would have been beneficial.

There were no questions for Mr Ireland from the Panel or any other parties.

Mr Gilani addressed the Panel stating he would still object to alcohol sales to 10.00 pm. He re-iterated his objections to the application as set out in his written submission, which included public nuisance, effects of alcohol on

children, occurrence of crime and parking issues. He added a fridge had been left of the street for a week causing additional parking issues.

Mrs Malik also addressed the Panel about her objections to the application, on the basis of public nuisance, antisocial behaviour and impact on crime, drunken people walking around and impact on the health of children. She would be happy if alcohol sales was restricted to 7.00 pm.

In response to a question from the Panel, the applicant confirmed the shop did not sell alcohol.

The objectors were then questioned by the Panel and responded in compliance with the approved procedure.

Mrs Malik confirmed she would accept it if alcohol sales was restricted to 7.00 pm, which would help reduce antisocial behaviour, similar to a shop near the L&D Hospital, which closed at 7.00 pm.

The objectors were then questioned by Mr Fender and responded in compliance with the approved procedure.

Mrs Malik stated the shop near the hospital was about a quarter of a mile away and agreed it was along way from Atherstone Road.

In respect of a further concession from the applicant to stop sales at 9.00 pm, Mr Gilani said he would prefer 7.00 pm to minimise nuisance at night.

Mrs Malik agreed 9.00 pm was a reasonable compromised offer. Mr Gilani also then agreed to 9.00 pm closure.

The applicant was happy to make the further concession to change his application to restrict sales of alcohol to 9.00 pm.

In summing up, Mr Fender agreed earlier interactions could have helped and re-iterated the applicant's willingness to make a further concession to limit alcohol sales to 9.00 pm, when he also intended to close the shop. He commented that if the Panel was minded to grant the application, if there were any issues arising, he requested that the applicant be given the opportunity to resolve them prior to involving the authorities and the review process.

In summing up for the objectors, Mrs Malik thanked the applicant and Mr Fender for considering community concerns and agreeing to reduce the opening hours.

The Clerk to the Panel advised that the number of other licensed premises in the area was not relevant to the application and should be disregarded by the Panel. He added that their powers and options were as set out in the report and that the concession made by the applicant to restrict alcohol sales to 9.00 pm could be considered, but the Panel was not bound by it.

There being no final words from any parties, 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 interest of retiring to make their decision without all the parties present outweighed the interest in holding their deliberations with them present.

33. 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. 32/18.

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

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

35. APPLICATION FOR GRANT OF PREMISES LICENCE – D & S FOOD AND WINE, 85 ATHERSTONE ROAD, LUTON (REF: 5)

Resolved: Having carefully considered the papers before it and the oral representations made by Mr Fender on behalf of the Applicant and those made by Mr Ireland, Mrs Malik and Mr Gilani in objection to the application;

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; and

Having also considered the concession made by the applicant to amend the end of licensable hours to 9.00 pm, the Panel decided to **GRANT** the application, as amended, to permit the sale of alcohol Monday to Sunday, from 7.00 am to 9.00 pm, with conditions as set out in the application.

36. 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 private minutes of the meeting held on 13th August 2018 (Ref: 7) as referred to in Minute No. 37/18 below.

37. MINUTES (REF: 7.1)

Resolved: That the private minutes of the Licensing Panel meeting held on 13th August 2018, be agreed as a true record and the Chair be authorised to sign them.

(Note: The meeting ended at 10.55 a.m.)