

LICENSING PANEL (80)**13 November 2018 at 2.00 pm****PRESENT:** COUNCILLORS: CAMPBELL, KEENS AND D. TAYLOR

OFFICERS:	Andrew Dobbin	- Trainee Democracy & Scrutiny Officer
	Sonia Rafferty	- Licensing Officer (Items 6 & 8)
	Saffron Long	- Licensing Officer (Item 5)
	Julia Miller	- Licensing Officer (Item 10)
	Raj Popat	- Solicitor, Clerk to the Panel
	Bert Siong	- Democracy & Scrutiny Officer
	Sarah Vippond	- Licensing Officer (Item 9)

38. ELECTION OF CHAIR (REF: 1)**Resolved:** That Councillor D. Taylor be elected Chair of Panel No.80.

Note: All parties present introduced themselves.

39. MINUTES (REF: 2.1)**Resolved:** That the minutes of the Licensing Panel meeting held on 8 October 2018, be agreed as a true record and the Chair be authorised to sign them.**40. APPLICATION FOR GRANT OF PREMISES LICENCE, LUTON FOOD AND WINE, 23 BLOOMFIELD AVENUE LUTON (REF: 5)****PRESENT****APPLICANT:** SELLIAH KARUNAKARAN**APPLICANT'S REPRESENTATIVE:** KEITH WALMSLEY**INTERESTED PARTIES:** SELLIAH KARUNAKARAN
(THE APPLICANT AS PETITIONER)

The 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 Selliah Karunakaran for the grant of a Premises Licence in relation to Luton Food and Wine, 23 Bloomfield Avenue Luton that will allow the supply of alcohol Monday to Sunday, 8:00 am to 11:00 pm for consumption off the premises.

She drew the Panel's attention to the steps the applicant stated they would take to promote the licensing objectives, as set out in the report (Ref: 5).

She further reported on representations objecting to the application received from 2 nearby residents on the basis of the prevention of crime and disorder and public nuisance licensing objectives and a petition in support of the application submitted by the applicant. She also informed the Panel the applicant wished to submit a paper for their consideration.

On legal advice from the Clerk, the Chair ascertained that the applicant's representative would refer to the information in the paper when addressing the Panel and on that basis, the document was received.

In the absence of any questions from any of the parties present, Mr Keith Walmsley, the applicant's representative addressed the Panel in support of the application.

He informed the Panel the applicant and his wife owned two groceries stores with premises licence to sell alcohol and had 17 years of experience in the business. The application was for a new store to replace the small store on which the landlord had terminated their lease.

He added the new store would be refurbished if the application was granted and that it would sell mainly groceries and fruit and vegetable, with alcohol being only a small part of the business.

He reiterated information provided in the application and informed the Panel that the applicant had entered into early negotiation with the Responsible Authorities, and hence these had not made any representations.

In relation to the representations from the nearby residents, he said the applicant was aware of and understood the concerns, but believed it would be unfair to link crime and disorder, public nuisance, litter and traffic issues to the licensed premises. He further said there had been support from 45 nearby residents for the new licensed premises expressed in the petition submitted by the applicant. The signatories to the petition came from Bloomfield Avenue (11), Somerset Avenue (11), and other surrounding streets (23).

He went on to inform the Panel of research he had undertaken from the Police UK website, showing crime statistics for the immediate area (70 metres radius) of the licence premises for the summer months July to September 2018 compared with the same period in 2017. He referred to the document tabled earlier and said that according to the statistics there had only been 1 burglary in September 2017 and 1 vehicle crime in September 2018 in the area selected.

He reminded the Panel of the requirements of the Council Licensing Policy and the statutory guidance and stated that the location of the proposed licensed premises was not in the designated stress area. He also pointed out that parking and traffic issues were not relevant consideration for Panel. He requested that the application be granted, unless the Panel had good reasons not to do so.

The applicant and his representative were questioned by the Panel and they responded in compliance with the approved procedure, providing further information as follows:

- The applicant's other stores were in one in Turner's Road South and the other near to Bloomfield Avenue, which would be closing;

- 23 Bloomfield Avenue was not currently a shop, but would be if application granted;
- There was a gated public access behind the store, which was not within the control of the applicant;
- The petition was completed in the applicant's store by his customers visiting the shop, not from him knocking door to door. Their addresses were provided and could be made available to the Panel if required and were all within the vicinity of the proposed licensed premises. Alcohol sale was mentioned in the narrative at the top of each page of the petition.

In summing up the case for the application, Mr Walmsley said many areas were not well served, with many shops and pubs closing down. The applicant was making an investment, which would be create employment and provide more amenities and convenience for local customers and contribute to the local community. The Government was reducing business rates to encourage such small businesses.

He added the premises would be mainly a convenience store, not an off-licence and mentioned the fact that the applicant was aware about the review process, if the premises were to breach the licensing objectives. He requested the application be considered fairly on its own merit and granted as applied for.

The Clerk advised the Panel of the powers and options opened to it, as set out in the report (Ref: 5).

In response to a question from the Panel, the applicant said that the shop would open at 6.00 am to prepare newspapers, but not sell alcohol until 8.00 am. Alcohol products would be behind shutters until then.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Members considered whether the public interest in retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

Following 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.

41. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press and all parties to the application, except the Clerk and Administrators be excluded from the meeting during consideration of the decision in relation to the report of the Strategic Regulatory Manager, Operational Compliance and Support (Ref: 5) as referred to in Minute No. 40/18.

42. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That, following their deliberations, the public and press and all parties to the application be no longer excluded from the meeting.

43. APPLICATION FOR GRANT OF PREMISES LICENCE, LUTON FOOD AND WINE, 23 BLOOMFIELD AVENUE LUTON (REF: 5)

Resolved: Having carefully considered the papers before it, the oral representations made by the Applicant's representative, Mr Walmsley, on behalf of the applicant and in addition 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, the Panel decided that the application be **GRANTED** as applied for, to allow the sale of alcohol to be consumed off the premises between 8.00 am and 11.00 pm, Monday to Sunday.

44. APPLICATION FOR GRANT OF PREMISES LICENCE, MALDOVA, 23 MANCHESTER STREET LUTON (REF: 6)

PRESENT

APPLICANT: LULIANA MADALINA BUCUR

APPLICANT'S

REPRESENTATIVES: PATRICK BURKE
FAZIL FAISAL (APPLICANT'S PARTNER)

INTERESTED PARTIES: TONY IRELAND (LUTON COUNCIL'S STRATEGIC REGULATORY MANAGER)

PC DARREN WELCH (LICENSING OFFICER, BEDS POLICE)

All parties present introduced themselves.

The 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 Luliana Madalina Bucur for the grant of a Premises Licence in respect of Maldova, 23 Manchester Street Luton that will allow the supply of alcohol Monday to Sunday, from 7:00 am to 11:00 pm for consumption off the premises.

She drew the Panel's attention to the steps the applicant stated they would take to promote the licensing objectives, as set out in the report (Ref: 6).

She further reported on representations objecting to the application received from an Interested Party, who was absent today and the Strategic Regulatory Manager on behalf of Luton Council's Licensing Service, a Responsible Authority, on the basis of the prevention of crime and disorder and public nuisance licensing objectives.

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

In response to a query from a Member of the Panel, Mr Burke, the applicant's representative said the shop, situated in Manchester Street, sold Romanian goods.

Mr Burke then addressed the Panel in support of the application, re-iterating that the store specialised in Romanian goods and had opened without a premises licence. He said the applicant wished to add alcohol sale, but was aware of the problems in the area and hence wished to offer to accept further conditions, in addition to those in the operating schedule in the application, if the licence was granted. The additional conditions offered included the following:

- All spirits would be kept behind the counter;
- No sale of super strength lagers/ beers above 6.5% ABV;
- All beers and lagers to be sold in sealed pack of 4 and not refrigerated;
- No single can sale;
- No spirits, including miniatures below 35% proof to be sold;
- Licensing hours changed from 7.00 am to 11.00 pm to 8.00 am to 11.00 pm;

He stated the shop was completely different and unlike any others in the area and would not provide the same attraction to street drinkers. He added the applicant had some experience with alcohol sale working in her mother's shop in Romania and was aware of the local problems despite being new to the area.

Mr Burke and the applicant were questioned by the Panel and responded in compliance with the approved procedure, confirming that the applicant's mothers premises in Romania was a shop only, not a shop/ restaurant.

Mr Burke and the applicant were questioned by the Panel and responded in compliance with the approved procedure, confirming that the applicant's mothers premises in Romania was a shop only, not a shop/ restaurant.

Mr Burke and the applicant were questioned by PC Darren Welch, the Police Licensing Officer and responded in compliance with the approved procedure. Mr Burke said he had made the applicant aware of the local problems from his own research. The applicant confirmed she had held a personal licence only for 2 weeks.

Mr Faisal, the applicant's partner, stated he had worked in shops in the area for 2 years and he was working at the premises now.

The Strategic Regulatory Manager from the Luton Council's Licensing Service, a Responsible Authority addressed the Panel, informing members the basis of his objection was that the application was in conflict with the Council's Licensing Policy, Manchester Street being situated in the identified stress area. In accordance with the Policy, no application for alcohol off sale should be granted, unless the applicant could show how they would address and mitigate the problems in the stress area. The burden had hence shifted from the presumption to grant such applications and required the applicant to provide information how they would meet the policy, which she had failed to do in this application.

He added the premises was now within the stress area covered by the 8 Public Spaces Protection Orders (PSPO) introduced in response to problems with street drinkers and had seen 175 interventions by Neighbourhood Enforcement Officers since July 2018. Data from the Street Drinkers Programme had identified St George's Square as one of the top problem locations in the Town Centre.

He also informed the Panel the applicant had not worked in partnership with the authorities, having had limited contact with the Licensing Service and had not shown the steps required to promote the licensing objectives and address community impact, as per the Policy.

The Strategic Regulatory Manager was questioned by the Panel and responded in compliance with the approved procedure, confirming that a current licensed premises selling alcohol in the stress area had had their licence before the Policy was invoked and if they were to close down, the Responsible Authority would object to an application by the new owner.

There being no questions for Luton Council's Strategic Regulatory Manager or from any other parties, PC Darren Welch from Bedfordshire Police, a Responsible Authority, addressed the Panel about his objection to the application.

He supported the Strategic Regulatory Manager's objection, as the Police also believed if the application was granted, it would undermined the prevention of crime and disorder and prevention of public nuisance licensing objectives.

He referred to the statement provided by Sgt Harrison, who was in charge of the Town Centre policing, highlighting the problems with street drinking and antisocial behaviour in the area, which would increase if further alcohol sale was made available.

He also supported the fact that the applicant had not gone far enough in the application to address the issues, which he said would not be helped by the additional conditions offered. He pointed out that according to the shop plan, it seemed alcohol would be the main (50%) of the products on sale at the premises.

PC Welch was questioned by the Panel and responded in compliance with the approved procedure, confirming the Police had had one call from the applicant about the additional conditions and that early consultation with the Police had not taken place.

There were no questions for PC Welch from any other parties.

Mr Burke queried about the stress area being upgraded in July 2018 and why a premises in the stress area had been granted a licence since 2016.

The Strategic Regulatory Manager confirmed the PSPOs came in force in July 2018, making it harder for premises licenses to be granted. He added that the premises issued a licence since 2016 had closed down due to the conditions imposed.

In summing up, Mr Burke for the applicant reiterated that the premises would only sell Romanian goods and alcohol and added that the additional conditions offered would be more than adequate to allay concerns in relation to the community impact.

There were no more representations from the Strategic Regulatory Manager or PC Welch, the Interested Party.

The Clerk to the Panel informed the Panel of their powers and options, as set out in the report (Ref: 6).

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Members considered whether the public interest in retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

Following 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.

45. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press and all parties to the application, except the Clerk and Administrators be excluded from the meeting during consideration of the decision in relation to the report of the Principal Licensing Officer (Ref: 6) as referred to in Minute No. 44/18.

46. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That the public and press and all parties to the application, be no longer excluded from the meeting.

47. APPLICATION FOR GRANT OF PREMISES LICENCE, MALDOVA, 23 MANCHESTER STREET LUTON (REF: 6)

Resolved: Having carefully considered the papers before it, the oral representations made by Luton Council's Strategic Regulatory Manager, PC Welch and the Applicant's representative, Mr Burke on behalf of the applicant and in addition, 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, the Panel decided that the application be **REFUSED**.

The Panel was not satisfied that the additional conditions offered by the applicant were sufficient reasons for it to depart from the Council's Licensing Policy.

48. APPLICATION FOR VARIATION OF DESIGNATED PREMISES SUPERVISOR, THE WELL, 5 HIGH TOWN ROAD, LUTON (REF: 8)

In the absence of the applicant, the Panel decided to adjourn the application to 10.00 am on 26 November 2018.

Resolved: That the application for the variation of the Designated Premises Supervisor, The Well, 5 High Town Road, Luton be adjourned until 10.00 am on 26 November 2018.

49. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

In view of the fact that Item 9 below involved confidential personal information about the Premises Licence Holder, the Panel discussed and agreed to consider the application in private and excluded the press and the public from the hearing.

Resolved: That the press and public be excluded from the meeting during consideration of Item 9 below, as the Panel believed that the public interest in so

doing outweighed the public interest in the hearing of that item taking place in public, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005. The reason for this was due to the likelihood of confidential personal information relating to the Premises Licence Holder being made public

50. APPLICATION FOR REVIEW OF LATE REFRESHMENT PREMISES LICENCE, DIAL-A-KEBAB, 29 NEW BEDFORD ROAD, LUTON (REF: 9)

PRESENT

APPLICANT: TONY IRELAND (LUTON COUNCIL'S STRATEGIC REGULATORY MANAGER)

PREMISES LICENCE HOLDER: F.Z

PREMISES LICENCE HOLDER'S REPRESENTATIVE: S.A (SOLICITOR)

INTERESTED PARTIES: PC DARREN WELCH (LICENSING OFFICER, BEDS POLICE)

All parties present introduced themselves.

The 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 the Strategic Regulatory Manager of the Luton Council's Licensing Service, a Responsible Authority, for the review of the review of the Premises Licence in respect of Dial-A-Kebab, 29 New Bedford Road, Luton.

The Strategic Regulatory Manager from the Luton Council's Licensing Service, a Responsible Authority addressed the Panel in support of his application for the review of the premises licence.

The Strategic Regulatory Manager was questioned by the Panel and responded in compliance with the approved procedure.

PC Welch addressed the Panel in support of the application.

There were no questions for PC Welch from the Panel or the applicant.

PC Welch was questioned by the Premises Licence Holder's representative, on behalf of the premises licence holder and responded in compliance with the approved procedure.

The premises licence holder's representative addressed the Panel on behalf and in support of his client.

In summing up, the Strategic Regulatory Manager, the applicant, requested that the Panel make their decision using the civil standard, that is, on the balance of probabilities.

In summing up, PC Welch supported the Strategic Regulatory Manager's submission.

In summing up, the premises licence holder's representative addressed the Panel, requesting that revocation of his client licence should not be the first option considered and that the Panel's decision should not be harsh and disproportionate.

The Clerk advised the Panel of their powers and options, as set out in the report to promote the licensing objectives.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, 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.

54. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, all parties to the application, except the Clerk and Administrators, be excluded from the meeting during consideration of the decision in relation to the report of the Principal Licensing Officer (Ref: 9) as referred to in Minute No. 53/18.

55. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That, following their deliberations, all parties to the application be no longer excluded from the meeting.

56. APPLICATION FOR REVIEW OF LATE REFRESHMENT PREMISES LICENCE, DIAL-A-KEBAB, 29 NEW BEDFORD ROAD, LUTON (REF: 9)

Resolved: Having carefully considered the papers before it, the oral representation made by Luton Council's Strategic Regulatory Manager, the applicant, PC Welch for Bedfordshire Police in support of the applicant and the premises licence holder and his representative and in addition 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, the Panel decided that the premises licence, in relation to Dial-a-Kebab, 29 New Bedford Road, Luton be **REVOKED**.

The Panel made their determination on the balance of probabilities, due to concerns about the undermining of the licensing objectives.

The Panel considered all other options and powers available to it on an application for a review, but was not satisfied that any of them would promote the Licensing Objectives.

57. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

In view of the fact that Item 10 involved confidential personal information about the Personal Licence Holder, the Panel continued in private

**58. APPLICATION FOR TRANSFER OF LATE REFRESHMENT PREMISES
LICENCE, DIAL-A-KEBAB, 29 NEW BEDFORD ROAD, LUTON (REF: 10)**

PRESENT:

APPLICANT: ABSENT

APPLICANT'S REPRESENTATIVE: S.A (SOLICITOR)

PREMISES LICENCE HOLDER: F.Z

INTERESTED PARTIES: TONY IRELAND (LUTON COUNCIL'S
STRATEGIC REGULATORY MANAGER)

PC DARREN WELCH (LICENSING
OFFICER, BEDS POLICE)

In the absence of the applicant, who was represented by S.A, the applicant's representative, the Panel considered their decision.

Resolved: That the application for the Transfer of Late Refreshment Premises Licence, Dial-a-Kebab 29 New Bedford Road, Luton be adjourned to a date to be agreed.

(Note: (i) Item 5 ended at 2.35 pm;
(ii) Item 6 ended at 3.10 pm;
(iii) Item 8 started and ended at 5.20 pm;
(iv) Item 9 started at 3.30 pm and ended at 5.17 pm;
(v) Item 10 started at 5.18 pm and ended at 5.19 pm)
(vi) The meeting ended at 5.20 pm)