



**LICENSING PANEL
10 MARCH 2020
11.00 AM - 12.37 PM**

Present:

Councillor Ms Moira Gaw (Chairman)
Councillor Tricia Brown
Councillor Ian Leake

Also Present:

Amanda Ward, Licensing Officer
Donald Adams, Legal Advisor
Lizzie Rich, Clerk
Resident spokesperson

14. Declarations of Interest

There were no declarations of interest.

15. The Procedure for Hearings at Licensing Panels

The procedure for hearings at Licensing Panels was noted by all parties.

16. Application for a variation to premises licence for Sandhurst Service Station, 102 Yorktown Road, Sandhurst, GU47 9BH

The application was for variation to the Premises Licence to;

- (1) Extend the permitted hours for the sale of alcohol for consumption off the premises from the current 06:00 – 23:00 Monday to Sunday, to 00:00 – 24:00 (i.e. 24 Hours a day) Monday to Sunday
- (2) Remove condition 14 of the Licence conditions (concerning the licensable activity of the provision of Late Night Refreshment), so as to permit the provision of both hot food and hot drink between the hours of 23:00 – 05:00 Monday to Sunday
- (3) Vary condition 13 of the Licence conditions to read “The entrance door to the shop will be closed to customers between the hours of 23:00 and 05:30. Any sales between these hours will be made through the night pay window”
- (4) Change the registered address details of the Licence holder as stated on the Licence to read that St Albans address as stated in the application

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant,
- the Interested Parties;

together with reference to the appropriate Licensing objectives and provisions under the Licensing Act 2003, the Home Office Guidance issued in respect of the same and having regard to the Council's own Statement of Licensing Policy.

At the conclusion of the proceedings, all participants present confirmed that they had been given the opportunity to say all they wished to say. It had been acknowledged at the commencement of the Panel hearing that everyone present had all the relevant documentation before them and had an opportunity to read the material.

The Panel noted that while there had been one representation made by Thames Valley Police in respect of customers' possible use of the entrance door to the shop after 23:00, this had been mediated with the applicant, resulting in the above-referred sought variation to Licence condition 13. It had been agreed with Thames Valley Police's Licensing Officer that the entrance door of the premises would be closed to customers between the hours of 23:00 and 05:30. Subsequent to this amended condition proposal which had been agreed with the applicant, no further representations had been received from the Police or any other Responsible Authority.

The Panel reached its decision with a view to promoting the four Licensing objectives under the Licensing Act 2003, being the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm, noting the particular relevance of the prevention of public nuisance and the prevention of crime and disorder objectives in this application as a result of representations received orally and in writing from interested parties.

The Panel noted that the Applicant's premises, including shop, is already open for business 24 hours a day and that in accordance with Home Office Guidance issued under The Licensing Act 2003, shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises during any times when the retail outlet is open for shopping unless there are good reasons based on the Licensing objectives for restricting those hours.

The Panel determined that there was insufficient evidence before it to conclude that granting the Licence variation would have an adverse impact on the promotion of the four Licensing objectives. The Panel thus determined that the Licence variation as sought to permit the selling of alcohol for 24 hours a day, 7 days, for consumption off the premises, **be granted** to align with the current operating schedule of the premises.

The Panel also determined that the licence variation as sought concerning provision of Late Night Refreshment **be granted** to permit the sale of hot food as well as hot drink between the hours of 23:00 – 05:00 Monday to Sunday. The Panel, having noted that a previous Licensing Panel of this authority had granted the Late Night Refreshment Licence with condition that it be limited to the sale of hot drinks only, now agreed that there was no evidence before it to suggest that the sale also of hot food would significantly add to residents' concerns. The previous Licence condition 14 was thus removed.

The Panel also noted the mediation that had taken place between Thames Valley Police and the applicant and **granted** the application as sought to amend Licence condition 13 to read "The entrance door to the shop will be closed to customers between the hours of 23:00 and 05:30. Any sales between these hours will be made through the night pay window"

The Panel also **granted** the sought application to change the Licence holder's registered address as stated on the Licence to read that St Alban's address as provided in the application.

The Panel determined that the amended conditions attached to the Licence were proportionate, justifiable, capable of being met by the Applicant and appropriate to the promotion of the Licensing objectives.

Reasons

The Panel heard from a spokesperson on behalf of residents, as well as noting all written submissions from residents. All the representations submitted referred to existing noise and general disturbance at the premises, particularly at night time, and residents proposed that the sale of alcohol on a 24 hour, 7 days a week would exacerbate such concerns.

However, the Panel also noted that there was no log of any concerns being raised with the premises or with Police in respect of noise or anti-social behaviour relating to the premises. For this reason, the Panel agreed that there was no substantial evidence before it that the existing noise issues could be attributed solely to the premises in question. There was some conflict between the objectors' representations and the applicant's agent's representation. Residents referred to incidents of staff running down the street, staff members making a phone call from the forecourt about an attack, staff members smoking on the wall outside the premises, and loud anti-social behaviour coming from cars on the forecourt. However, as there was no evidence of these incidents having been reported to the Police or to the premises management, the Panel could not be certain that they could be attributed to the premises. The applicant's agent attested that there was no record of any such events, nor any record of any calls to the Police from the premises. The Panel noted that the premises had changed management in 2018 and recognised that incidents may have been reported prior to this change.

The applicant's agent had confirmed that in light of the amended Licence condition as agreed with Thames Valley Police, the discretion around the use of the night pay window had been removed from the licence and all sales between the hours of 23:00 and 05:30 would be undertaken through the night pay window.

It was confirmed that the premises did have CCTV installed to cover the forecourt. The applicant offered to liaise with residents with a view to making any desired changes to the CCTV in order to expand the coverage to affected areas on the site, with the provision that no private land could be covered by CCTV for data protection purposes.

The applicant's agent offered to exchange contact details between the premises' management and the residents so that any further issues could be logged and addressed.

The Panel wished to remind residents that they should raise matters concerning the operation of the Licensed premises, such as noise nuisance, with Environmental Health and or the Police, as appropriate, if they remained an issue. Residents were also advised to keep a record / log of events / issues concerning the Licensed premises, including specific dates and times, and to provide that to the Licensing Authority so that such matters may be investigated by officers if required.

The Panel noted that there had been no representations from any Responsible Authority, other than that mediated with Thames Valley Police. As a result, whilst

being mindful of the Council's own Statement of Licensing Policy, the Panel considered there was insufficient evidence before it to justify departing from the Home Office 'Revised Guidance issued under section 182 of the Licensing Act 2003'.

In summary, the Panel were not satisfied that there was sufficient evidence before it to establish that an existing noise nuisance and public nuisance problem would necessarily be exacerbated by the sale of alcohol 24 hours, 7 days a week or the provision of Late Night Refreshment (including food) from the Shell Sandhurst Service Station, 102 Yorktown Road.

The Panel reminded the Applicant of the expectation that the granted varied Licence, including all the mandatory conditions attached to the licence as consistent with the premises operating schedule, would be strictly adhered to.

The Panel also wished to remind all parties and local residents that the Licensing Act 2003 regime contains provision for seeking a review of a Licence if there are breaches of the Licence and if the Licensing objectives are not being met.

That available mechanism for potential review under the Licensing Act 2003, rather than refusal of the Licence variation sought, was considered the appropriate decision, option for recourse and check and balance in determining this application.

CHAIRMAN