



**LICENSING PANEL
28 JANUARY 2020
10.00 - 10.55 AM**

Present:

Councillor Ms Moira Gaw (Chair)
Councillor Michael Brossard
Councillor Mrs Tina McKenzie-Boyle

Also Present:

Donald Adams, Legal Advisor
Amanda Ward, Licensing Officer
Lizzie Rich, Democratic Services Officer
Applicant and agent for BP Oil Limited
Residents who made representations

7. Declarations of Interest

There were no Declarations of Interest.

8. The Procedure for Hearings at Licensing Panels

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

9. Application for variation of premises Licence for BP Oil Limited, Wokingham Road, Bracknell

The application was for variation to the Premises Licence to extend the permitted hours for sale of alcohol for consumption off the premises from the current 08:00 – 23:00 Monday to Sunday, to 00:00 – 24:00 (i.e. 24 Hours a day) Monday to Sunday and also to vary the present Licence conditions to be those as set out in Annex 1 (Mandatory Conditions) and Annex 2 (Conditions Consistent With The Premises Operating Schedule) to Annex (D) of the application, which would amalgamate, as new Licensing conditions, the existing licence conditions as set out in Annex 1 and Annex 2 of Annex D(A) of the application, with the additional measures offered to be taken by the Applicant in the promotion of the four licensing objectives as set out in Annex (C).

The application did not seek to otherwise vary the current Licence permitting the applicant to provide Late Night Refreshment (being the supply of hot food or drink) between the hours of 23:00 – 05:00 Monday to Sunday.

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;

At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that there had been a previous representation made by Thames Valley Police, which had been mediated ahead of the Hearing, with two additional Licence conditions being agreed between the Applicant and Police. The Panel noted that there had been no representations made by any of the other Responsible Authorities.

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, noting the particular relevance of the prevention of public nuisance objective in this application as a result of representations received orally and in writing from interested parties present.

The Panel reached its decision having regard to the provisions of 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.

The Panel noted that the Applicant's premises, including shop, is 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 granting the application, with conditions, would not have an adverse impact on the promotion of the four Licensing objectives and so agreed to grant the variation to the Premises Licence as applied for.

The decision was to grant the application to permit sale of alcohol for consumption off the premises 00:00 – 24:00 (i.e. 24 Hours a day) Monday to Sunday and Late Night Refreshment (provision of hot food and drink) 23:00 – 05:00 Monday to Sunday and to replace the previous mandatory Licence conditions as set out in Annex 1 (*Mandatory Conditions*) and Annex 2 (*Conditions Consistent With The Premises Operating Schedule*) of Annex D(A) of the application, with those extended Licence conditions as set in Annex 1 (*Mandatory Conditions*) and Annex 2 (*Conditions Consistent With The Premises Operating Schedule*) of Annex D of the application, together with the above-referred two additional Licence conditions as mediated between the Applicant and Thames Valley Police, namely;

1. That the applicant will participate in the Bracknell Businesses Against Crime (BBAC) Scheme.
2. That the applicant will ensure that there is no alcohol on sale with 3 metres of the premises store entrance.

Reasons

The Panel noted that BP Oil UK Limited had applied previously in 2018 for variation to the premises Licence for this same premises, seeking extension to the Licence to permit sale of alcohol 24 hours a day for consumption off the premises but had withdrawn the application following the receipt of numerous representations from residents and Thames Valley Police. It was recognised that there had not been the same scale of representations to the present application as to the previous one in 2018.

The Panel heard and noted that BP Oil UK Limited had 219 premises nationally which were licensed for 24-hours, that none of those Licences had been called in for review and that BP Oil UK Limited were experienced in managing such premises.

The Panel were informed at the hearing that Thames Valley Police had initially lodged a representation to the present Licence variation application which had since been mediated and withdrawn as a result of agreement to the above-referred extended licence conditions, including requirements for CCTV operation and customer monitoring systems, staffing levels and training (including training in age restricted sales), adequate waste receptacles to be provided for use by customers in and immediately outside the premises, and also the use of a remote door lock facility relating to admissions of any customers permitted to enter the premises shop between the hours of 00:00-05:00 Monday to Sunday, together with the above-referred two additional Licence Conditions agreed with Thames Valley Police.

The Panel considered that the extended Licence Conditions of Annex D (*Mandatory Conditions and Conditions Consistent with The Premises Operating Schedule*), together with the above-referred two additional conditions as agreed by the Applicant with Thames Valley Police would be sufficient to mitigate interested parties' concerns as to the prevention of public nuisance.

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

The Panel noted the residents' representations that they had experienced incidents of litter (single bottles or cans) being left in their garden on occasion, and of loud behaviour which they attributed to people on the premises' forecourt and to the current operation of the premises. The residents felt that both issues would be aggravated by the variation to 24-hour Licensed opening at the premises.

The Panel noted that, as part of the extended Licence Conditions, the premises would operate on a remote door unlock principle, whereby staff could choose to unlock the door for customers rather than use the night pay window. The applicant proposed that this would serve to minimise noise as customers would not be communicating with staff through a window from the forecourt. Any customer who remained on the premises after making their purchase would be asked to move on, and the Police would be called if they remained on the premises.

On considering all representations made, the Panel considered that any public nuisance issues in terms of noise would be minimised as much as possible by operating the remote door unlock, and by moving customers on once they had completed their purchase. The Panel also considered that there was no evidence to support the claim that litter being left in residents' gardens could be attributed directly to this BP Oil UK Limited premises.

Residents present at the Hearing raised concerns regarding other premises on Portman Close which might be affected by the Licence variation sought. However, as there had been no representations made from other such premises or residents, the Panel felt it was unable to consider the likely impact or otherwise on any other premises or residents. The Panel was informed that notification letters had been sent to all residents in nearby Portman Close and Clintons Green, and that a site notice had been put up and checked by Licensing Officers.

The Panel 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 being sought, was considered the appropriate decision, option for recourse and check and balance in determining this application.

Residents were advised to keep a written record of any future issues concerning the Licensed premises and to report any issues to the Licensing Authority.

CHAIRMAN