

**LICENSING PANEL
17 JULY 2019
10.00 - 11.37 AM**



Present:

Councillors Tullett (Chairman), Porter and Brown

Also Present:

Donald Adams, Legal Advisor

Lizzie Rich, Clerk

Karen Court, Public Protection Partnership Officer

1. Declarations of Interest

There were no declarations of interest.

2. The Procedure for Hearings at Licensing Panels

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

3. Application for new Premises Licence in respect of BP Oil Limited, Bracknell Road, Crowthorne

The application was for a Premises Licence to permit the sale of alcohol between the hours of 06:00 and 24:00 Monday to Sunday and for Late Night Refreshment, being hot food or hot drink, between the hours of 23:00 and 24:00 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 which included Crowthorne Parish Council.

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 Thames Valley Police had previously submitted an objection to the application on the grounds of it being contrary to the Licensing objective of prevention of crime and disorder but that those previous concerns had been mediated and settled with the Applicant in advance of the Hearing by way of the Applicant agreeing to additional licensing conditions in the event of the application being granted. 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 from harm, all of which were discussed in this case as a result of representations received both orally and in writing. The Panel also 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 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 Premise Licence and Late Night Refreshment Licence as applied for (Premises Licence 06:00 – 24:00 Monday to Sunday, Late Night Refreshment Licence 23:00 – 24:00 Monday to Sunday). In addition to the mandatory Licence Conditions, and those as set out in and arising from the Applicant's operating schedule within the application before the Panel, the Panel granted the application, with additional conditions as below;

- 1 Outside of permitted hours for the sale of alcohol, all alcohol within the trading area (for the avoidance of doubt this does not include the display area behind the counter) is to be kept behind shutters/screens/grills
- 2 All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:
 - Induction training must be completed and documented prior to the sale of alcohol by the staff member
 - Refresher/reinforcement training at intervals of no more than 6 months

Training records will be available for inspection by a police officer or other authorised officer on request.

Training records will be maintained at the premises or electronically stored for a period of 12 months.

- 3 All cashiers will be trained to records refusals of sales of alcohol in a refusals log/register. The log/register will contain:
 - Details of the time and date the refusal was made
 - The identify of the staff member refusing the sale
 - Details of the alcohol the person attempted to purchase

This log/register will be available for inspection by a police officer or other authorised officer on request.

- 4 An incident log/register shall be maintained to record:
 - a. All incidents of crime and disorder occurring at the premises
 - b. Details of occasions when the police are called to the premises

This log/register will be available for inspection by a police officer or other authorised officer on request.

- 5 Signage shall be displayed at the entry and exit of the site to request that customers consider and respect those local residents living in the immediate vicinity.

The above stated additional conditions comprise both those as previously mediated and agreed between the Applicant and Thames Valley Police and an additional condition as offered as agreeable by the Applicant at the Hearing.

Reasons

The reasons for the decision are that the Panel found insufficient evidence from the submissions of the interested parties to suggest that incidents of crime and disorder, including anti-social behaviour, would increase as a direct result of the Premises Licence being granted. The Panel was satisfied that the additional conditions as applied, including those as agreed between the Applicant and Thames Valley Police, would mitigate against the concerns raised in the previous Police objection and of those by the other interested parties.

The Panel carefully considered both the written and verbal representations raised by residents which included concerns that anti-social behaviour may increase as a result of this Licence being granted. However, the Panel considered that historic anti-social behaviour in the area could not be directly attributed to this filling station site. The Panel, while sympathetic to residents' concerns, could not find any evidence to suggest that anti-social behaviour, vandalism or nuisance would increase at the site as a result of the Licence being granted.

Residents had also raised concerns that the permitted licensable activity as applied for would finish later than the closing time of local pubs and supermarkets. However, the Panel determined that this application must be decided on its own merits and not be dependent on the facts of other local premises licences, or matters beyond the Applicant's control, and so to avoid the imposition of any disproportionate or overly burdensome conditions on the Applicant.

The Panel bore in mind that their decision was required by legislation to be proportionate, justifiable and appropriate for the promotion of the licensing objectives. It was not felt that historic anti-social behaviour in the area could be directly attributed to this new premises, and so the Panel did not have evidence before it to suggest that the Licensing objectives would not be supported by granting the application.

The Panel discussed potential future discrepancy as between the premises' substantive business operating hours, as approved by Planning officers, and the hours of licensable activity taking place during those hours, should the premises ever seek to substantively become a 24 hour operation. However, it was noted that, as at the time of the Panel Hearing, the Applicant's substantive business operating hours, as granted by Planning officers, were 06:00 to 24:00 Monday to Sunday, which were the same as the application before the Panel for the licensable activity.

The Panel took in to account the fact that the application before it had originally stated that the Applicant's substantive business operating hours were to be a 24 hour operation but found in fact, that was not presently the case. The Panel, however, considered that should the Applicant's present substantive business operating hours for this premises ever be extended in the future, the Applicant might prevent the sale of alcohol outside of the applied for hours of licensable activity. In order to address those concerns, and as proposed and agreed by the Applicant, the Panel deemed it appropriate to include the additional condition which required, outside of permitted hours of licensable activity, for all alcohol (not including the display area behind the counter) to be kept behind shutters/screens/grills.

The Panel considered that the application of the premises' operating schedule, the mandatory licensing conditions, together with the additional conditions as mediated with Thames Valley Police and the additional condition as proposed and accepted by the Applicant at the Hearing would be sufficient to mitigate interested parties' concerns. In addition, the Panel considered that the conditions as imposed on the

granted application were proportionate, justifiable, capable of being met by the Applicant and appropriate to the promotion of the Licensing objectives.

The Panel wished to remind all parties that the Licensing Act 2003 contains provision for seeking a review of the Licence if there are breaches of the Licence and if the Licensing objectives are not being met. This mechanism under the Licensing Act, rather than denying the granting of the new Licence, was considered the appropriate recourse and check and balance in this particular case.

In summary, while mindful of residents' concerns, the Panel granted the Licence, with conditions, as there was no evidence that granting the Licence would lead to an increase in anti-social behaviour or otherwise adversely impact on the promotion of the Licensing objectives.

CHAIRMAN