

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 3 August 2021, at 10.00am.

Present: Councillors C Gifford, Heath and Leigh-Hunt.

Also, Present: Rob Edwards (Committee Services Officer), Max Howarth (Council's Solicitor), and Rachael Russell (Licensing Enforcement Officer).

1. **Appointment of Chairman**

Resolved that Councillor Gifford be appointed as Chairman for the hearing.

2. **Declarations of Interest**

There were no declarations of interest.

3. **Application for a Premises Licence under the Licensing Act 2003 for Lidl Great Britain Ltd, 46-48 Emscote Road, Warwick**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence application under the Licensing Act 2003 for Lidl Great Britain Ltd, 46-48 Emscote Road, Warwick.

An application for a premises licence at 46-48 Emscote Road, Warwick for Lidl Great Britain Ltd was received on 15 June 2021. The applicant described the premises as a supermarket.

The licensable hours applied for by Lidl Great Britain were:

Opening Hours of the premises:
Monday to Sunday from 07:00 to 23:00.

Supply of Alcohol for Consumption Off the Premises:
Monday to Sunday from 07:00 to 23:00.

An operating schedule, which had been submitted by the applicants and would form part of any licence issued, was attached as appendix 1 to the report.

The Licensing Department had received an objection from a local resident which was attached as appendix 2 to the report.

No representations had been received from:

- Fire Authority.
- The Licensing Authority.
- Enforcement Agency for Health and Safety.
- Authority Responsible for Planning.
- National Health Service/Public Health.
- Environmental Health.
- Warwickshire Police.

- Safeguarding.

A plan of the premises and an aerial photograph of the area were attached as appendix 3 to the report.

Further information had been received from the applicant's solicitor and was attached as appendix 4 to the report.

At the request of the Chairman, Amanda Pilling introduced herself as the applicant's solicitor. She also introduced a work experience colleague who was observing the meeting and Nicholas Coates, Regional Head of Sales Operations, Lidl, who was present in the meeting and was available for any questions from the Panel.

The Council's Solicitor explained the procedure for the hearing.

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the licence application should be granted, if so, whether the licence should be subject to any conditions.

(At 10:08am the meeting was paused for two minutes to correct a technical issue.)

In her opening statement, the applicant's solicitor advised that:

- There were no representations from any of the responsible bodies. Appendix 2 to the report showed that the one representation from a resident had concerns about the possible increase of noise in the car park and shop arising from the increased sales due to the sale of alcohol.
- Lidl was a national operator, and had over 860 stores in England and Wales operating in a variety of areas;
- There were extremely high standards of training for staff. Appendix 4 to the report showed extracts of the extensive training for staff, and included information about age related products including knives, sparklers, energy drinks. Lidl had a unique refusal procedure that was followed in all stores, and the age restrictions policy was displayed in all staff welfare areas and around the store. Training took place with the Designated Premises Supervisor and the Area Manager of the store who therefore understood the area and would know of any issues; if there was an issue about possible noise disturbance in the car park, the Area Manager would be aware and would make sure all necessary checks were done.
- Alcohol was displayed in the furthest aisle away from the entrance, so a customer would have to go through the entire store and then would likely have a fairly time consuming queue, given the nature of the checkouts in the store; there were no express checkouts catering for between 5-10 items or less. As a result, there was little incentive for people to pop in for just one item, for example just to purchase alcohol. The vast majority of customers purchased multiple items during their visit, and alcohol was only a small part of the items sold in the store. It was not anticipated that there would be an increase in late night purchases if the licence was granted, and in relation to the resident's concern about late night disturbance, customer numbers decreased dramatically after 8pm.
- Using data from the six closest Lidl stores, the average sales containing alcohol was only 3.21% of all transactions. The percentage of alcohol-only

purchases was 1.63%. Therefore, the risk of disturbance due to the availability of alcohol was very low.

- Lidl stores worked with the community, so if residents did have an issue with disturbance then the store manager would work with the community to avoid that. Appendix 4 to the report referred to the Community Alcohol Partnership that Lidl funded across the country which looked at the effect of alcohol sales on communities, and which looked at introducing initiatives to alleviate concerns that might arise. They also worked closely with the NSPCC and fundraised with them, and were involved with local events like school fetes and food festivals. Becoming part of the local community helped Lidl have the same values and work together to improve communities.
- The objector was not present in the meeting.

In response to questions from the Panel, the applicant's solicitor advised that:

- it was normal procedure that all Lidl stores sold alcohol during the hours they were open; and
- the figure of 3.21% of average transactions containing alcohol was based on transactions over a period of one week.

In her closing statement, the applicant's solicitor thanked the Panel for their time in hearing the application and stated that there had been no objection from the Police or Environmental Health, or any other responsible bodies. The objection made did not raise concerns about an increase in crime or anti-social behaviour, or that Lidl was not a responsible operator. The objection focused solely on concerns about late night shoppers that might cause noise in the shop and car park, of which there was no evidence to support that assumption, and the objector did not attend the panel. The concerns raised by the objector was not how Lidl's experience reflected things. Stores got quieter after 8pm across the country, and transactions of alcohol were very low. Lidl was extremely experienced in operating well-managed premises in all types of areas and had the policies and procedures in place to address any issues that might arise. There was the additional security of the review process so if there were problems then any resident could call for the licence to be reviewed. 5.4 of WDC's Licensing Policy stated that "*Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are relevant representations giving good reasons based on the licensing objectives for restricting those hours.*" There were not any relevant representations giving such reasons.

At 11:08am, the Chairman reminded those present of the procedure: the remote meeting would be ended by the Committee Services Officer; a separate meeting would be arranged with the Members of the Panel, the Legal Advisor and the Committee Services Officer; the decision would be communicated in writing via email to the applicant later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the premises licence be **granted** in accordance with the hours set out in the report and the applicant's operating schedule.

The Panel has considered the report and the appendices including the objection received. The Panel has also listened to representations made by the applicant Lidl through its solicitor.

The Panel note that no objections have been received from any of the responsible authorities including the Police or Environmental Health. The Panel also note that only one objection has been received from a member of the public.

The Panel heard from Lidl's solicitor in respect of the policies and procedures that are operated by Lidl in store in relation to the sale of alcohol. The Panel also heard from Lidl's solicitor that the Lidl store can currently trade between the hours of 7am and 11pm without any restrictions. Further, that the sale of alcohol was a small part of Lidl's business and that typically the alcohol aisle is the furthest aisle from the entrance to the store and that there are no express checkouts catering for between 5-10 items or less. As such Lidl did not anticipate that there would be an increase in late night purchases if the licence was granted. The Panel also heard from Lidl's solicitor that typically customer numbers significantly decrease after 8pm. Lidl's solicitor also advised that over the course of a week that the average percentage of sales attributable to alcohol at six local stores was 3.21% of all sales and the average percentage of sales attributable to alcohol where alcohol was the only sale was 1.6% of all sales.

The Panel also heard from Lidl's solicitor in relation to Lidl's involvement in the Alcohol Community Partnership and its work with NSPCC.

The Panel has considered the sole objection received in relation to the application which was twofold:

- 1. The sale of alcohol would encourage one item shopping which would go against the planning permission which was granted on the basis that there would be no small sales of such things as confectionary and newspapers to avoid short stay shopping.*
- 2. The sale of alcohol would encourage more late-night shopping with increased noise in the shop and car park which would impact on nearby residential properties.*

It is the Panel's view that the first objection does not appear to raise any objection in relation to the licensing objectives and as such should not be considered a relevant representation. In any event the Panel has not seen or heard any evidence which would support the assertion being made. On the contrary the evidence presented by Lidl in support of its application shows that only 1.6 percent of sales over the course of a week are attributable to sales where alcohol was the only sale.

With regard to the second aspect of the objection the Panel has not seen or heard any evidence which supports the assertion being made. Instead, the Panel has heard from

Lidl's solicitor that typically customer numbers significantly decrease after 8pm. The Panel also notes that no objection has been made by Environmental Health.

The Panel has been referred to paragraph 5.4 of the Council's Statement of Licensing Policy (2021-2026) which states:

"Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are relevant representations giving good reasons based on the licensing objectives for restricting those hours."

The Panel has not seen or heard any relevant representations giving good reasons based upon the licensing objectives for restricting the hours applied.

Having considered all of the evidence it is the Panel's view that there is no evidence that the grant of the licence in the terms applied for by the applicant Lidl would impact upon any of the licensing objectives. The Panel, therefore, resolve to grant the licence in accordance with the hours set out in the report and the applicant's operating schedule.

(The meeting ended at 10:44am)

CHAIRMAN
27 September 2021