

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 29 April 2021, at 2.30pm.

Present: Councillors Evans, Grey and Illingworth.

Also Present: Rob Edwards (Committee Services Officer), Caroline Gutteridge (Council's Solicitor), and Emma Dudgeon (Licensing Enforcement Officer).

1. **Appointment of Chairman**

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

2. **Declarations of Interest**

There were no declarations of interest made.

3. **Application for a Premises Licence under the Licensing Act 2003**

The Panel considered a report from Health and Community Protection which asked Members to decide whether the premises licence application for Golden Wines & Spirits, 109 Warwick Street, Royal Leamington Spa should be granted and, if so, whether the licence should be subject to any additional conditions. Representations had been received in relation to this application for the consideration of the Panel in the determination of the application.

Details of the procedure adopted by the Licensing and Regulatory Committee for Panel Hearings were supplied to the applicant and those making representations.

Mr Vengadasalam Giritharan applied for a variation of the premises licence at Golden Wine & Spirits on 15 March 2021, and a copy of the current premises licence was attached as appendix 1 to the report.

The licensable hours applied for by Mr Giritharan were:

Opening Hours of the premises:
Monday to Sunday from 09:00 to 04:00.

Supply of Alcohol for Consumption Off the Premises:
Friday and Saturday from 09:00 to 04:00.

An amendment of the operating schedule, which had been submitted by the applicants and would form part of any licence issued was attached as appendix 2 to the report.

The Licensing Department received a representation from Warwickshire County Council Safeguarding. Following the agreement of the following two conditions they subsequently withdrew their representations:

1. Children under 16 must be accompanied by an adult after 21:00 hours.
2. No children under 16 permitted on the premises after 23:00 hours.

The Licensing Department had received an objection from Warwickshire Police, attached as appendix 3 to the report and Environmental Health, attached as appendix 4 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

A plan of the area was attached as appendix 5 to the report, and photographs of the premises were attached as appendix 6 to the report.

The Chairman asked Members of the Panel to introduce themselves. The other parties then introduced themselves as:

- Mrs Giritharan, attending the hearing on behalf of the applicant;
- Mr Lawson, Senior Environmental Health Officer (Warwick District Council);
- Sgt Calver, Warwickshire Police; and
- Sgt McMurray, Warwickshire Police.

The Council's Solicitor announced the procedure for the meeting. At the Chairman's request, the Licensing Enforcement Officer introduced the report.

During her representation, Mrs Giritharan stated that although the application was to be open until 04:00, given the objections from Warwickshire Police and Environmental Health she was happy to change this and request 02:00. As this was the first time Warwickshire Police and Environmental Health were notified of this change, the Chair asked the interested parties if they needed time at this point to consider changing their representations, or whether they were content to proceed with the hearing. The interested parties were content to continue because even with the change from 04:00 to 02:00, their objections still remained.

In response to questions from the Senior Environmental Health Officer, Mrs Giritharan advised that if the hours were extended, it was expected that more than 20 people would visit the premises, and most of the customers currently visiting had requested extended hours. There were no other corner shops nearby and her shop was located on a quiet street. In the four months since the shop opened, customers had been polite, and the probability of an increase anti-social behaviour or noise nuisance

caused by the extended hours would be low. It was expected that customers would be local residents, most likely from nearby flats.

When given the opportunity by the Chairman to make his representation, the Senior Environmental Health Officer advised that the proposed extension until 04:00, and indeed 02:00, was likely to give rise to noise nuisance to the Town Centre residents from customers going to and from the shop and walking around drinking in the streets of the Town Centre in the silent hours of the night. Immediately opposite the premises and close-by were flats that were located above some of the shops on the street, many with windows that overlooked the shop and the routes to and from the shop, and residents would be disturbed by people coming in and out of the shop during the quiet night-time. There was a concern that there could be people talking, laughing and shouting as they approached the street in search of buying more alcohol from the shop. All of this activity would stand out because the background noise after midnight was very quiet. Another area of concern was the noise of the vehicles associated with customers buying from the shop on the way home from the Town Centre, or Taxi Drivers stopping outside while their customer entered the shop. Environmental Health was concerned that consumption of alcohol from the shop would be outside on the street or whilst wandering up the road with drinks in hand, talking loudly. Having alcohol available so late after midnight, evenings that would have ordinarily wound up could continue because of the availability of alcohol at such a late hour and could also increase impulse buys of alcohol in the early hours. This would result in an increase of noise from 'pop-up' parties that might not have previously happened and would disturb the residents living nearby.

When given the opportunity by the Chairman to make his representation, Sgt Calver, Warwickshire Police, advised that the Police's objection included the 02:00 suggestion made by the applicant. At the time of the application, the country was still in midst of the Covid-19 pandemic and the application would have an impact on the licensing objectives going forward once restrictions were lifted during the roadmap of easing. Outside of the Covid-19 pandemic, Royal Leamington Spa Town Centre had a thriving night-time economy with a very diverse setting; a large student population through the week and visitors at the weekends. The town centre was part of the Public Spaces Protection Order (PSPO) where it was covered by restricted alcohol drinking, particularly during the night-time economy. Due to this, most pubs, clubs and restaurants within the Town Centre had conditions preventing alcohol being taken off the premises after 11pm, and there were two other off-licences in town that had a closing hour of midnight. Should the application be approved, there would be an increase of risk of crime and disorder and nuisance. Changing the closing time to 02:00 would allow patrons of the night-time economy to continue purchasing alcohol and walk around the Town Centre drinking, whilst moving between venues and queuing for venues. It would also increase the risk of the public purchasing alcohol after leaving the Town Centre and continuing drinking in the street on the way home, potentially causing further anti-social behaviour and the potential for weapons to be left lying around or groups of people congregating in public open spaces in the early hours, which would cause noise for local residents. Overall, the

application would increase the level of alcohol on the streets and potential weapons and would put people at risk of breaching the PSPO requirements. Whilst he appreciated that the Covid-19 pandemic had put an economic strain on businesses, the application had to be balanced between the licensing objectives and the economic need. In the opinion of Warwickshire Police, the promotion of the licensing objectives outweighed the economic factors with regards to the application. Sgt Calver also informed Members that his colleague Sgt McMurray was present in the meeting and was available should the Panel have any specific questions regarding the Town Centre.

In response to a question from Councillor Illingworth, the Legal Officer and Sgt Calver confirmed that the PSPO was District wide, and therefore covered the location of the premises. It was clarified that the PSPO did not prohibit drinking in the street but allowed Police to direct a person to stop drinking and hand over alcohol, and if they refused to do so then that would be an offence. Where there was a risk to anti-social behaviour or crime and disorder, the order gave Police the power to remove that alcohol. This risk drastically increased in the night-time economy where there were larger numbers of people and more alcohol.

Mrs Giritharan stated that the location of the shop needed to be considered because near to the premises there were no pubs, and less of a possibility of people coming from other venues drunk to visit the shop. Her husband was the Designated Premises Supervisor, and she assured the Panel that they would take responsibility and not serve customers who engaged in anti-social behaviour or were drunk.

In response, Sgt Calver explained that he appreciated the location of the premises, but advised that there were students living not far from the shop who could purchase alcohol while coming into the Town Centre where they would begin queuing for venues. It was also located at an 'exit destination' from the Town Centre; with the premises in the Town Centre closing anything from 23:00 to 04:00, people could then leave and stop off at the shop because they knew it was open. As they would not be able to take off licence sales from the pubs/restaurants they had visited because of the restrictions placed in those venues, they would use the premises as a destination venue to purchase alcohol in the early hours.

In her closing statement, Mrs Giritharan thanked the Panel and the Interested Parties for considering the application. She stated that using a window serving system until 02:00 would be something she would be happy with, if the Panel was minded to decide that.

At 3:07pm, 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 Council's Solicitor and the Committee Services Officer; the decision would be communicated in writing via email to the applicant and interested parties later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the application be refused.

In reaching their decision the Members of the Licensing Panel considered all the written and oral evidence provided by the Applicant and the Responsible Authorities.

The Panel have also had regard to the statutory guidance under s182 of the Licensing Act 2003 and the Warwick District Council Statement of Licensing Policy.

The Panel has to consider the application in the light of the licensing objectives. The two objectives that are particularly engaged in this case are the prevention of crime and disorder and the prevention of public nuisance.

At the beginning of the hearing the Licensing Officer clarified that the report at para 3.5 should state that the licensable hours applied for in relation to the supply of alcohol for consumption off the premises were 09:00 to 04:00 hours Monday to Sunday. Warwickshire Police and Environmental Health had made relevant representations objecting to the application. Sergeant Paul Calver and Sergeant McMurray attended the hearing on behalf of Warwickshire Police. Mr Peter Lawson, Senior Environmental Health Officer attended on behalf of Environmental Health.

Mrs Tharika Giritharan attended the hearing on behalf of the Applicant. On addressing the Panel Mrs Giritharan confirmed that the Applicant would be happy to amend the application so that the terminal hour for supplying alcohol would be 02:00 Monday to Sunday instead of 04:00 hours. Sergeant Calver and Mr Lawson indicated that they noted the change but would maintain their objections.

The Panel appreciated that there were no fixed trading hours for premises in Leamington Town Centre and that each application should be judged on its own merits. However, the Panel concluded that a shop selling alcohol late into the night may become a destination for people wanting to purchase alcohol after pubs and restaurants had shut or as they moved between licensed premises. It was understood that most, if not all, on-licensed premises within the town centre were subject to conditions requiring them not to offer alcohol for sale for consumption off the premises and that the

other two off-licences in the town centre were also only licensed until midnight. The Panel gave significant weight to the representations made on behalf of the police, namely that by permitting the sale of alcohol for consumption off the premises until 02:00 hours it could cause people to congregate on Warwick Street and in the surrounding area leading to an increase in late night on street drinking and resulting in an increase in crime and disorder and anti-social behaviour.

The Panel also gave weight to the representations made by Mr Lawson who advised that there were a number of residential dwellings in the area including flats opposite the premises. After midnight background noise was very low so any noise would be likely to be disruptive and that people purchasing alcohol late at night and then drinking it on the street could cause public nuisance. Mr Lawson has also expressed concern that granting the application may result in vehicles (including taxis) regularly arriving and leaving the premises in order to purchase alcohol after midnight causing disturbance to residents at a particularly noise sensitive time.

The Panel also considered the suggestion made on behalf of the Applicant that a condition could be added to the varied licence requiring a window serving system to be used after a certain time. The Panel could not see how this would address the concerns raised by the Responsible Authorities. The Panel, in consideration of the licensing objectives and the overall interests of the local community have therefore unanimously decided to refuse the application.

(The meeting ended at 3:07pm)

CHAIRMAN
19 July 2021