

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Friday 25 April 2014, at the Town Hall, Royal Leamington Spa at 10.00 am.

**Panel members:** Councillors Gill, Mrs Mellor and Wreford-Bush.

**Also present:** Emma Dudgeon (Licensing Enforcement Officer), Max Howarth (Council's Solicitor) and Graham Leach (Democratic Services Manager).

## 1. **Appointment of Chair**

**Resolved** that Councillor Wreford-Bush be appointed as Chair for the hearing.

## 2. **Declarations of Interest**

Councillor Gill declared a personal interest as a member of Royal Leamington Spa Town Council.

## 3. **Application for the Grant of Premises Licence Under the Licensing Act 2003 for Royal News, Bedford Street, Royal Leamington Spa**

A report from Health and Community Protection was submitted which sought a decision on an application from Mr M Rahamani, for the grant of a premises licence for Royal News, Bedford Street, Royal Leamington Spa.

The Chair introduced himself, other members of the Panel and officers, and asked the other parties to introduce themselves.

Present were Mr S Newbold (Solicitor for the applicant), Mr H Viridi (Proposed Designated Premises Supervisor for the premises), Mr M Rahamani (applicant), Mr H Babebh (Manager of the premises), Councillor B Gifford (representing Royal Leamington Spa Town Council) and Sergeant Paul Calver (Representing Warwickshire Police).

The Council's Solicitor explained the procedure that the hearing would follow.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it, and the representations made to the meeting, and to determine if the application for a premises licence should be approved.

The application before the Panel was for a licence to be granted for the supply of alcohol (off the premises) for everyday 08:00 to 23:00. The proposed opening hours of the premises was 06:00 to 00:00 hours every day.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

## **LICENSING PANEL HEARING MINUTES (Continued)**

An operating schedule had been submitted with the application, which would form part of any premises licence issued.

The Council's Licensing Policy Statement provided that the Authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

Mr Newbold explained, on behalf of the applicant, that the application was for a small scale operation off-licence for passing trade. Mr Verdi had been the licence holder for a similar premises in Coventry. The alcohol sales would be ancillary to the main purpose of the premises which was as a newsagent.

The hotspots map circulated by the Police at the meeting were for the hours of 11.00pm to 4.00am and therefore outside the operating times of the off-licence, if the licence was approved. Therefore it would not be the case that individuals would leave affected hotspot areas going to this premises and then causing incidents.

Mr Newbold was mindful of the requirement for the applicant to prove that it would not have a significant impact on the licensing objectives. It was the applicant's view that as a small newsagent with an ancillary sale of alcohol for consumption off the premises it could not have a significant impact particularly when there were other larger off-licences with longer operating hours already within the town centre. It would also not attract a large number of new customers into the area in the same way a pub or club would.

The applicant responded to questions from the Panel explaining that:

- Mr Verdi had been at the premises for three months;
- The premises opened early due to newspaper sales;
- The premises previously operated in Coventry saw the majority of alcohol sales towards the end of the day;
- A screen would be installed to close off alcohol outside licensed hours;
- if this licence was not approved, someone else would sell alcohol to students;
- it was not possible for the premises to be held to account for the actions of its customers once they had left the premises;
- Mr Verdi had known the applicant for many years and was helping him out to establish this premises;
- The applicant explained he had not held a licence before but the same challenges for selling alcohol were those he had applied in selling tobacco; and
- in the three months the premises had been open there had been no problems and customers had asked if they sold alcohol.

In response to a question from Warwickshire Police, Mr Verdi confirmed he would only be the DPS for this premises.

Sergeant Calver addressed the Panel outlining the objection from Warwickshire Police to the application. He explained that the premises was

## **LICENSING PANEL HEARING MINUTES (Continued)**

in the main town centre and whilst the maps circulated showed hotspots between 11.00pm and 4.00am, for these to be shown, the build-up must start before this time and therefore would be occurring when the premises were open.

25 percent of all Section 27 directivities instructed people to leave the town centre between 6.00pm and 11.00pm on week nights. The cumulative impact zone policy directly mentioned the potential impact from new off-licence premises. The biggest challenge for the Police was students consumed significant amount of alcohol (pre-loading) before going out and between venues. There were now Street Marshalls in Royal Leamington Spa, paid for by the University of Warwick, who remove significant quantities of alcohol from students.

Sergeant Calver explained that Warwickshire Police had tried to engage with the applicant throughout the process but they had shown a distinct lack of understanding about the process and the Licensing objectives. In addition Mr Viridi would only be present for a couple of hours each day and this was a concern for the Police.

He explained that while the Police objected to the licence being granted in any way, if the Panel were minded to grant, it should be no later than 7.00pm. The statistics showed that crime and disorder was an issue in the town centre and the Police had concerns about the target market.

Sergeant Calver responded to questions from the Panel explaining that whole of district was a restricted drinking zone, where anyone drinking from an open vessel in public place and were causing or likely to cause a public nuisance could be required to leave the area and if a person failed to hand over alcohol they could be arrested or prosecuted.

In response to questions from the applicant's representative, Sergeant Calver explained that:

- drinking in the street and anti-social behaviour was an issue in the town centre from 6.00pm;
- the peak for crime and disorder and violence was later than the proposed terminal hour for this premises but there were other problems not associated with premises;
- anti-social behaviour was usually caused by problems arising earlier or a cumulative effect from drinking earlier, therefore the Police were trying to intervene earlier to send people home before they went too far;
- the challenges of pre loading were those were people drinking quantities of drink both before coming out, when moving from one venue to another and when waiting to enter premises;
- he could not see the relevance of the potential for anti-social behaviour being drug fueled as there was a vast distinction in this to that associated with sale of alcohol;
- he accepted that when people left the premises, the applicant could not be responsible for them but an additional venue selling alcohol increases the potential for further problems within the town centre; and
- accepted that Tesco was open and if there were problems with that premises then there would be a review of that licence.

## **LICENSING PANEL HEARING MINUTES (Continued)**

Councillor Gifford outlined the objection of Royal Leamington Spa Town Council to the application. He explained that the location was right at the centre of the Town. It was surrounded by a number of licensed premises and was also on a main route between licensed premises. He reminded the Panel that it was up to the applicant to prove that there would not be a significant impact on the Cumulative Impact Zone.

The difference between this premises and Tesco was that Tesco was a food store and this was a small convenience store. He explained that this was likely to be a premises people visited to top up between venues and this would lead to an increased potential for anti-social behaviour within the town centre.

Councillor Gifford responded to questions from the applicant and the Panel, explaining that:

- the premises would add to the cumulative impact on the town;
- it would make a significant difference to the cumulative impact zone;
- the approval of this application would only increase the potential for further drinking on the street.

The applicant summed up their application explaining that they had been approached by customers and the majority would not be students but people living within the Town Centre or people who work there. The drinking restriction order in the district was not relevant to this application because the licence holder would have no control over the customers drinking in the street. However the premises would have measures in place to help reduce crime and disorder.

There was evidence of flash points but it was the applicant's opinion that this business would not have a significant impact on the Cumulative Impact Zone.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Democratic Services Manager to leave the room at 11.17am, to enable the Panel to deliberate and reach its decision.

The Panel had considered the application, the officer's report and representations made at the hearing by the applicant, Warwickshire Police and Royal Leamington Spa Town Council.

The Panel noted that the application was for a premises licence for the sale of alcohol for consumption off the premises within the cumulative impact zone. The onus was therefore placed on the applicant to demonstrate that the application would not significantly impact on the licensing objectives.

The Panel listened to the representations from the applicant that the premises were small in scale and the sale of alcohol was ancillary to the predominant business which was that of a newsagent. The main customers were likely to be people who visited the premises to buy a newspaper and possibly a bottle of wine or cans of beer.

The applicant also submitted that while the premises were located within the hotspot area for anti-social behaviour between 11pm and 4am the nature of such disturbances related to the type of licensed premises that

## **LICENSING PANEL HEARING MINUTES (Continued)**

were different to the premises subject of this application such as night clubs and bars.

The applicant submitted that it would not be the case that people leaving or making their way to licensed premises would purchase alcohol from the application premises.

The applicant also submitted that the instances referred to in the data supplied by the Police occurred between 11pm and 4am which was after the terminal hour for sale of alcohol at these premises.

The Panel listened to concerns by both the Police and Town Council regarding the existing problems in the town centre including the problem of preloading which was where people consume large amounts of alcohol before attending bars and clubs.

The Police and Town Council had expressed concerns that people could purchase alcohol from these premises either before or in between visiting other licensed premises in the town and this could result in an increase of crime and disorder. The Police referred to a number of instances where street wardens had confiscated large quantities of opened vessels of alcohol from people moving within the town centre and queuing for licensed premises.

The Police also referred to the fact that a significant numbers of Section 27 dispersal notices had been issued in relation to people causing antisocial behaviour associated with the consumption of alcohol in the street between the hours of 6pm and 11pm.

On balance the Panel were not satisfied that the applicant had demonstrated that the grant of the licence to the terminal hour of 11pm would not significantly impact on the licensing objectives.

It was the Panel's view that persons attending other licensed premises such as bars and clubs were likely to purchase alcohol from the application premises either before or in between attending bars and clubs within the town centre and that this would result in people drinking from open vessels within the street and consuming large amounts of alcohol which could lead to greater instances of antisocial behaviour in the town centre.

Further, such persons were likely to purchase alcohol from the application premises between the hours of 7.00pm and 11.00pm.

It was the Panel's view that the grant of a licence with a terminal hour of 7.00pm would prevent such problems from occurring.

Therefore it was proposed duly seconded and

**Resolved** that the licence be granted in accordance with the report, the operating schedule, conditions agreed with Trading Standards, the conditions requested by Warwickshire Police subject to a reduction of hours so that the sale of alcohol for

**LICENSING PANEL HEARING MINUTES (Continued)**

consumption off the premises is for 8.00am to 7.00pm Monday to Sunday.

All parties were invited back into the room at 12.59 pm, at which time the Panel's decision was read out as detailed below.

All parties are reminded of their right to appeal the Panel's decision to the Magistrates Court within 21 days of formal notice of the decision.

(The meeting finished at 1.07 pm)