

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Tuesday 10 May 2016, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Mrs Cain, Mrs Redford and Weed.

Also Present: Mrs Gutteridge (Council's Solicitor), Ms Martin (Trainee Solicitor – observing only), Mrs Dury (Committee Services Officer), Mrs Dudgeon (Licensing Enforcement Officer), Ms Hudson (Regulatory Manager – observing only).

1. **Appointment of Chairman**

Resolved that Councillor Mrs Cain be appointed as Chairman for the hearing.

The Chair, Members of the Panel and officers introduced themselves.

The Chairman then invited the interested parties to introduce themselves. They were Police Sergeants Wiggin and Kitson from the Warwick Safer Neighbourhood Team. Neither the applicant nor anyone representing the applicant was present.

2. **Declarations of Interest**

There were no declarations of interest.

The Council's Solicitor explained the procedure to the Panel when neither the applicant nor anyone representing the applicant was present at the hearing; the Panel could either decide to adjourn the hearing to be heard at a future date, or it could proceed with the hearing in the applicant's absence. The Licensing Enforcement Officer informed the Panel that the applicant had not contacted the Council.

Resolved to proceed with the Panel hearing in the applicant's absence.

3. **Application for the Variation of a Premise Licence under the Licensing Act 2003 for Jonny's Supermarket, 81a Shrubland Street, Royal Leamington Spa**

The Panel considered a report from Health and Community Protection which asked Members to consider an application from Mr Elaiyathamby Suthanthira Kumar for the variation of a premises licence.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it.

A representation had been received in relation to the application and Members were asked to consider if the variation of the premises licence should be approved, and if so, should the licence be subject to any conditions.

The applicant applied for a variation of the premises licence for Jonny's Supermarket, 81a Shrubland Street, Royal Leamington Spa on 19 March 2016 to

amend the current licensable hours including the removal of specified hours for Christmas Day and Good Friday as per the tables below:

Current premises licence:

	Sale of alcohol for consumption off the premises*	Opening Hours*
Weekdays	08:00 to 23:00	08:00 to 23:00
Sunday	10.00 to 22:30	10:00 to 22:30
Christmas Day	12:00 to 15:00 then 19:00 to 22:30	12:00 to 15:00 then 19:00 to 22:30
Good Friday	08:00 to 22:30	08:00 to 22:30

Variation application:

	Sale of alcohol for consumption off the premises*	Opening Hours*
Monday to Saturday	06:00 to 24:00	06:00 to 24:00
Sunday	07:00 to 23:00	07:00 to 23:00

An operating schedule was submitted by the applicant which would form part of any licence issued and was set out in section 3.3 of the report.

A representation had been received from Warwickshire Police attached as appendix 1 to the report. No other representations had been received.

In response to questions from Panel Members, the Licensing Enforcement Officer informed Members that whilst the opening hours were the same as the licensing hours currently, she had been informed by the Police, following information given to them by the applicant, that people were entering the store and stealing from it before 8am. When asked by a Panel Member to explain how this could happen if the opening time was 8am, she informed the Panel that the manager could open before 8am if he was not undertaking any licensable activity, but if this happened, the alcohol should be kept covered.

Sergeant Wiggin stated that they did not know if the alcohol was kept covered. The Police believed that the variation of the hours could open up opportunity for anti-social behaviour because of the demographic in the area, where there was a large number of students living in the area. Clubs were open until 4am, and students generally did not leave home until 11pm. If there was more opportunity to purchase alcohol, students would "pre-load" before heading out to the clubs. After the clubs closed, people would go to takeaways, but if there were places open selling alcohol, this would give further opportunity to drink.

The Police confirmed that there was a pattern in the rise of anti-social behaviour, falling at the start and end of term time mainly and there had been a number of violent incidents in the area in the early hours. In north Leamington, McColl's had a licence to sell alcohol from 6am, but the area did not have the same demographic. Over 5,000 students lived in south Leamington which meant that a number of students were walking back from clubs, increasing the potential for public nuisance.

The Council's Solicitor advised caution as to how much weight the Panel attached to the information about alcohol being stolen from the premises before 8am

because that information had not been substantiated by the Police and had been provided by the applicant to the Police.

The Police were then invited to make a closing summation. The Police reiterated that the variation would give students the opportunity to pre-load when other residents would be in bed. Jonny's Supermarket would be the only place open to purchase alcohol and the Police were already facing issues at Eagle Street Recreation Ground nearby where people congregated. The opportunity to purchase alcohol for longer hours would only increase the problem at the Recreation Ground.

At 10.20am the Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer, to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the application to vary the premises licence is refused for the following reasons:

The Panel decided to proceed in the applicant's absence. The applicant had been notified of the hearing and did not request an adjournment. The Panel decided that it was not in the public interest to adjourn the hearing.

The Panel has considered the application and has listened to the Police representation. The Panel has also considered the statutory guidance and the Warwick District Council statement of licensing policy.

The decision is to refuse the application to vary the premises licence. The Panel is of the view that an increase in the licensable activities to allow the sale of alcohol from 06:00 to 24:00 hours would be likely to increase crime and disorder in the area. It notes that there is no record of complaints about the premises to the Licensing Authority but has carefully considered the evidence provided by the Police about the demographic of the area and the high student population which travels to and from the town centre late at night and in the early morning. The Panel is also concerned about the impact increasing the hours when alcohol could be sold would have on the existing problems with ASB and street drinkers at the nearby Eagle Street Recreation Ground. The Panel notes that the information provided by the applicant in the operating schedule is sparse and does not sufficiently address the Police concerns. The Panel does not believe that there are any appropriate conditions that it could apply to the licence that would allow it to overcome the objections and grant the application.

The Police evidence is that the applicant told an Officer that people were coming into the premises and stealing alcohol before 8am. The applicant was not present at the hearing and has not had an opportunity to respond to or clarify this statement but the Panel has serious concerns if this is in fact taking place. The Panel would remind the applicant

that the permitted opening hours, in accordance with the current premises licence, are 08:00 to 23:00 weekdays and 10:00 to 22:30 on Sundays. Police Officers and Licensing Enforcement Officers may visit the premises to check that the terms of the licence are being observed.

There is a right of appeal to the Magistrates Court within 21 days of written notification.

At 10.50am, the Police, the Regulatory Manager, the Trainee Solicitor and the Licensing Enforcement Officer were asked to re-enter the room. The Chairman invited the Council's Solicitor to read out the Panel's decision:

(The meeting ended at 10.52 am)