

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Thursday 29 August 2019, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Heath, C Gifford and Sanghera

Also Present: Mrs Gutteridge (Council's Solicitor), Mrs Dury (Principal Committee Services Officer) and Miss Daud (Licensing Enforcement Officer).

1. **Apologies and Substitutes**

Councillor Sanghera substituted for Councillor Leigh-Hunt.

2. **Appointment of Chairman**

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

3. **Declarations of Interest**

There were no declarations of interest made.

4. **Application for a full variation of a premises licence issued under the Licensing Act 2003 for 203A Warwick Road, Kenilworth, Warwickshire, CV8 1FB**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a full premises licence variation for 203A Warwick Road, Kenilworth, Warwickshire, CV8 1FB.

The Chairman asked the members of the Panel and the officers present to introduce themselves. The other parties then introduced themselves as:

- Ms Trish Bojczuk, a Central Operations Manager for SGN Limited, representing the applicant; and
- Mr Robert Botkai, solicitor from Winckworth Sherwood LLP, representing the applicant.

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

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

TG Convenience Stores Limited applied for a full variation of the premises licence for Warwick Road Service Station, 203A Warwick Road, Kenilworth, Warwickshire CV8 1FB. It was proposed to extend the hours for alcohol sales, to remove the restrictions to the sale of alcohol on Christmas Day and Good Friday, add the provision of late night refreshment and to remove embedded restrictions on the current licence. The initial licensable hours requested by the applicant were:

| | Opening Hours | Sale of alcohol for consumption off the premises | Late Night Refreshment (Indoors and outdoors) |
|--|----------------|--|---|
| Monday to Sunday (including Christmas Day and Good Friday) | 00:00 to 24:00 | 00:00 to 24:00 | 23:00 to 05:00 |

However, the applicant then amended the application to:

| | Opening Hours | Sale of alcohol for consumption off the premises | Late Night Refreshment (Indoors and outdoors) |
|--|----------------|--|---|
| Monday to Sunday (including Christmas Day and Good Friday) | 00:00 to 24:00 | 06:00 to 23:00 | 23:00 to 05:00 to allow the sale of hot drinks only |

The current premises licence summary, which showed the current licensable hours was attached as appendix 1 to the report and a copy of the proposed operating schedule was attached as appendix 2.

A representation had been received from Warwickshire Police which was attached as appendix 3 to the report, but this had subsequently been withdrawn upon receipt of the amended application details.

The Licensing Department initially received 24 representations from residents. However, following the amended application, this reduced to 15 and these were detailed in appendices 4 to 18 in the report. By the date of the hearing on 29 August 2019, these had further reduced to 10, and copies of the outstanding representations were circulated at the Panel meeting as appendices A to J.

A plan of the premises was attached as appendix 19 to the report, with a map and photographs of the area attached as appendices 20 to 21. Colour copies of appendices 20 and 21 were circulated at the meeting on 29 August 2019.

Mr Botkai explained that in 2005 all off licences had adopted similar licenses and in the Petrol Station's case, this licence had been "grandfathered" and not altered since. Now most petrol stations and off licences were seeking to modernise their licenses.

Mr Botkai informed the Panel that SGN Limited had acquired the store recently and wished to modernise all their shops and have them all run on the same hours during the day. During late hours, they wished to be able to sell hot drinks only at this location. He pointed out that prior to 2005, it was possible to sell hot drinks late at night without the need for a licence, but after a change in legislation in 2005, a licence was required and petrol stations were caught within the new legislation. The applicants had removed the late hot food element sales from their application when local residents had objected, and now the application stipulated hot drinks only.

Mr Botkai drew Members' attention to the fact that almost all representations made by residents referred to late night alcohol sales. The application in its

amended form allowed them sell alcohol during hours when the store was open because it was easier to manage the whole of the store, rather than shut off part of the store. Nothing had been reported by the Police in this area for issues with on-street drunken behaviour.

A modernised operating schedule had been included. The Police had initially objected to the 24-hour alcohol licence, but following the submission of the amended application, they had withdrawn their objection. Mr Botkai felt that the amendments to the application addressed the concerns residents had raised and felt that the fact that no resident had turned up to the Panel to make a representation indicated that the objections had been addressed.

In response to questions from Members, Mr Botkai explained that:

- In respect of CCTV cameras, the wording "The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the Police from time to time" within the Operating Schedule at appendix 2 to the report could not be altered so that the "may" became "must" because the Police would have to be called out to the premises every time the cameras were moved. The wording used was in thousands of licenses. The Police had the right to request a review of the licence if they asked for a camera to be moved and this was not actioned. An absolute requirement using the word "must" would mean that the store would immediately have to stop alcohol sales until Police approval had been received.
- Petrol stations welcomed visits from the Police. There would be about 16 cameras on site and the management should have the discretion to move the position of these as they saw fit.
- The phrase "adequate levels of staff maintained at the premises" within the Operating Schedule might appear vague, but this wording appeared in thousands of licenses. If the store failed to maintain adequate levels of staff on site and there was an incident, the Police could request a review of the licence. The shop would be closed at night, which was the case for the vast majority of petrol stations. They were then manned by a single member of staff and customers were served through a kiosk.

The Council's Solicitor confirmed that altering the CCTV condition from "may" to "must" was too burdensome and that in the case of staffing, the licence could be reviewed if there was an incident.

Mr Botkai confirmed that a condition could be imposed that during late hours, only hot drinks could be sold. He pointed out the application only increased alcohol sales by 30 minutes on a Sunday and two other specified days in the year and that the Police had not objected to the amended application. A Refusals Log would be kept on-site and staff would receive training. Ms Bojczuk explained the training the staff received and the policy in respect of lone working.

Mr Botkai informed Members that a hot drink vending machine was already on site but at night customers could not enter the store. A licence was not required for sales from vending machines. The petrol station would open at 6am and close about 8.30pm, but they did have discretion to close later, with most petrol stations closing between 10pm and 11pm.

In summarising the argument to grant the application, Mr Botkai hoped that the Panel would consider the changes made to the application and the fact that the Police had subsequently withdrawn their objection.

At 10.42am, the Chairman 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 premises licence variation application is granted with one additional condition:

In making its decision the Panel considered all of the information provided in advance of, and at, the hearing and considered the statutory guidance and the Council's Statement of Licensing Policy.

The Panel noted that initially the application was for a 24-hour licence to sell alcohol (for consumption off the premises) but this had subsequently been amended and the application was now for a licence to sell alcohol between the hours of 06:00 and 23:00 hours. The Applicant has also applied for a licence to serve Late Night Refreshment and confirmed that this was so that they could serve hot drinks between the hours of 23:00 and 05:00. Following the amendment of the application the objection from the police was withdrawn. Ten objections from members of the public had not been withdrawn although none had registered to speak or were in attendance at the hearing.

Having considered the written objections, the Panel found that the licensing objectives that were primarily engaged were the prevention of crime and disorder and the prevention of public nuisance. Some of the objections also referred to underage drinking. The objections had all been submitted before the Applicant had amended their application and so many were focused on the proposed 24-hour alcohol licence.

During the hearing the Applicant confirmed that the only late night refreshment to be sold would be hot drinks and that they were happy that the licence should be conditioned to this effect. The Panel considered that this was necessary to ensure that the premises were not used for hot food sales which could cause groups of people to congregate late at night and increase the risk of anti-social behaviour and litter in an area with a high proportion of residential dwellings.

The Panel considered the potential impact of the application on public nuisance, crime and disorder and the protection of children. It concluded that the increased hours would not impact on the licensing objectives and the conditions offered by the Applicant at Appendix 2 were a welcome addition to the licence and should help to ensure that the

premises does not contribute to crime and disorder or public nuisance in the local area. The Panel therefore decided to grant the licence in accordance with the application with the conditions as set out at Appendix 2 of the Licensing Officers Report and a further condition as follows:

- The service of the late night refreshment shall be restricted to the sale of hot drinks only.

At 10.56am, all parties were invited back into the room and the Chairman invited the Council's Solicitor to read out the Panel's decision.

(The meeting ended at 10.57am)

CHAIRMAN
30 September 2019