

Western Area Licensing Sub Committee

**MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING
HELD ON 11 DECEMBER 2023 AT COUNCIL CHAMBER - COUNTY HALL,
BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.**

Present:

Cllr Ruth Hopkinson, Cllr Peter Hutton (Chairman), and Cllr Tim Trimble

Also Present:

Applicants

Mr Richard Taylor – Agent to the Applicant (Euro Garage Ltd)
Mr Neil Eccles – National Licensing Manager (Asda Stores Ltd)

Wiltshire Council Officers

Emma Hyde – Public Protection Officer (Licensing)
Frank Cain – Legal Representative (Consultant Barrister)
Ellen Ghey – Democratic Services Officer
Lisa Alexander – Democratic Services Officer (Observing)
Cameron Osborn – Democratic Services Officer (Observing)
Jonathan Mclaughlin – Solicitor (Observing)

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought, and it was:

Resolved:

To elect Councillor Peter Hutton as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

There were no apologies or substitutions received.

3 Procedure for the Meeting

The Chairman notified all those present at the meeting that it was not being recorded by Wiltshire Council, but that the meeting could be recorded by the press or members of the public.

The Chairman reminded those present that any speakers that wished to remain and make a statement to the Sub Committee would be giving consent to there being the possibility that they would be recorded presenting this.

It was noted that those that had made a representation would not be identified by name within the minutes.

The Chairman then asked if anyone present wished to withdraw from the meeting. All parties confirmed they wished to remain in and take part in the Sub Committee hearing.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications", reference to which could be found in Pages 5 to 10 of the Agenda.

4 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

5 Declarations of Interest

There were no declarations of interest.

6 Licensing Application

Application by Euro Garage Ltd for a Premises Licence in respect of Asda Express, East Street Service Station Supermarket, 80 East Street, Warminster, Wiltshire, BA12 9BQ.

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the agenda) in which determination was sought for an application for a Premises Licence, presented by Emma Hyde (Public Protection Officer – Licensing) for which four relevant representations had been received. The application was for the following licensable activities:

- Late Night Refreshment (indoors and outdoors) – 23.00 – 05.00 daily
- Sale of Alcohol (OFF Sales) – 00.00 – 00.00 daily

It was noted by the Sub Committee that there were three options available to them:

1. Grant the licence as applied for.
2. To modify the conditions of the licence.

3. To reject the whole or part of the application.

The Sub Committee was informed that on 7 December 2023, the Applicant had proposed an amendment to the hours applied for which had led to the withdrawal of one representation. Furthermore, the officer noted that in relation to shops, stores, and supermarkets, the Guidance issued under Section 182 of the Licensing Act 2003 states:

“10.13 – Shops, stores, and supermarkets should normally 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 good reasons, based on the licensing objectives, for restricting those hours.”

The following parties attended and took part in the Hearing:

On behalf of the Applicant

- Mr Richard Taylor – Agent to the Applicant (Euro Garage Ltd)
- Mr Neil Eccles – National Licensing Manager (Asda Stores Ltd)

Relevant Representations

- There were no persons who had submitted relevant representations present.

Responsible Authorities

- There were no responsible authorities present.

The Chairman advised that all of the written representations had been read and considered by the Members of the Sub Committee in advance of the meeting. The Chair then invited the Applicants to introduce their application.

Applicant's Submission

The Applicants, Mr Richard Taylor and Mr Neil Eccles, spoke in support of the application, highlighting the following points:

- It was highlighted that those members of the public that had made representations had raised concerns should the application be granted to allow for the sale of alcohol 24 hours a day daily. In response, the Applicants noted that they appreciated those concerns and were therefore amending their application to change the hours of the sale of alcohol to 06.00 – 00.00 daily as an act of good faith to those neighbouring residents.
- It was explained that the Applicant, Euro Garages Ltd, were wholly owned by Asda Stores Ltd due to a recent acquisition.
- The steps made to meet the Licensing Objectives were detailed, namely:
 - Extensive CCTV.
 - Full staff training that would be regularly refreshed.
 - All spirits and high value products being displayed behind the counter.

- Age verification through the Challenge 25 process as a default, with till prompts pausing any transactions until assessed.
- An independent partner supporting test purchasing.
- Operating a night hatch between the hours of 22.00 – 05.00.
- Daily litter picking and waste bins across the premises.
- It was highlighted that no comments had been received by any responsible authorities and there was little to no evidence that longer licensable hours would result in impacts such as increased anti-social behaviour, litter, and noise.

Sub Committee Member's Questions

In response to the Members questions to the Applicant, the following points of clarification were given:

- The Sub Committee were reassured that the application for late night refreshment was for the sale of hot drinks only, not hot food and confirmed they would agree to this being a condition of the licence.
- It was confirmed that the premises was currently open 24 hours daily, there were similar business models being replicated in the Warminster area, and that this application was part of a batch of 350 across the country, with the majority being open 24 hours daily and trading with no difficulty.
- It was explained that the potential sale of alcohol during the hours of 00.00 – 06.00 would be prevented through till programs that could block any such transactions from occurring. Furthermore, as a night hatch would be used during those times, customers would not be able to access any alcohol directly.
- It was confirmed that the application would not impact on any delivery schedules to the premises.

Questions From Those Who Made a Relevant Representation

As there were no relevant representation submitters present, no questions were posed.

Submissions from Responsible Authorities'

As there were no responsible authorities present, no submissions were received.

Applicant's Closing Submission

In their closing submission, the Applicants highlighted the following:

- Reference was made to Paragraph 9.43 of the Guidance issued under Section 182 of the Licensing Act 2003, in which it was noted that "the authority's determination should be evidence-based". As such, the Applicants felt that the concerns raised within the relevant

representations were based on suppositions and that this belief was bolstered by the lack of submissions from any responsible authorities.

- It was noted that the Applicant had a vast amount of experience and knowledge due to their presence as an established major operator across the country.
- It was emphasised that the Applicants were proposing the amended hours for the sale of alcohol to mitigate some of the concerns raised within those relevant representations in order to foster good relationships with those neighbouring residents.

Points of Clarification Requested by the Sub Committee

No points of clarification of the Applicants final submission were requested by the Sub Committee.

The Sub Committee then adjourned at 10.25pm and retired with the Legal Representative and the Democratic Services Officer to consider their determination on the licensing application.

The Hearing reconvened at 10.45pm.

The Legal Representative advised that he gave the following legal advice to the Sub Committee:

- The decision should be evidence based and that there was insufficient evidence that the granting of the licence as proposed by the Applicants would adversely impact on the Licensing Objectives.
- Highlighted that no objections had been raised by the Police who were the recognised specialists in anti-social behaviour.
- The proposed decision was reasonable and legally sound.

Following which, it was:

The Western Area Licensing Sub Committee RESOLVED:

Decision:

Arising from consideration of the report, the evidence and submissions from all parties and having regard to the Statutory Guidance, the Council's Statement of Licensing Policy and the Licensing Act 2003, the application for a Premises Licence in respect of Asda Express, East Street Service Station Supermarket, 80 East Street, Warminster, Wiltshire, BA12 9BQ made by Euro Garages Ltd, be GRANTED as set out below, to include the amended hours offered by the applicant.

Licensable Activities	Hours
Late Night Refreshment (indoors and outdoors)	23.00 – 05.00 daily
Sale of Alcohol (OFF sales)	06.00 – 00.00 daily

And subject to the following condition:

Late night refreshments will be restricted to the sale of hot drinks only between the hours as set out above.

(Duration of meeting: 10.00 - 10.55 am)

The Officer who has produced these minutes is Ellen Ghey of Democratic Services;
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