

## Western Area Licensing Sub Committee

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### MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 19 AUGUST 2020 VIA MICROSOFT TEAMS.

#### Present:

Cllr Allison Bucknell (Substitute), Cllr Trevor Carbin and Cllr Ernie Clark

#### Also Present:

#### Applicant/Applicant's Representatives

Bejar Hoshair Shwani – Applicant  
Tony Clarke – JMC Licensing  
June Clarke – JMC Licensing

#### Those who made a relevant representation

Cllr Stewart Palmen on behalf of Trowbridge Town Council

#### Wiltshire Council

Teresa Issacson – Public Protection Officer - Licensing  
Sarah Marshall - Senior Solicitor  
Lisa Pullin - Democratic Services Officer

#### Also, in attendance

Ellen Ghey – Democratic Services Officer – Technical support

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#### 1 Election of Chairman

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

#### Resolved:

**To elect Councillor Allison Bucknell as Chairman for this meeting only.**

#### 2 Apologies for Absence/Substitutions

Cllr Allison Bucknell was substituting for Cllr Peter Hutton. There were no apologies.

#### 3 Procedure for the Meeting

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" (Pages 5 – 11 of the Agenda refers).

4 **Chairman's Announcements**

The Chairman made no announcements.

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

**Application by Bejar Hoshair Shwani for a Premises Licence in respect of Wicker Hill Food Stores, 1B Wicker Hill, Trowbridge**

**Licensing Officer's Submission**

The Sub Committee gave consideration to a report (circulated with the Agenda) for which determination was sought for an application for a Premises Licence, presented by Teresa Issacson (Public Protection Officer – Licensing). One relevant representation had been received on behalf of Trowbridge Town Council. The application was for the following licensable activity:

- Sale by retail of alcohol (Off Sales only) from 00:00 – 23.59, Monday to Sunday at Wicker Hill Food Stores, 1B Wicker Hill, Trowbridge.

Mrs Issacson reported the following to the Sub Committee:

- After the consultation period had ended the Applicant had offered directly to Trowbridge Town Council a reduction for the hours of the Sale of Alcohol from 24 hours to 06:00 to 02.30 Sunday to Saturday and the following additional conditions in an effort to mitigate their application:
  - a. From 00.30 of every morning, all sales of alcohol will be conducted via a secured hatched window system.
  - b. CCTV cameras shall be fixed and monitor the front and side of the premises 24 hours of each day.
  - c. The Management will regularly monitor the frontage of the premise, check for any litter and clear on a regular basis within daytime trading hours.
  - d. The Management will ensure that a refuse bin will be positioned outside the premises.
  - e. The Management and staff will use their best endeavours to monitor the exterior of their premises using their CCTV system and report any concerns of people congregating or street drinkers in their Incident Log.

- f. The Management will display the Trowbridge Public Space Protection Order (PSPO) on the front of the premises and also near the point of sale inside the shop.
  - g. The Management will ensure that all staff will be familiar with the contents of the PSPO using the written training guidance (see attached). This training guidance will also be displayed in a convenient area inside the premises where it can be easily read by all staff when on duty.
  - h. Proxy signage will be prominently displayed at the areas of the display of alcohol, stating the maximum fine.
- Following this offer, Trowbridge Town Council confirmed that they wished to continue with their representation in objection to the application.

The Chair confirmed that the Sub Committee had only received the details of the reduction of hours for the sale of alcohol from 24 hours to 06:00 to 02:30 Sunday to Saturday and the additional conditions offered directly to the Town Council prior to the hearing. However, the Sub Committee agreed to accept this information as part of the submission to them.

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

- i) To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To refuse to specify a person as the designated premises supervisor.
- iv) To reject the application.

The following parties attended the hearing and took part in it:

#### **On behalf of the Applicant**

- Mr Bejar Hoshair Shwani - Applicant
- Ms June Clarke – JMC Licensing – Agent for the Applicant
- Mr Tony Clarke – JMC Licensing – Agent for the Applicant

#### **Relevant Representations**

- Cllr Stewart Palmen on behalf of Trowbridge Town Council

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

#### **Applicant's submission**

June Clarke, JMC Licensing (Agent for the Applicant) spoke in support of the application, highlighting the following points:

- The original application reasonably addressed each of the Licensing Objectives and a robust and effective Operating Schedule was submitted with the application. None of the six Responsible Authorities had made a relevant representation which showed that they had no concerns for the granting of a licence for the sale of alcohol for 24 hours;
- The Applicant had held a premises licence for 5 years at 1A Wicker Hill which was a continental grocery and off sales supermarket trouble free from 08:00 to 23:00 day days a week. It had included the sale of alcohol and which was well managed by the Applicant. Staff had been sufficiently trained and there were no failed test purchases or other breaches during that time;
- The Town Council assert that street drinking is a long-standing issue on the town bridge and inside the current Public Spaces Protection Order (PSPO) area. It was noted that there was a CCTV camera opposite that premises that appeared to monitor the town bridge area and was assumed that the problem was being managed to the satisfaction of Wiltshire Police as they had made no representation;
- Evidence over the past 15 years has shown that most night-time drinkers actually buy all their alcohol in the daytime from cheaper outlets like major supermarkets where there are “offers”;
- The Town Council had suggested that the licensed hours should be limited to 09:00 to 21:00. The Council’s Licensing Policy states that the licensing function was not a mechanism for the control of anti-social behaviour by individuals once they are beyond the direct control of the licence holder of any premises concerned;
- The Applicant’s business was a large grocery store and not solely an off licence, although alcohol would contribute an essential percentage of sales as it does with other retailers. The Applicant had been selling responsibly for 5 years and his business was part of the service industry which it was expected and acceptable to function with extended trading hours in comparison to ordinary high street shops;
- When the representation was submitted by Trowbridge Town Council, the Applicant had reluctantly agreed to offer a reduction of the hours for the sale of alcohol from 24 hours to 06:00 to 02:30 Sunday to Saturday. However, the Applicant would now wish for the Sub Committee to consider the application for a 24-hour licence as submitted;
- That a number of conditions had been offered as part of the application to promote the Licensing Objectives; and

- The Applicant was fully aware of his obligations and understood that failure to comply with a Premises Licence and its conditions could lead to a review and revocation of the licence.

### **Sub Committee Member's questions**

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

- Longer opening hours were sought to the premises (1B Wicker Hill) in relation to the Applicant's other premises (1A Wicker Hill) so that a bigger return could be made – there would be an increase in staffing costs with longer opening hours;
- 1A Wicker Hill is a larger premise than 1B Wicker Hill which included a butcher counter. 1A Wicker Hill was able to open between 08:00 and 23:00;
- If the licence was granted the Applicant intended to continue with both premises but with different opening hours;
- It was anticipated that most customers would be served in 1A Wicker Hill but if they needed provisions after 23:00 then they would be able to go to 1B Wicker Hill;
- There would not be less than 2 staff at the premises after 23:00. If there were sales from a hatch, then there could be 1 member of staff at the premises; and
- All sales from 00:30 would be made through the hatch.

### **Questions from those who made a relevant representation**

In response to questions from those that had made a relevant representation, the following points of clarification were given:

- The full trading hours available were not currently being used at 1A Wicker Hill and the premises would usually close around 21:00. During the current pandemic the premises had been closing around 19:00 but the hours were being extended now to get the business moving again.

### **Responsible Authorities' submissions**

There were no Responsible Authorities present as no representations had been submitted.

### **Submissions from those who made relevant representations**

Cllr Stewart Palmen on behalf of Trowbridge Town Council who had made a relevant representation highlighted the following:

- That serving from a hatch late at night would only attract one market which would be people coming home from town who have been out drinking and wishing to purchase more alcohol. They would then become more intoxicated and some may cause anti-social behaviour;
- It would appear that the Applicant was going after that market of customers and it was not felt that there was a market for these patrons. Whilst alcohol could be purchased at Tesco's 24 hours a day this was to give customers a chance to purchase alcohol as part of the normal food shop whenever they chose to do this;
- Street drinkers will look to buy their alcohol cheaper and it is not known from where that demand is being met. . The current licence for the Applicant's other premises is not currently being taken full advantage of and the Town Council do not see a need for the supply of alcohol to be increased further;
- Whilst the Town Council appreciate the conditions offered regarding CCTV, litter and relevant signage, none of these mitigate the concerns that patrons are likely to consume alcohol on their way home from other licenced venue in the area. It is not thought that premises in this area should be available for drinkers to be served further on their way home.

### **Sub Committee Members' questions**

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

- Different points had been raised by Cllr Palmen from that made in the representation submitted on behalf of the Town Council;

*The Chair felt that as part of the oral submission made by Cllr Palmen was not in line with the Town Council submission it was effectively new evidence and could not be considered by the Sub Committee. Cllr Palmen reported that the details he had raised had been discussed at the Town Council's meeting but was unfortunately not included in the written representation submitted by Lance Allan on behalf of Trowbridge Town Council. The Chair suggested that the level of detail to be included in a representation should be considered so that the persons attending the meeting refer to the full concerns that have been raised.*

- There was no direct evidence provided to the Sub Committee that that alcohol purchased from premises with late license had led to anti-social behaviour issues, but assumptions based on intoxicated people causing potential issues with noise and litter etc. There were no known Public Spaces Protection Order (PSPO) prosecutions.

### **Questions from the Applicant:**

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

- Cllr Palmen was not aware of approximately 6 other premises (mostly garages) with a 24-hour licence within a 2.5-mile radius of 1B Wicker Hill; and
- The issue of demand and need for alcohol is not a consideration for the Sub Committee. An Applicant's role is to uphold the Licensing Objectives.

### **Closing submissions from those who made relevant representations**

Cllr Stewart Palmen, on behalf of Trowbridge Town Council made the following point in summation:

- This application for the premises in this location with a large footfall coming of town we feel is unsuitable for alcohol sales.

### **Applicant's closing submission**

In their closing submission, the June Clarke on behalf of the Applicant highlighted the following:

- The Applicant wished the Sub Committee to consider the original application (24-hour licence) as they felt that they had clearly highlighted how they intended to meet the Licensing Objectives.

### **Points of Clarification Requested by the Sub Committee**

The Chair confirmed that the Sub Committee confirmed that they would be considering the application as set out in the Agenda papers.

The Sub Committee then adjourned at 11.03am and retired with the Senior Solicitor and the Democratic Services Officer to consider their determination on the licensing application.

The Hearing reconvened at 11.30am.

The Senior Solicitor advised that she gave no significant legal advice to the Sub Committee.

The Chair reported that Mrs Isaacson the Licensing Officer had been asked to briefly return to the Sub Committee during their closed session deliberations to clarify a single point relating to a document that was referred to by June Clarke in relation to the licensing conditions.

The applicant's representative June Clark had referred to a schedule of licensing conditions and the Licensing Sub Committee needed to ask the Licensing Officer whether these had been sent to her. The Licensing Officer stated that only the expired PSPO and a copy of the Trowbridge PSPO had been sent to her.

**RESOLVED THAT:**

**The Western Area Licensing Sub Committee resolved to GRANT the application for a Premises Licence to include the activity and timings detailed below:**

Licensable Activity	Timings	Days
Sale by retail of alcohol (off sales only)	00.00 – 23:59	Monday to Sunday

Subject to the inclusion of the conditions as offered in the application with condition 1.1 to be amended to read as follows:

The premises shall install and maintain a digital CCTV system to include CCTV cameras that shall be fixed and monitor the front and side of the premises 24 hours of each day.

**Reasons**

In reaching its decision the Sub Committee took account of and considered all the written evidence and representations from all parties and the oral submissions received from the Applicant and those who made relevant representations at the hearing.

The Sub Committee considered the detailed representations made on behalf of the Applicant regarding the merits of his application and what steps the Applicant intended to take to ensure that the Licensing Objectives would be met. The Sub Committee also considered the concerns raised at the hearing by Councillor Stewart Palmen on behalf of Trowbridge Town Council which related to patrons possibly purchasing more alcohol on their return home from other venues, becoming further intoxicated and causing anti-social behaviour during their journey home and that he felt that there was no perceived need for this facility to be available in this location for the hours applied for. It was highlighted to Councillor Palmen by the Chair of the Sub Committee that the points he raised in his representation to the Sub Committee were significantly different from the relevant representation submitted by Mr Allan of Trowbridge Town Council and as such this further information which was new evidence that had not been included in the Town Council's representation and could not be considered by the Sub Committee.



The Town Council had submitted no evidence in support of its representation in relation to any Public Spaces Protection Order offences/other criminal offences for the area, but it appeared to the Sub Committee that the Town Council had made assumptions that if this application was granted this would add to any existing problems with street drinking in area. The Sub Committee were informed that no representations were received from any of the six responsible authorities during the statutory consultation period including the Police.

The Sub Committee noted that prior to the hearing, the Applicant had offered to reduce the hours of the sale of alcohol from 24 hours to 06:00 to 02:30 daily and had proposed a number of additional conditions to further support the licensing objectives, but this offer had been rejected by Trowbridge Town Council. The Sub Committee further noted that the Applicant wished for them to consider their original application as made to be able to offer a shopping and sale of alcohol facility at the premises for 24 hours a day, 7 days a week.

The Sub Committee considered that there was no evidence that the sale of alcohol for 24 hours a day would contribute toward street drinking in the area and there were other premises with sale of alcohol licenses for 24 hours a day in the vicinity and the Sub Committee could see no reason why this premises should be restricted.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision is made by the Magistrates Court.

A Responsible Authority or interested party has the right to request the Local Authority to review the licence in accordance with the provisions of section 51 of the Licensing Act 2003. However, a review will not normally be held within the first twelve months of the licence.

The meeting closed at 11.37am.

(Duration of meeting: 10.00 - 11.37am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk) of Democratic Services.

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