

## WILTSHIRE COUNCIL

### WESTERN AREA LICENSING SUB COMMITTEE

DATE OF MEETING: 18 AUGUST 2014

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#### Application for a Premises Licence; Funways, Post Office, 100 Goodwin Close, Warminster, Wiltshire, BA12 0DF

#### 1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of Funways made by Andrew Dangerfield.

#### 2. Background Information

- 2.1 An application for a Premises Licence in respect of Funways has been made by Andrew Dangerfield for which 2 relevant representations have been received.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 18 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers appropriate for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy.

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- 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.

- 2.5 On 3 June 2014 an application for a New Premises Licence was received and accepted as a valid application. The premise is currently a convenience store

attached to a Children’s indoor soft play area. Funways, the indoor soft play area has not previously been licensed. However the whole premise was previously a Londis Store which held a licence from August 2005 until September 2013. The previous licence for the Londis Store is attached at **Appendix 1**.

2.6 The application as applied for is as follows:

Licensable Activity	Timings	Days
Sale by retail of alcohol (off-sales)	10:00 – 23:00	Daily

A copy of the application from Andrew Dangerfield is attached as **Appendix 2** with a plan attached as **Appendix 3**.

### 3. Consultation and Representations

3.1 The application process requires the application to be advertised, by the Applicant, in a local news publication within 10 working days, starting on the day after the authority receives it and for a public notice (on pale blue paper) to be posted on the premises. In addition the Licensing Authority advertises the application on its website, for a period of 28 consecutive days, starting the day after the authority receives the application.

3.2 During the consultation period 2 relevant representations had been received. Since the end of the consultation period and the date of the hearing 1 representation was withdrawn.

#### 3.3 Representations Received

- Cllr Christopher Newbury, 6 Leighton Green, Westbury, Wiltshire, BA13 3PN (Division – Warminster Copheap and Wylve)
- Warminster Town Council, Warminster Civic Centre, Sambourne Road, Warminster, Wiltshire, BA12 8LB

3.4 Following a site visit by Councillor Jamie Cullen on behalf of Warminster Town Council and further information and conditions offered by the applicant Warminster Town Council withdrew their representation on 31<sup>st</sup> July 2014.

Email correspondence detailing the conditions offered by the applicant is attached as **Appendix 4**. (Conditions highlighted in red.) Confirmation of Warminster Town Council’s retraction of their representation is attached as **Appendix 5**.

A copy of the information and conditions were also supplied to Councillor Newbury who wished to continue with his representation. Councillor Newbury requested that the applicant cease the sale of alcohol at 21:00hrs daily. This was declined by the applicant but an offer was made to cease the sale of alcohol at 22:00 hrs. This was declined by Councillor Newbury. The offer has since been offered again and a response from Councillor Newbury is being sought.

### 3.6 Responsible Authorities

No Responsible Authority has made a representation in connection with this application,

3.7 A summary of the representation made is detailed in the table below:

<b>Representation</b>	<b>Licensing Objective</b>	<b>Accepted</b>	<b>Comments</b>
Disturbance to residents	Prevention of Public Nuisance	Yes	

3.8 The relevant representation is attached as **Appendix 6**.

3.9 In relation to shops, stores and supermarkets, the Guidance issued under Section 182 of the Licensing Act 2003 states:

‘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.’

## **4. Legal Implications**

4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

4.2 The Applicant, and all persons who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

## **5. Officer Recommendations**

5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

## **6. Right of Appeal**

- 6.1 It should be noted that the Applicant and those persons who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 6.2 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 made by the Magistrates Court.
- 6.3 A Responsible Authority or any person may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by a person other than a Responsible Authority it will not normally be granted within the first 12 months except for the most compelling circumstances.
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Report Author: Teresa Bray

Teresa Bray, Public Protection Officer (Licensing)

Date of report: 4 August 2014

### **Background Papers Used in the Preparation of this Report**

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

### **Appendices**

- 1 Previous Londis Licence**
- 2 New Premises Licence Application Form**
- 3 Premises plan**
- 4 Email correspondence detailing conditions offered by the applicant**
- 5 Confirmation of Warminster Town Council's retraction of representation**
- 6 Relevant representations**