

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

THURSDAY, 15 OCTOBER 2020

PRESENT: Councillors Mandy Brar, David Cannon and Phil Haseler

Also in attendance: Applicant Mr Leo Charalambide (Barrister) and Mr Locket (Applicant)

Officers: Craig Hawkings, Shilpa Manek, Rachel Lucas, Andy Carswell and Megan Summerfield (observer)

APPOINTMENT OF CHAIRMAN

RESOLVED UNANIMOUSLY: That the Chairman for the Panel was proposed and seconded to be Councillor David Cannon. This was proposed by Councillor Haseler and seconded by Councillor Brar.

APOLOGIES FOR ABSENCE

No apologies for absence were received.

DECLARATIONS OF INTEREST

Councillor Brar declared a personal interest as she is a holder of a licence for a premises in Maidenhead.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the LPSPOSC be agreed as a true record. This was proposed by Councillor Brar and seconded by Councillor Haseler.

PROCEDURES FOR SUB COMMITTEE

The Clerk went through the procedures for the Sub Committee.

CONSIDERATION OF AN APPLICATION OF A FULL VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003

The reporting officer, Craig Hawkings, Licensing Enforcement Officer, introduced and went through the report.

This meeting of a Licensing Sub-Committee was convened to hear an application for a full variation for a premises located within the Royal Borough of Windsor & Maidenhead. In line with Licensing Act 2003 S18 (3)(a) when relevant representations are made against an application, a hearing must be held to consider them. A relevant representation made against an application for a full variation of a premises licence must relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These are 'The Prevention of Crime and Disorder', 'Public Safety', 'The Prevention of Public Nuisance', and 'The Protection of Children from Harm'.

The purpose of this hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties and then to make a decision in respect of the application.

The Applicant was Shell UK Oil Products Limited for the premises Shell, 195 Clarence Road, Windsor, SL4 5AE. Shell UK Oil Products Limited had applied, under the Licensing Act 2003, for a Full Variation application to vary the current licence held by Shell UK Oil Products Limited to extend the licensable areas and hours of the premises. The application was to:

1. To extend the Sale of alcohol hours for (Consumption OFF the premises) to a 24 hr. each day.
2. To add the licensable activity for the provision of late-night refreshment.
3. Extend the footprint and licensable area of the building.
4. Change the internal layout of the premises.
5. Remove outdated conditions from the Current Premises Licence and to be replaced with different conditions.
6. Add Further conditions to the Premises License.
7. Change the premises name to Shell Waitrose Windsor.

A summary of the application is as follows: -

The standard opening hours of the premises - 06.00 until 23.00 Monday to Sunday

To permit the sale by retail of alcohol for consumption OFF the premises - 00:00 until 24.00 Monday to Sunday

To permit the provision of late-night refreshment - 23:00 until 05:00 Monday to Sunday.

The Designated Premises Supervisor (DPS) would be Mohamed Riswan Mohamed Marzook.

This application had received no representations from the responsible authorities which include Environmental Health, Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Thames Valley Police and RBWM Licensing. There were five individual representations from residents that were relevant as they related to one or more of the four licensing objectives.

The Licensing Panel Sub Committee was obliged to determine the application with a view to promoting the four licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

In making its decision, the Sub-Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Sub-Committee must have regard to all of the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps that were available to the Sub-Committee were:

(a) Reject the application;

(b) Refuse to specify a person in the licence as the premise's supervisor;

(*Note – not all of these will be relevant to this particular application)

(c) Grant the application but modify the activities and/or the hours and/or

the conditions of the licence;

(d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions must be given.

The Sub-Committee were reminded that any party to the hearing may appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Questions to the Reporting Officer

Cllr Haseler asked if we were aware of any anti-social behaviour reports on the existing premises? The reporting Officer highlighted that no representations had been received from any of the responsible authorities. There had been no reports raised, no anti-social behaviour reports and no concerns by TVP.

No other questions were raised.

The Barrister, Mr Charalambide asked the reporting officer if there had been any representation made from Councillor Amy Tisi within the consultation time. The Reporting Officer had not received anything, and it was not in the report pack. Mr Charalambide confirmed that if nothing had been lodged by Councillor Tisi then she could make no representation at the Sub-Committee. The Chairman reminded all that the Legal Officer would advise on this later. Mr Charalambide asked if any of the five representatives had informed the Licensing Officer or the authority that Councillor Tisi would be representing them. The Reporting Officer commented that they had not.

The Legal Officer confirmed that representations could only be made at the sub-committee if representations had been made in time. Another point that the Legal Officer confirmed with the Reporting Officer was that the names and addresses were held by Licensing and were within close proximity to the application address. The Reporting Officer confirmed that they were and he had verified them. Mr Charalambide had no issues about the addresses.

Applicants Case

Mr Charalambide explained to the Sub-Committee that all they were asking for were the addition of two commodities to an existing operation in the local area that has had no history of issues or concerns, it includes a convenience store that has been established as a 24 hour convenience store in the location for some time, there was already a forecourt operation which was run 24 hours a day and the financial services, there is a cash machine which was an important resource for residents. This operation was far more important to Shell UK as a convenience store, where it made a larger impact. To make the premises a more viable convenience store, the application is the request to add the sale of alcohol and the plan in the reports shows that the alcohol would be limited. The second convenience item was the Costa Coffee machines. These would be the late-night refreshment, as in the report, and these machines would be switched on at 11pm for a hot drink. The impact of what was being requested was very minimal. Mr Charalambide reminded the Sub-Committee of the Thwaites case and that evidence was required for any points considered. The responsible authorities had made no representations. Mr Charalambide reminded the Sub-Committee that it would be

very difficult not to grant the application as there was no evidence to show issues/concerns and there had been no representations from the responsible authorities. Mr Charalambide also reminded the Sub-Committee that 'need' could also not be considered and the hours needed to be granted too as per the Section 182 guidance issued by the home office made it clear that premises such as convenience stores should be permitted to match their own hours. Mr Charalambide pointed out that it was not an off licence and therefore no framework hours. Mr Charalambide also informed the Sub-Committee that Shell UK had corrected the conditions that they wanted to work under, making them more onerous for themselves. Shell UK had also engaged with the responsible authorities and Trading Standards team had asked if a condition could be added and clarified, that signage advertising the Challenge 25 scheme shall be displayed in prominent positions on the premises and in accordance with the premises license holders policies. The way that these types of sites are run is firstly by giving training that is run by Locket and Co. which is checked and reviewed at a minimum of six months, if failed then blind testing is carried out regularly and results of which is sent to Locket and Co, Shell and Waitrose. The log-book and training book were very important to the management and would be checked and reviewed by area managers. Shell would be looking to provide a community asset.

Questions to the Applicant by Members

Councillor Haseler asked if any seating would be provided, inside or outside for the late-night refreshments to which Mr Charalambide responded that there would be none. Councillor Haseler also asked how many members of staff would be on duty between 23:00 and 05:00? Mr Charalambide responded that subject to risk assessment and assurance, if the site could operate with one member of staff with the front door locked and all transactions would be through a hatch. Since Waitrose would want people to be coming into the store and browse, there would have to be two members of staff in order for the door to remain open. This would constantly be kept under review.

Councillor Brar asked if the alcohol sale would be 24-hour? Mr Charalambide responded that the application was for 24-hours.

Councillor Cannon asked if the alcohol was going to be sold for consumption on the premises? Mr Charalambide responded that they would not be selling alcohol for consumption on the premises. Councillor Cannon responded and said that this was contrary to what had been said earlier and the application was for an off licence, for the consumption of alcohol off the premises and this would lead the Sub-Committee to consider the framework hours.

Questions to the Applicant by the Reporting Officer

The Reporting Officer asked the Applicant about the late-night refreshments, there was no reference to the two Costa Coffee machines in the application, it only stated, the provision of hot drinks and heated snack foods including paninis and sausage rolls. Mr Charalambide informed the Reporting Officer and the Panel that this was the standard application that was put in and the Applicant was happy if this was conditioned to just have this provision in place.

Questions to the Applicant by Legal

The Legal Officer asked about the hours of the operation, if the operation was already 24 hours, then why does the application ask for 24 hours to be granted? Mr Charalambide and applicant confirmed that the operation was always 24 hours as a convenience store, it was in the application so that the licensing hours could work alongside the operation hours.

Applicants Summary

Mr Charalambide summed up by commending the application to the Panel, everything provided should steer the Panel to grant the application, if the Panel had any concerns, they

could bring them to the applicant's attention. This would be a very valuable asset to the local community that would be run with the high standards of Shell and Waitrose.

Reporting Officers Summary

None

Decision

After careful consideration of all the evidence, the Sub-Committee decided to allow the application to vary the premises licence as follows:

- To extend the Sale of alcohol hours for (Consumption OFF the premises) to a 24 hr. each day.
- To add the licensable activity for the provision of late-night refreshment.
- Extend the footprint and licensable area of the building.
- Change the internal layout of the premises.
- Remove outdated conditions from the Current Premises Licence (**Appendix C of the full report**) to be replaced with conditions detailed in **Section M** of the application (**Appendix A in the full report**).
- Add further conditions to the Premises License as per those detailed in **Section M** of the application (**Appendix A in the full report**).
- Change the premises name to Shell Waitrose Windsor.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and Objectors. The Panel also heard oral evidence provided from the following the Reporting Officer at the Royal Borough of Windsor & Maidenhead), the Applicant and Leo Charalambides (Barrister acting on behalf of the Applicant).

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives. The Sub-Committee regarded the application as an 'off licence' and therefore considered the framework hours but there was no evidence presented that allowed the Panel to identify negative impact of them operating outside the framework hours.

There was also no evidence that had been provided to the Panel to consider any negative impact on the licensing objectives. Whilst the Panel noted the objections from the residents, they considered the contents of the objections and noted that there was no evidence to raise concern on the licensing objectives.

In making their decision, the Sub-Committee also had regard to national guidance and the Council's own Licensing Policy.

The meeting, which began at 2.00 pm, finished at 3.00 pm

CHAIRMAN.....

DATE.....