

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
ONLINE MEETING - LIVESTREAMED ON
MONDAY 29 MARCH 2021, AT 10.00 AM

PRESENT: Councillor D Snowdon (Chairman)
Councillors M Goldspink and C Wilson

OFFICERS IN ATTENDANCE:

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| Peter Mannings | - Democratic Services Officer |
| Brad Wheeler | - Senior Licensing and Enforcement Officer |
| Victoria Wilders | - Legal Services Manager |

32 APPOINTMENT OF CHAIRMAN

It was moved by Councillor Goldspink and seconded by Councillor Wilson, that Councillor Snowdon be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor Snowdon be appointed Chairman for the meeting.

33 APOLOGIES

There were no apologies for absence.

34 CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable Councils to hold remote committee meetings during the COVID-19 pandemic period. This was to ensure local authorities could conduct business during this current public health emergency. This meeting of the Licensing Sub-Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

35 DECLARATIONS OF INTEREST

There were no declarations of interest.

36 MINUTES - 8 JANUARY AND 5 FEBRUARY 2021

It was moved by Councillor Goldspink and seconded by Councillor Wilson that the Minutes of the meetings held on 8 January and 5 February 2021 each be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the Minutes of the meetings held on 8 January and 5 February 2021 each be confirmed as a correct record and signed by the Chairman.

37 APPLICATION FOR A VARIATION OF A PREMISES LICENCE
FOR RUSH GREEN SERVICE STATION, STANSTEAD ROAD
(A414), HERTFORD, SG13 7SH (21/0059/PLV)

The Senior Licensing and Enforcement Officer presented his report covering an application for a variation of a premises licence under Section 34 of the Licensing Act 2003. The Sub-Committee was advised that on 1 February 2021, an application for a variation of a premises licence was made by BP Oil Limited at Rush Green Service Station, Stanstead Road (A414), Hertford. The application sought approval to vary the current premises licence by extending the supply of alcohol between 07:00 to 23:00 daily, which equated to an increase of one hour between 07:00 to 08:00 each morning and to remove and replace all of the conditions on the premises licence.

The Sub-Committee was advised that the applicant had put forward a number of steps that would be taken to promote the licensing objectives and these could be found on pages 65 to 68 of the application and these included conditions in respect of the CCTV system. The Senior Licensing and Enforcement Officer detailed the nine conditions that the applicant had proposed in place of the current annexe two conditions on the licence.

The Sub-Committee was advised that during the 28 day statutory public consultation period, there had been eight representations from Interested Parties, which included one from the local county councillor and the other seven from residents. These representations were included at Appendix 'B'.

The Senior Licensing and Enforcement Officer said that the representations from the Interested Parties each engaged the public safety licensing objective with one representation engaging the prevention of public nuisance objective. The main concerns of the interested parties were the extra traffic they believed this application would bring to the roundabout.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would promote the licensing objectives and would not undermine them and this evidence should be balanced against the evidence given by interested parties.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns. The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and proportionate.

The Applicant's legal representative explained that the existing licence allowed the sale of alcohol from 8:00 to 23:00 hours. He said that the applicant (BP Oil Limited) had a preference that all its store licences matched the store trading hours and this was encouraged by the government in the Section 182 guidance, unless there were good reasons for the hours to be restricted.

The Sub-Committee was advised by the legal representative that the application had been served on the responsible authorities and there had been no objections from those authorities. He said that the applicant did not anticipate selling a lot of alcohol in the extra hour of trading but it was a matter of management of opening the whole store at 07:00 and not closing off the alcohol section.

The legal representative said that the representations that had necessitated this hearing being held all related to traffic in terms of the BP site being shared with McDonalds. He referred to a statement that had been made in the House of Commons last week that had implied that the matter of traffic exiting the site had been resolved between BP and McDonalds. He said that the Sub-Committee would only need to consider the matter of traffic egress if Members felt that the extra hour of alcohol sales would result in an increased risk to public safety.

The Sub-Committee was advised that the applicant did not anticipate any increase in traffic from the extra hour being applied for. The legal representative said the applicant did not anticipate any increase in traffic

from this application as this was not a destination shop for the purchase of alcohol between 07:00 and 08:00. He said that having the whole store opening at the same was in accordance with the Licencing Act 2003, the Section 182 guidance and the licensing policy of East Hertfordshire District Council.

The legal representative said that the conditions had been updated as whenever an application was submitted, the applicant always looked at the conditions in case any of these needed to be updated. He gave the example of challenge 21 on the existing licence when challenge 25 was in use at the premises. He welcomed questions from the Sub-Committee.

Councillor Wilson asked the applicant's representative if there was any data from other similar petrol stations in terms of any how many people might typically attend between 7 and 8 am to purchase alcohol.

The applicant's legal representative said that from experience of running 300 petrol stations, it was not anticipated that customers would arrive between 7 and 8 am just to purchase alcohol. He confirmed that the applicant was not expecting any increase in traffic or footfall as a result of this application.

Councillor Wilson said that it had seemed to take some time to resolve the issues around traffic. He asked the applicant's legal representative how the applicant intended to respond quickly to concerns from residents regarding licensing matters.

The applicant's legal representative said that the

residents were welcome to have his contact details if that helped. He also said that contact details could also be provided for an area manager if that would assist residents as well. He stated that he had not been involved in the multi-agency discussions in respect of traffic but he believed that this complicated matter appeared to have been resolved.

Councillor Goldspink asked for some more clarification from the applicant as to why there was a need to change the conditions on the premises licence. The applicant's legal representative explained that the conditions were very similar and the main difference was reflecting the new industry standard of applying Challenge 25 to alcohol sales.

The Sub-Committee was advised that the mandatory conditions stayed and the police were satisfied with the steps the applicant had taken in respect of CCTV. The applicant's legal representative said that the waste condition had been updated as had the condition for Challenge 25.

Councillor Goldspink referred to the existing conditions in respect of the positioning of CCTV cameras and the placement of waste receptacles. The legal representative said that waste receptacles were in place as standard at all BP premises and this could be included as a condition. He spoke at length about the configuration and positioning of the CCTV cameras and said that this could be altered if required to cover the alcohol display area.

Councillor Snowdon commented on the use of

language in terms of the condition regarding the location of bins. The legal representative explained that the new conditions were more explicit regarding the location of bins. He said that as regards the CCTV the applicant was perfectly content with having cameras focussed on the entrance and the alcohol display area. He confirmed that the applicant would be happy with a condition that required the CCTV to cover the entrance, the exit and the alcohol display area.

Mr Vitmar, a resident and Chairman of Kingsmead Resident's Association, asked the applicant's legal representative why the extra licensing hour was necessary when the applicant did not anticipate selling alcohol during the requested extended hour between 07:00 and 08:00.

Mr Bowen said that his objection related to safety and the traffic nuisance caused by the site. He stated that he had heard that the matter of traffic had been resolved according to a statement made by Julie Marson MP in the House of Commons last week. He said that this had come as a surprise to residents who did not believe that the matter had been resolved. He emphasised that BP had failed to engage in solutions to the problem and Hertfordshire County Council had yet to hear from BP in terms of any progress as regards traffic safety concerns.

Mr Bowen concluded that resident's objections were based on a view that any new traffic coming to this site would add to the existing problems regarding safety and nuisance. Councillor Andrew Stevenson said that he believed that there was an unresolved police order

on this site that had not yet been satisfied. He accepted that this whilst this related to traffic nuisance, it would be wrong to grant this application whilst this matter had not been legally resolved.

The applicant's legal representative said that the police had not objected to this application and this must be determined on its own merits and in accordance with the licensing act. He pointed out that he did not say that nobody would purchase alcohol between 7 and 8 am but the applicant did not anticipate any increase in traffic as a consequence of this application. He said that it was important to the applicant that the whole store was able to open at 7 am.

The applicant's legal representative briefly summed the position of the applicant. He reiterated that he would be happy provide his contact details to the residents association and the local Councillor in case there were any issues with the premises licence.

At the conclusion of the closing submission, the Sub-Committee, the Legal Services Manager and the Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer, the applicant, the local Member and had listened very carefully to the concerns of the residents and taken into account the written representations.

The Sub-Committee decided to grant the application, subject to the retention of existing condition 2 at the expense of the proposed condition 4. In coming to its decision, the Sub-Committee believed that the applicant has provided evidence that the granting of the licence would promote and not undermine the licensing objectives.

Members had noted that the applicant had applied for one extra hour on its licence, and that the police have not objected to the variation to the licence. There was not sufficient evidence to show that the extra hour of the licence would create substantially increased traffic and undermine the licensing objectives.

As a result, the evidence was balanced against the representations made by the interested parties. The Sub-Committee had also noted the applicant's willingness to provide their solicitor's details as a point of contact for the residents.

RESOLVED – that the application for a variation of a Premises Licence for Rush Green Service Station, Stanstead Road (A414), Hertford, SG13 7SH be granted, subject to the retention of existing condition 2 at the expense of the proposed condition 4.

38 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR ASDA, WATTON ROAD, WARE, SG12 0AD (21/0056/PLV)

The Senior Licensing and Enforcement Officer presented his report covering an application for a

variation of a premises licence under Section 34 of the Licensing Act 2003. The Sub-Committee was advised that on 3 February 2021, an application for a variation of a premises licence was made by Asda Stores Limited for ASDA, Watton Road, Ware, SG12 0AD. The application sought approval to vary the current premises licence by extending the supply of alcohol between 07:00 to 23:00 Monday to Sunday, to enable home deliveries for click and collect orders.

The Sub-Committee was advised that the current premises licence permitted the supply of alcohol between 08:00 and 22:00 hours Monday to Saturday and between 10:00 and 16:00 hours on Sundays. Members were advised that the store opening hours were to remain unchanged.

The Senior Licensing and Enforcement Officers said that the application could be found in Appendix A on pages 101 to 112 and regarding the steps to promote the licensing objectives, the applicant had stated that all existing conditions would be maintained and operated.

The Sub-Committee was advised however that during the 28 day statutory consultation period, the applicant had agreed further conditions with Hertfordshire Constabulary and these conditions could be found at paragraph 3.6 of the report. The additional conditions were summarised by the Senior Licensing and Enforcement Officer, and included details of CCTV, age verification policy, notices advertising the age verification policy, staff training on the Challenge 25 scheme, and the maintenance of an incident book or

electronic log.

The Senior Licensing and Enforcement Officers said there had been three representations from Interested Parties during the 28 statutory consultation period; and details of these representations could be found at Appendix 'B' on pages 113 to 116 of the Agenda.

The Senior Licensing and Enforcement Officer said that the representations from the Interested Parties each engaged the prevention of public nuisance and prevention of crime and disorder licensing objectives. Members were advised that another representation had mentioned public safety and the main concerns of the interested parties were extra traffic and noise during the extended period of sales.

The Sub-Committee was advised that in respect of crime and disorder, it should be noted that the police had been consulted and due to the agreed conditions, they were satisfied that this licensing objective would not be undermined.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts statement of licensing policy and the revised guidance under Section 182 of the Licensing Act 2003. The Sub-Committee should determine the application with a view to promoting the four licensing objectives and Members must consider if the applicant had evidenced whether the application would promote the licensing objectives and would not undermine them and this evidence should be balanced against the evidence given by interested parties.

He also said that if the Sub-Committee believed that the licensing objectives would not be undermined then the application should be granted. Members were advised that if they believed that the application would not promote the four licensing objectives, they should take appropriate and proportionate action to address these concerns.

The Senior Licensing and Enforcement Officer said that the Sub-Committee could attach conditions, limit the hours or restrict licensable activities. The application should only be refused as a last resort and the Members' decision should be evidence based, justified, appropriate and proportionate.

Mr Taylor, legal representative for the applicant, introduced the ASDA licensing manager and also the store manager for the premises at Watton Road in Ware. He explained that this was an unusual application and he would deal with it in three parts.

Mr Taylor reiterated that this was an application for the variation of the premises licence to permit alcohol sales between 07:00 and 23:00 hours 7 days a week, in order to service home deliveries and click and collect orders. He explained that this would not affect the hours that the store would be open to customers for shopping.

Mr Taylor said that the variation in hours was to allow ASDA to service home delivery and click and collect orders due to the COVID-19 pandemic, as this had more than doubled the demand for home delivery and

had quadrupled the demand for click and collect. He said that enhanced conditions had been agreed with Hertfordshire Constabulary and reference had been made in the conditions that the purpose of the application was to fulfil remote orders.

Mr Taylor explained that ASDA could currently do home deliveries that did not contain alcohol at any time of the day. He said that the applicant wished to make the full range of products available to customers and he did not believe that this would prejudice the licensing objectives.

Mr Taylor explained that click and collect was available between 08:00 and 22:00 hours Monday to Saturday and between 10:00 and 16:00 hours, and a planning application had been made to extend those hours. He said that if the variation was approved by Members, nothing would change for click and collect until the planning permission was also in place.

Mr Taylor said that all home delivery drivers would have the same training as the checkout staff in store in terms of adhering to enforcing Challenge 25 on the doorstep. He explained that any alcohol was removed from the shopping if the customer was unable to provide proof of age if they were challenged on the doorstep for appearing under the age of 25. Members were advised that the same challenge process was in place in the car park for click and collect.

Mr Taylor explained that he had made submissions to the Senior Licensing and Enforcement Officer on the basis that the submissions that had been made by

interested parties were not relevant. He said that a main point of relevance was the effect on the licensing objectives of a bottle of wine being included in a home delivery.

Mr Taylor said that there would be no impact on light or noise pollution or effect on residents in terms of anti-social behaviour. He said that the police had not objected to the application and there would be no anti-social behaviour. He said that ASDA wanted to be good neighbours, would always work with residents and would meet with them to achieve that aim.

Mr Taylor said that the operating hours of the service yard were governed by planning and nothing would change as ASDA would continue to comply with planning rules. He said that the store manager would be happy to talk to residents to ensure that there were no issues. He pointed out that there would be no impact in terms of litter, lighting, landscaping or exhaust emissions.

Councillor Wilson asked the applicant's legal representative whether the applicant would respond adequately to any concerns that had been raised by the residents in respect of the licensing objectives.

Mr Taylor said that the applicant would always be happy to talk to the residents and there was evidence that this had been taking place. He said that ASDA always sought to be part of the community and be a benefit rather than a burden to the area.

At the conclusion of the closing submission, the Sub-

Committee, the Legal Services Manager and the Democratic Services Officer withdrew from the main Zoom session to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Licensing Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer and the applicant and the Sub-Committee had taken into account the concerns of the residents. The Sub-Committee had decided to approve the application.

In coming to its decision, the Sub-Committee believed that the applicant had provided evidence that the granting of the licence would promote and not undermine the four licensing objectives.

RESOLVED – that the application for a variation of a Premises Licence for ASDA, Watton Road, Ware, SG12 0AD, be granted.

39 URGENT BUSINESS

There was no urgent business.

The meeting closed at 11.47 am

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| Chairman |
| Date |