

Licensing Sub Committee

Premise Licence Determination Hearing

14 December 2010

Report of Head of Safer Communities, Urban & Rural Services

PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Premises Licence in relation to The Cock Horse Service Station, 98 Warwick Road, Banbury and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

This report is public

Recommendations

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- 1) approve the application for the grant of a premises licence as submitted
- 2) reject the application for the grant of premises licence in whole or part
- 3) place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Executive Summary

Introduction

- 1.1 On 21 October 2010 the Licensing Authority received an application for the grant of a premises licence to permit Late Night Refreshment and the supply of alcohol in relation to The Cock Horse Service Station, 98 Warwick Road, Banbury.
- 1.2 During the consultation period the Licensing Authority received letters of representation from a number of Interested Parties living in the vicinity of the premises.
- 1.3 In addition, representation was also received from Thames Valley Police.

Proposals

- 1.4 The applicant has proposed to provide Late Night Refreshment from the premises at the following times:
 - Monday to Sunday from 11.00pm to 05.00am the following morning
- 1.5 The proposal is for indoors only
- 1.6 The applicant has proposed to supply alcohol from the premises at the following times:
 - Monday to Sunday from 00.00am to 11.59pm
- 1.7 The proposal is for consumption off the premises only

Background Information

- 2.1 Late Night Refreshment under the Licensing Act 2003 is the provision of hot food and drink between the hours of 11pm and 5 am, to members of the public on or from any premises whether for consumption on or off the premises.
- 2.2 The Cock Horse Service Station situated at 98 Warwick Road, Banbury is currently able to provide hot food and hot drink outside of hours that require licensing.
- 2.3 As part of the application requirements, the applicant must submit a plan of the premise. A copy of the plan referred to is attached as Appendix 1.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
- 3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of crime and disorder and the prevention of public nuisance. Paragraph 3.3 details how the applicant intends to promote the four licensing objectives in general in addition to specifically related to promotion of the prevention of crime and disorder objective and the promotion of the prevention of public nuisance objective.

3.3

Objective	Applicants response
General	Alarm System, CCTV system with recording facilities, trained staff with recorded ongoing alcohol training regime, challenge 21 and proof of age initiative embraced, in store challenge signage, spirits display located behind counter, refusals system with refusals book
Prevention of crime and Disorder	Alarm System, CCTV system with recording facilities, trained staff, challenge 21, refusals system
Prevention of public nuisance	Staff trained to deal with situations, waste bins provided on the forecourt

3.4 In addition to the information at paragraph at 3.3, the applicant has also submitted further information in relation to the operations of the premises, including photographs of the layout of the premises along with precise plans. This information is attached at Appendix 1.

3.5 During the consultation period, representations were received from nine interested parties. Copies of these objections are attached as Appendix 2.

3.6 A plan of the area showing the location of the interested parties in relation to the premises concerned is attached at Appendix 3.

3.7 An objection was also received from Thames Valley Police. Thames Valley Police liaised with the applicant and negotiated changes to be made to the premises licence operating schedule. The negotiated changes included:

- Controlled access to the premise after 23.00. This is to control those who may use the premise as a warm place to hang around or as a meeting place for Youths.
- Litter
- Noise nuisance as this is a highly residential area.
- Our main concern is about the area at the back of the premise that has had previous problems with youths congregating and being anti social.

3.8 Thames Valley Police have agreed they have no objection should the conditions detailed above be attached to the licence. Details of the correspondence between the applicant and Thames Valley Police are attached at Appendix 4.

3.9 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

Pages 82 – 85	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
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Page 85	Sections 10.19 – 10.21	Hours of Trading
Pages 18 – 21	Sections 2.1 – 2.18	Crime and Disorder
Pages 23 – 25	Sections 2.32 – 2.40	Public Nuisance
Pages 133 – 137	Annex D	Part 4. Conditions relating to the prevention of Crime and disorder
Pages 144 – 145	Annex D	Part 4. Conditions relating to the prevention of public nuisance

Cherwell District Council Statement of Licensing Policy:

Pages 15 – 17	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 21 - 23	Policies LA4 – LA6	Sections 7.3.1 – 7.3.10	General Prevention of Public Nuisance including Addressing Local Concerns and Management and Control
Page 28 - 30	Policy PP9 – PP12	Sections 7.5.16 – 7.5.22	Late Night Refreshment including Take away food outlets – alcohol sales and Supply of alcohol (“Off Sales”)

Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council’s pool of conditions and are asked to bring them with them to the meeting.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One Approve the application for the grant of a premises licence as submitted

Option Two Reject the application for the grant of premises licence in whole or part

Option Three Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Consultations

Full consultation in accordance with the requirements of the Licensing Act 2003 was carried out for a period of 28 days ending at midnight on 18 November 2010

Implications

Financial: There are no financial implications of this report
Comments checked by Denise Westlake, Service Accountant, 01295 221982

Legal: The decision must comply with relevant legislation and Council Policy.
All parties have a right of Appeal to the Magistrates Court against the decision
Comments checked by Paul Manning, Solicitor, 01295 221691

Risk Management: There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.
Comments checked by Rosemary Watts, Risk Management & Insurance officer, 01295 221566

Wards Affected

Banbury Grimsbury and Castle

Document Information

Appendix No	Title
Appendix 1	Background Information and premises plans
Appendix 2	Interested Party objections
Appendix 3	Location of Interested Parties
Appendix 4	Responsible Authority correspondence
Background Papers	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.	
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