

**Committee:** Licensing Sub Committee  
**Date:** Monday 16 December 2013  
**Time:** 1.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### **Membership**

**Councillor Diana Edwards**  
**Councillor G A Reynolds**

**Councillor Michael Gibbard**

## **AGENDA**

### **1. Constitution of the Sub Committee**

The Membership of the Sub-Committee for this meeting will be Councillors Edwards, Gibbard and Reynolds

Please contact Dave Parry (01327 322365) to tender apologies.

### **2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

**Note:** Any Member with a disclosable pecuniary interest will not be able to participate in the hearing, and should therefore notify the Head of Law and Governance in advance so that arrangements may be made for an alternate Member to attend.

### **3. Premise Licensing Determination Hearing (Pages 1 - 26)**

Report of Head of Community Services

#### **Purpose of Report**

The report provides an outline of an application for the grant of a Premises Licence in relation to Banbury Fried Chicken, 24 Middleton Road, Banbury, and details the representation received from a Responsible Authority that has resulted in the need for a hearing to determine the application.

### **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.

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

### **Information about this Agenda**

#### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01327 322365 prior to the start of the meeting.

#### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

#### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

#### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

#### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or

special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

### **Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

### **Queries Regarding this Agenda**

Please contact Dave Parry, Democratic and Elections  
dave.parryn@cherwellandsouthnorthants.gov.uk, 01327 322365

**Sue Smith**  
**Chief Executive**

Published on Friday 6 December 2013

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## Cherwell District Council

### Licensing Sub-Committee

16 December 2013

#### Premise Licence Determination Hearing

#### Report of Head of Community Services

This report is public

#### Purpose of report

To provide an outline of an application to for the grant of a Premises Licence in relation to Banbury Fried Chicken, 24 Middleton Road, Banbury and detail the representation received from a Responsible Authority that has resulted in the need for a hearing to determine the application.

#### 1.0 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:

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

#### 2.0 Introduction

- 2.1 On 31 October 2013, the Licensing Authority received an application for the grant of a premises licence to permit the provision of late night refreshment at Banbury Fried Chicken in Banbury.
- 2.2 The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

2.3 The licensing objectives are:

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

2.4 The Guidance issued under Section 182 of the Licensing Act 2003 states:

*Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times. But the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:*

- *the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;*
- *the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;*
- *greater choice for consumers, including tourists, about where, when and how they spend their leisure time;*
- *the encouragement of more family friendly premises where younger children can be free to go with the family;*
- *the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities.*

2.5 For the Licensing Authority to accept a representation as relevant, it must firstly address one or all of the four licensing objectives and the likely effect of the grant of the premises licence upon the promotion of those objectives. The licensing authority must then determine whether or not the representation may be deemed frivolous, vexatious or repetitious and that they have been received within the relevant timescales. The licensing authority can take whole or part of a representation and deem it as relevant, therefore excluding the irrelevant part from the proceedings.

2.6 During the consultation period the Licensing Authority received one representation from a Responsible Authority. A full detail of the representation received is included at paragraph 3 of this report.

### **3.0 Report Details**

3.1 The applicant has proposed to provide the following regulated activities for the days and times specified:

### **Late Night Refreshment;**

Sunday - from 23:00 to 01:00 the following morning

Monday to Thursday - from 23:00 to midnight

Friday - from 23:00 to 02:00 the following morning

Saturday - from 23:00 to 02:30 the following

3.2 The applicant has proposed the following opening hours for the premises:

Sunday – midday to 01:30 the following morning

Monday – 11:00 to 00:30 the following morning

Tuesday to Thursday inclusively - midday to 00:30 the following morning

Friday - midday to 02:30 the following morning

Saturday - midday to 03:00 the following morning

### **Background:**

3.3 A full copy of the application, including plans of the location to be licensed submitted by the applicant is attached at Appendix 1.

3.4 During the consultation period, one representation was received in respect of this application.

3.5 On 2 December 2013, the Licensing Authority received a response objecting to the application from Rob Lowther, Anti Social Behaviour Manager due to concerns over the potential for noise nuisance being created through the proposed operations at the premises.

3.6 The objection to the application as submitted states that the operations of the premises beyond midnight could be detrimental to local residents on the grounds of causing a public nuisance through noise.

3.7 Mr Lowther has advised that his objection to the application would be removed if the application was amended so that the premises closed no later than midnight on any day of the week in accordance with the planning consents upon the premises.

3.8 A full copy of the response is attached to this report at Appendix 3.

3.9 A Map showing the location of the premises attached at Appendix 2.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 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

- 4.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of public nuisance.
- 4.3 Details of how the applicant intends to promote the four licensing objectives in general in addition to specifically related to the prevention of public nuisance objective is given below:

<b>Objective</b>	<b>Applicants response</b>
General	Health and Safety Training will be provided to staff members
Prevention of public nuisance	AS far as is practical that persons on or leaving the premises and using adjacent car parks and highways will be reminded to conduct themselves in an orderly manner and do not cause annoyance to residents etc.

- 4.4 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:

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003, OCTOBER 2013:**

Page 10	Section 1.19	Other Relevant Legislation
Page 66	Sections 10.8 – 10.10	Imposed Conditions & Proportionality
Page 66	Sections 10.11 – 10.13	Hours of Trading
Pages 14 - 15	Sections 2.18 – 2.24	Public Nuisance

**CHERWELL DISTRICT COUNCIL STATEMENT OF LICENSING POLICY, JANUARY 2010:**

Page 1	Policy GN1	Sections 1.1.1 – 1.1.2	Objectives
Pages 3 - 4	N/A	Sections 2.5.1 – 2.5.13	Fundamental Principles
Pages 5 - 6	Policy GN8	Sections 2.10.1 – 2.10.2	Planning & Building Control
Page 8	N/A	Sections 2.10.1 – 2.10.2	Non-Licensing Issues
Pages 12-14	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 19-21	Policies LA4 – LA6	Sections 7.3.1 – 7.3.13	General Prevention Of Public Nuisance including Addressing Local Concerns and Management and Control
Pages	Policies	Sections	Operating Schedule - Public

## 5.0 Consultation

The applicant carried out a full consultation in accordance with the requirements of the Licensing Act 2003 for a period of 28 days. During the consultation period, it became apparent that the newspaper advertising the consultation was incorrect. As a result, the applicant requested that the consultation was extended to cover this discrepancy. The consultation ended at midnight on 2 December 2013.

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## 6.0 Alternative Options and Reasons for Rejection

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

Option 1: Approve the application for the grant of a premises licence as submitted

Option 2: Reject the application for the grant of premises licence in whole or part

Option 3: Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

## 7.0 Implications

### Financial and Resource Implications

7.1 There are no financial implications of this report

Comments checked by:  
Yvonne White Service Accountant 01295 221737  
[yvonne.white@cherwell-dc.gov.uk](mailto:yvonne.white@cherwell-dc.gov.uk)

### Legal Implications

7.2 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  
[paul.manning@cherwell-dc.gov.uk](mailto:paul.manning@cherwell-dc.gov.uk)

### Risk

7.3 There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

Comments checked by Claire Taylor, Corporate Performance Manager 01295 221563

## 8.0 Decision Information

### Wards Affected

Banbury

### Links to Corporate Plan and Policy Framework

As detailed in the current Service Plan

### Lead Councillor

None

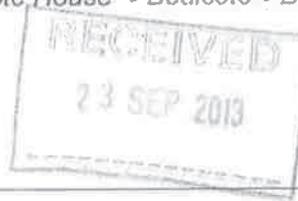
### Document Information

Appendix No	Title
1	Application for a premises licence to be granted under the Licensing Act 2003 in respect of Banbury Fried Chicken, 24 Middleton Road, Banbury
2	Map showing location of the premises
3	Representation from Rob Lowther, Manager of the Anti Social Behaviour Team at Cherwell District Council
<b>Background Papers</b>	
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 to the meeting	
<b>Report Author</b>	Claire Bold, Licensing Team Leader
<b>Contact Information</b>	01295 753741 claire.bold@cherwell-dc.gov.uk



DISTRICT COUNCIL  
NORTH OXFORDSHIRE

Actually received 31/10/13 (see receipt)  
Consultation ends 28/11/2013  
Bodicote House • Bodicote • Banbury • Oxfordshire • OX15 4AA



Telephone 01295 252535  
Textphone 01295 221570  
DX 24224 (Banbury)  
http://www.cherwell.gov.uk

PRM0654



**Application for a premises licence to be granted  
under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We ADWAN AHMED..... apply for a premises licence under section 17 of  
(Insert name(s) of applicant)  
the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description <u>BANBURY FRIED CHICKEN</u> <u>24 MIDDLETON ROAD,</u> <u>BANBURY OXON</u> <u>OX16 4QT</u>	
Post town <u>BANBURY</u>	Post code <u>OX16 4QT</u>

Telephone number at premises (if any) 01295 703040

Non-domestic rateable value of premises £6000 ~~80~~

VOA - £5000  
Bouvet B

**Part 2 - Applicant details**

Please state whether you are applying for a premises licence as

- |   | Please tick <input checked="" type="checkbox"/> yes |                             |
|---|---|-----------------------------|
| a) an individual or individuals*  | <input checked="" type="checkbox"/>                 | please complete section (A) |
| b) a person other than an individual*   |   |                             |
| i. as a limited company   | <input type="checkbox"/>                            | please complete section (B) |
| ii. as a partnership  | <input type="checkbox"/>                            | please complete section (B) |
| iii. as an unincorporated association or  | <input type="checkbox"/>                            | please complete section (B) |
| iv. other (for example a statutory corporation)   | <input type="checkbox"/>                            | please complete section (B) |
| c) a recognised club  | <input type="checkbox"/>                            | please complete section (B) |
| d) a charity  | <input type="checkbox"/>                            | please complete section (B) |
| e) the proprietor of an educational establishment   | <input type="checkbox"/>                            | please complete section (B) |
| f) a health service body  | <input type="checkbox"/>                            | please complete section (B) |
| g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital   | <input type="checkbox"/>                            | please complete section (B) |
| ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008<br>(within the meaning that part) in an independent hospital in England | <input type="checkbox"/>                            |                             |
| h) the chief officer of police of a police force in England and Wales   | <input type="checkbox"/>                            | please complete section (B) |

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick  yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a

statutory function

a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

*AHMED*

**First Names**

*ADNAN*

I am 18 years old or over

Please tick  yes

**Current postal address if different from premises address**

*27 MIDDLETON ROAD, BANBURY OXON*

**Post Town**

*BANBURY*

**Postcode**

*OX16 4GJ*

**Daytime contact telephone number**

**E-mail address (optional)**

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First Names**

I am 18 years old or over

Please tick  yes

Current postal address if different from premises address

--

Post Town

--

Postcode

--

Daytime contact telephone number

--

E-mail address (optional)

--

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned

Name
Address
Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)
Telephone number (if any)
E-mail address (optional)

**Part 3 – Operating Schedule**

When do you want the premises licence to start?

Day	Month	Year
0	1	<del>1</del> 2 0 1 3

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

--

Please give a general description of the premises (please read guidance note 1)

GROUND FLOOR SEC-CONTAINED RETAIL UNIT,  
TAKEAWAY SERVING HOT FOOD

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Please tick ✓ yes

**Provision of regulated entertainment:**

a) plays (if ticking yes, fill in box A)

b) films (if ticking yes, fill in box B)

Pages 7-14 are removed as N/A.

- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both - please tick✓ (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>		
Day	Start	Finish		Outdoors	<input type="checkbox"/>		
Mon	<del>14:00</del> 22:30	00:00	<b>Please give further details here</b> (please read guidance note 3).	Both	<input type="checkbox"/>		
	B.W						
Tue	22:30	00:00					
	B.W						
Wed	<del>22:30</del>	00:00		<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4)	Both	<input type="checkbox"/>	
	B.W						
Thur	22:30	00:00					
	B.W						
Fri	22:30	02:00			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times from those listed in the column on the left, please list</b> (please read guidance note 5)	Both	<input type="checkbox"/>
	B.W						
Sat	22:30	02:30					
	B.W						
Sun	22:30	01:00					
	B.W						

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the sale of alcohol be for consumption - please tick ✓</b> (please read guidance note 7)	On the premises				
				Off the premises				
				Both				
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State and seasonal variations for the supply of alcohol</b> (please read guidance note 4).					
Mon								
Tue								
Wed								
Thur						<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times from those listed in the column on the left, please list</b> (please read guidance note 5)		
Fri								
Sat								
Sun								

<b>State the name and details of the individual whom you wish to specify on the licence as premises supervisor</b>
Name .....
Address..... .....
Postcode.....
Personal Licence Number (if known).....
Issuing Licensing Authority (if known).....

# K

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)**

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	11:00	00:30	Non standard timings. Where you intend to use the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)
Tue	12:00	00:30	
Wed	12:00	00:30	
Thur	12:00	00:30	
Fri	12:00	02:30	
Sat	12:00	03:00	
Sun	12:00	01:30	

# M

Describe the steps you intend to take to promote the four licensing objectives:

a) **General – all four licensing objectives (b, c, d, e) (please read guidance note 9)**

*Health and Safety training will be provided to staff members*

b) **The prevention of crime and disorder**

*CCTV*

c) **Public safety**

~~enter~~ *CCTV will be made operational  
Adequate access is provided for emergency vehicles*

d) **The prevention of public nuisance**

~~As far as is practical that persons on or  
leaving the premises and using adjacent car parks and highways  
will be required to conduct themselves in an orderly manner  
and do not anyway cause annoyance to residents etc.~~

e) The protection of children from harm

STAFF TO BE VIGILANT AT ALL TIMES  
WHERE CHILDREN ARE UNATTENDED BY CAREGIVER/ADULT  
CCTV TO BE OPERATING.

**CHECKLIST:**

Please tick ✓ yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to the responsible authorities and other where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant's solicitor or other duly authorised agent.** (See guidance note 11). **If signing on behalf of the applicant please state in what capacity**

Signature .....

Date 29<sup>th</sup> OCTOBER 2013

Capacity PROPRIETOR

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)</b>	
<b>Post town</b>	<b>Post code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	

## Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day, e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

OCTOBER 2012

**Alexandria Farrell**

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**From:** Kiosk CDC001 [Bodicote\_linkpay@cherwell-dc.gov.uk]  
**Sent:** 31 October 2013 15:36  
**To:** Licensing  
**Subject:** Kiosk CDC001 Fund 11 "Premises Licence"

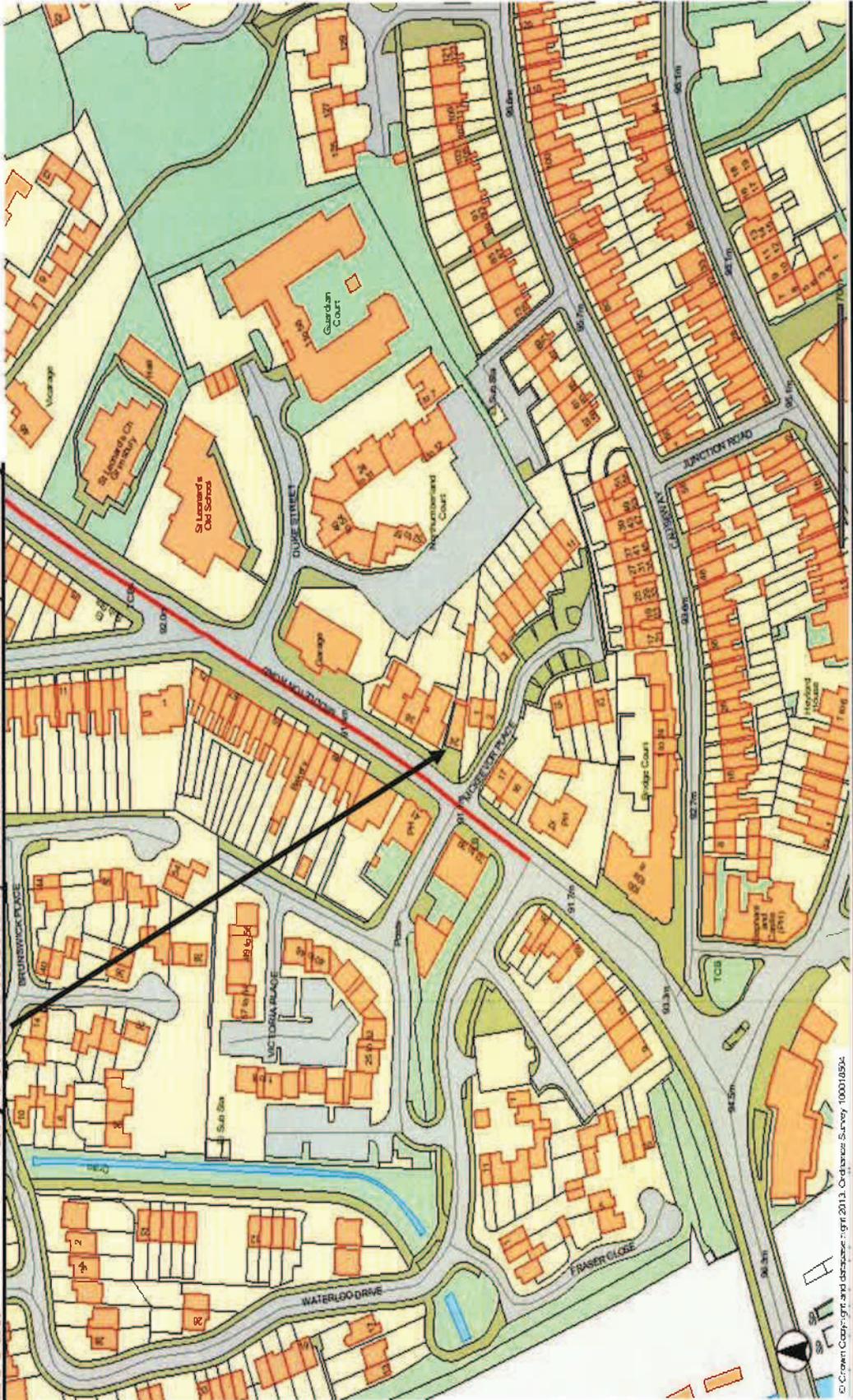
(Automatically generated email from SCAN COIN Kiosk)

Details of transaction on Kiosk CDC001 dated 31/10/2013 15:36:03:

Fund: 11 "Premises Licence"  
Ref: 37224/10903/GLI008  
Name: AHMED  
House: 24  
Address 1:  
Postcode: OX164QJ  
Paid (cash): £190.00  
Premises Address 1: BANBURY FRIED CHICKEN  
Premises Address 2: 24 MIDDLETON ROAD  
Premises Postcode: OX16 4QJ



**Location of Banbury Fried Chicken, 24 Middleton Road, Banbury**



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CHERWELL DISTRICT COUNCIL  
LICENSING AUTHORITY

02 DEC 2013

**Cherwell District Council  
Public Protection and Development Management  
Anti-Social Behaviour Units Licensing Consultation Response.**

**Licensing Act 2003: Application for a premises license  
Applicant(s): Mr Adnan AHMED**

**Premises: Banbury Fried Chicken 24 Middleton Road BANBURY OX16 4QT**

**Details of the application:**

An application for a premises license in respect of a hot food take away to open for the provision of late night refreshment until 00:00 hrs, Mon – Thur, 02:00 hrs, Fri, 02:30 hrs Sat and 01:00 hrs, Sun

**History**

These premises have been operating as a take away food outlet since 2004 when planning approval (04/01113/F) for a change of use was granted to permit the activity to take place. Planning approval was granted subject to a condition permitting the premises to remain open until 22:30 hrs Mon – Thur and 23:00 hrs on Fri and Sat. No opening was permitted on Sun or Bank or Public holidays.

In 2006 a further planning application was made seeking permission to vary the hours restriction described above (06/01971/F). Approval was granted permitting the premises to remain open until 00:00 hrs Sun – Thurs and 02:00 hrs on Fri and Sat.

No application for a premises license was made following the grant of this planning permission. A complaint was received alleging the premises were opening beyond 23:00 hrs which was investigated jointly with the Licensing Department. The allegation was found to be justified and the situation was eventually regularised.

During 2012 the ASB Team received a complaint from a nearby resident (12/11754/NSPEOP) alleging that customers attending the premises were responsible for ASB in the immediate area. This was alleged to take the form of waste being deposited in nearby gardens, discarded food being thrown at nearby dwellings and nuisance parking in a nearby residential street. It was also alleged that the manager of the premises at that time had not dealt with these complaints in an appropriate manner when they were made directly to him.

We have a current complaint which is under investigation that alleges there is noise being emitted from the premises well beyond the permitted trading hours.

**Observations.**

Since the initial grant of planning permission and the subsequent successful application to vary the hours restriction condition the immediate area surrounding Banbury Fried Chicken has changed significantly. In 2007 planning permission was granted (07/01428/F) to permit the development of the adjoining car sales forecourt to form a complex of flats. This consent was implemented in 2009. The result being that the premises are now sandwiched between two residential areas which could be adversely affected by late night noise.

The frontage of Middleton Road is subject to a double yellow line parking restriction and the premises themselves have a maximum of three off street parking spaces, one of which is utilised by their take away delivery vehicle. The result being that customers either park illegally in front of the flats fronting on to Middleton Road or drive into the residential area of Mckeevor Place to park. This activity has the potential to generate noise and the impact would be greater the later into the night that it takes place.

It is noted that this application seeks hours of operation for which a current planning consent is not held.

**Recommendation.**

**That the application is rejected due to the proximity of residential properties and the potential customers using the premises have to cause nuisance to the occupants of these properties.**

**It would however be considered acceptable to grant a premises license that would permit the opening of the premises until 00:00 (midnight) on any day.**

**Anti Social Behaviour Manager  
02/12/13**

A copy of this report is sent to the applicant(s) or their agents and to the Licensing Authority for the Cherwell District Council Area. Should you wish to discuss the contents of this report and its recommendations please contact Rob Lowther on 01295 221623 or [rob.lowther@cherwell-dc.gov.uk](mailto:rob.lowther@cherwell-dc.gov.uk).

**PLEASE CONFIRM IN WRITING THAT YOU HAVE RECEIVED THIS DOCUMENT,  
THAT YOU AGREE THE RECOMMENDED CONDITIONS OR THAT YOU INTEND  
TO CHALLENGE THE RESPONSIBLE AUTHORITIES RECOMMENDATION**

Correspondence must be addressed to Safer Communities, Urban & Rural, The Licensing Authority, Cherwell District Council, Bodicote House, Bodicote Banbury OX15 4AA