

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:

Objective	Applicants response
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.

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:
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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
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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
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 to the meeting	
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