

LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 22 August 2012

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10:00am

Present: Councillors: -

Glenn Harwood MBE (Chairman) Barbara Jenney
Richard Gell

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood MBE be appointed chairman for this hearing.

2. DECLARATIONS OF INTEREST

Councillor Barbara Jenney declared an interest arising from her involvement with the Rushden Town Centre Partnership.

3. APPLICATION FOR A VARIATION TO THE PREMISES LICENCE FOR ASDA STORE, WASHBROOK ROAD, RUSHDEN

The Licensing Officer reported on an application for a variation to the premises licence for the Asda Store, Washbrook Road, Rushden under the Licensing Act 2003.

The application requested changes to the hours for the supply of alcohol as shown below, as well as requesting the inclusion of the provision of late night refreshment. The application also requested the removal of certain conditions as shown below.

Supply of alcohol

Monday to Sunday 06:00 hours – 24:00hours
(Current timings – Monday – Saturday 08:00 – 22:00, Sundays 10:00 – 16:00)

Provision of late night refreshment

Monday – Sunday 23:00 hours – 24:00 hours (not currently licensed)

Removal of conditions

1. Embedded conditions apply (the license was granted on the conditions that the restrictions contained within the enactments specified under the Licensing Act 2003 schedule 8(6) are adhered to)
2. You must be an active member of the Rushden and Higham Pubwatch Scheme

(a) Evidence from the applicant

The applicant's representative, Ms Clare Johnson, was provided with the opportunity to speak in support of the application.

Ms Johnson detailed the reasons for the application and indicated that the applicant had sought to standardise its licensed hours for all of its stores nationally. She commented on the responsible authorities not submitting any objections and noted that the objection received from Rushden Town Council had not been submitted with supporting evidence which would demonstrate that the application conflicted with any of the four licensing objectives.

Clarification was provided that the requested variation in respect of late night refreshment related to the provision of hot foods, such as cooked chickens or sausage rolls, rather than the provision of fast-food or takeaway food.

Reference was also made to the Rushden and Higham Pubwatch Scheme, which the applicant had advised was not well supported by the local licensed trade and membership did not seem appropriate for a supermarket as the scheme was focused primarily on public houses. Consequently, in this context, the application that had been submitted requested the removal of that condition of the existing licence.

The panel and the objector were provided with the opportunity to ask questions of the applicant.

(b) Evidence from the objector

Mrs Vivienne Prodger, Clerk of Rushden Town Council, was provided with the opportunity to speak against the application in which she confirmed the concerns of the town council.

Mrs Prodger indicated that whilst there had been an attempt at negotiations prior to the hearing, the town council had not agreed to remove its objection to the application. She added that it had been difficult to submit a detailed objection without receiving the full detail of the application. Whilst reference was made to letters from residents supporting the town council's position, these had not been submitted within the statutory timescales and had not been circulated to the panel or the objector. Consequently, the panel did not have any regard to the existence of the letters.

The applicant was afforded the opportunity to ask questions of the objector but declined to do so, whilst the panel did seek clarification on the nature of the objection.

After considering the submitted report and the representations made at the hearing from the speakers, including advice from the solicitor, the panel retired to consider the application and evidence presented.

RESOLVED:

That the application for a variation of the premises Licence at Asda Store, Washbrook Road, Rushden, be granted, subject to the retention of the condition requiring to the licence holder to be a member of the Rushden and Higham PubWatch Scheme.

“The Licensing Panel has considered this application for a variation of the Premises Licence for Asda Store, Washbrook Road, Rushden and has taken into account the Licensing Officers report and the representation from Rushden Town Council.

After careful deliberation and consideration of the four Licensing Objectives, ENC’s Statement of Licensing Policy, and the Guidance issued under Section 182 of the Licensing Act 2003, (amended April 2012), has reached the following decision

To grant the variation of the licence for the following licensable activities.

Changes to Supply of Alcohol

Monday to Sunday - 06:00 hours to 24:00 hours

Hours Premises are open to the public

Monday to Sunday - 06:00 hours to 24:00 hours

To include the provision of late night refreshment

Monday to Sunday - 23:00 hours to 24:00 hours

Removal of Conditions

The Panel has agreed to remove the following condition:-

Embedded Conditions Apply (The licence is granted on the condition that the restrictions contained within the enactments specified under Licensing Act 2003 Schedule 8 (6) are adhered to).

In addition, the applicant requested the removal of the following condition:-

You must be an active member of the Rushden and Higham Pubwatch Scheme.

Whilst the Panel appreciated the applicant’s rationale for requesting the removal of this condition, it felt the benefits of the applicant remaining a member of the Pubwatch Scheme outweighed any business arguments for this condition to be removed.

Specifically, the Panel believes membership of the Pubwatch Scheme includes all those licensed to sell alcohol and sees that as important. The benefits of that, are that those licence holders can exchange best practice and the latest information in regard to that aspect of their business and it also ensures that Asda are kept informed of relevant issues and concerns which are particular to the community of Rushden and Higham Ferrers and which would have relevance to the licensing objectives.

Additional Conditions

The Panel did not feel there was need for any additional conditions to be imposed.

Informatives

The panel took due regard of the representation made by Rushden Town Council, however; the representation provided the Panel no evidence of existing breaches of the licensing objectives, nor any evidence they were likely to be breached in the future.

The panel was made aware a number of letters in support of the Rushden Town Council representation had been submitted to the Town Council but had not been made available to the licensing authority in the correct timeframe. Therefore they were neither considered nor taken into account by the panel.

In reaching its decision the Panel were conscious that the Planning Conditions, in relation to hours of opening, are different.

The Panel is very aware there should be no cross over between the regulatory processes of Licensing and Planning. Paragraph 13.58 of amended Guidance Issued under Section 182 of the Licensing Act 2003 makes it clear that the Licence Holder must observe the earlier closing times regardless which regulatory committee imposed them.

A Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision Notification letter."

Chairman