

Licensing Acts Panel



Report of Head of Legal & Democratic Services

Author: Richard Brown, Licensing Officer

Telephone: 01235 547642

Textphone: 18001 01235 547642

E-mail: richard.brown@southandvale.gov.uk

To: Licensing Acts Panel

DATE: 22 January 2014

Application for a premises licence for Faringdon Kebab Van, Pioneer Road, Faringdon

Recommendation

That the panel consider the application for a premises licence and the relevant representations and decide whether to:

- a) grant the licence as applied for,
- b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives,
- c) exclude from the scope of the licence any of the licensable activities to which the application relates,
- d) refuse to specify a person in the licence as the premises supervisor or
- e) reject the application.

Purpose of Report

- 1 To present the facts and relevant representations received in respect of an application for a premises licence for the Faringdon Kebab Van, Pioneer Road, Faringdon, to the Licensing Acts Panel in order that it can determine the application under Section 18 of the Licensing Act 2003.

Strategic Objectives

- 2 The relevant strategic objective is that of 'building the local economy'. The relevant corporate priority is that of 'maintain low levels of crime and anti-social behaviour'.
-

Background

3.1 The Licensing Act 2003 ('the Act') established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the 'licensable activities'.

3.2 Any assessment of licensable activities must consider and promote the four licensing objectives:

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

3.3 Licences will normally be granted by the licensing officer under delegated powers but in the event of relevant representations being received regarding the grant of a premises licence the application is then referred to the Licensing Acts Panel to be considered.

3.4 An application has been received for a new premises licence (**Appendix 1**). The application is for the provision of late night refreshment, as follows:

Licensing Activity	Proposed Days and Times
Provision of late night refreshment	Sunday – Thursday, 2300-0000 Friday – Saturday, 2300-0130
Hours premises are open to the public	Sunday – Thursday, 2300-0000 Friday – Saturday, 2300-0130

3.5 No representation has been received from Thames Valley Police.

3.6 No representation has been received from Environmental Protection.

3.7 One representation has been received from a resident of Park Road, Faringdon which adjoins Pioneer Road; attached at **Appendix 2**. A map showing the location of the van, the respondent's address and the surrounding area is attached at **Appendix 3**. This resident has been visited by Environmental Protection and a report from them is attached at **Appendix 4**. Further photographs will be provided at the hearing.

3.8 The applicant's business partner currently holds a premises licence for late night refreshment for a similar van with the same trading name further along Park Road towards the A420. However the location specified on the licence has been built over and the van has not actually traded there for a number of years. The current van has been lawfully trading at the Pioneer Road location between the hours of 1700-2300 since the beginning of November 2013.

3.9 The applicant has agreed to an additional condition on the licence requiring the display of a notice requesting patrons to desist from causing un-necessary disruption to neighbouring residents. The applicant has suggested the following wording: 'Please respect our neighbours by keeping noise to a minimum, by not shouting, not revving engines, closing vehicle doors softly and leaving quietly'.

4.1 In determining the application the authority must give weight to:

- representations received from Responsible Authorities
- relevant representations received from other persons
- the Secretary of State's guidance issued under Section 182 of the Licensing Act 2003
- the council's statement of licensing policy and
- the steps necessary to promote the licensing objectives

4.2 In view of the above, the panel is requested to consider the application for a premises licence and decide whether to:

- (a) grant the licence as applied for,
- (b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives
- (c) exclude from the scope of the licence any of the licensable activities to which the application relates,
- (d) refuse to specify a person in the licence as the premises supervisor,
- (e) reject the application.

Financial Implications

5 Should the applicant or any other person wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision was upheld.

Legal Implications

6.1 The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant the application the panel will be aware of human rights considerations, specifically Part 1, Article 6, the right to a fair trial, Part 2 and Article 8 the right to respect for private and family life for those making representations.

6.2 The hearing of all applications is subject to the principles of natural justice.

6.3 Section 17 of the Crime and Disorder Act 1998 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area'.

6.4 Under Schedule 5, Part 1 of the Licensing Act 2003, any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

Conclusion

7 This report provides information submitted by the applicant, one respondent and responsible authorities. The panel should determine this application with a view to promoting the four licensing objectives. It must, having had regard to all the relevant representations and the evidence it hears, decide whether; a) grant the licence as applied for, b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives, c) exclude from the scope of the licence any of the licensable activities to which the application relates, d) refuse to specify a person in the licence as the premises supervisor or e) reject the application.

Background Papers

None.
