

# **LICENSING SUB-COMMITTEE**

## **MINUTES OF THE MEETING HELD ON WEDNESDAY, 22 SEPTEMBER 2021**

**Councillors Present:** Phil Barnett, Graham Bridgman and David Marsh

**Substitute:** Jeff Beck

**Also Present:** Beth Varcoe (Solicitor), Jo Watt (Member Services Officer)

### **PART I**

#### **1 Election of Chairman**

Following a vote, Councillor Graham Bridgman was elected Chairman of the Licensing Sub-Committee.

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

Councillor Graham Bridgman declared a personal interest. Councillor Bridgman had been a former partner in the firm of solicitors (Kidd Rapinet LLP) that had been instructed by Mr J and Mr A Akhtar (premises Land Lords) in relation to court proceedings against the former lease holders.

Councillor Bridgman stated he worked for the company a very long time ago, did not know Mr Goddard the solicitor mentioned in Messrs Akhtar's letter and had never worked at the Maidenhead branch of Kidd Rapinet LLP.

#### **3 Application No. 21/00555/LQN, Market Place Family Mart, 3 Market Place, Lambourn, RG17 8XU**

Councillor Graham Bridgman, Chairman of the Sub-Committee, welcomed everyone to the meeting and explained the hybrid meeting process. Those participants who had joined the meeting via Zoom confirmed they had heard and understood the introduction.

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 21/00555/LQN in respect of Market Place Family Mart, 3 Market Place, Lambourn, RG17 8XU.

In accordance with the Council's Constitution, Mr Brad Timm (Licensing Officer, West Berkshire Council), Mr Suresh Kanapthi (Applicant's agent), Mr Sohail Akhtar and Mr Shoab Akhtar (Supporters) and Councillor Rick Jones (representing the Ward Member, Councillor Howard Woollaston) addressed the Sub-Committee on this application.

There were no objectors in attendance.

Mr Timm (Licensing Officer, West Berkshire Council), in addressing the Sub-Committee, raised the following points:

- The Licensing Authority had received an application from Kugarani Mohanarajah on behalf of Market Place Family Mart Ltd for a premises licence in relation to 3 Market Place, Lambourn, RG17 8XU on 20<sup>th</sup> July 2021.
- The application was for the supply of alcohol from Monday – Sunday from 0800 to 2300 for offsite consumption. In addition the shop would sell confectionary, lottery tickets and chilled foods.

## LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

- The 28 day consultation period ran from 29<sup>th</sup> July 2021 to 25<sup>th</sup> August 2021. The Responsible Authorities, Ward Members and Parish Council had been informed on 28<sup>th</sup> July 2021.
- The application was advertised in accordance with the regulations and the required blue notices had been placed at the premises and had been checked by an Officer from the Public Protection Partnership on 4<sup>th</sup> August 2021. The application had been advertised in the Newbury Weekly News on 5<sup>th</sup> August 2021.
- Within the 28 day consultation period, a group of 14 residents, submitted an objection to the application linked to the four licensing objectives. The objections were as follows:
  - The village did not need another shop selling these types of goods as there were already three other shops doing so.
  - The granting of a licence would increase competition which could lead to a reduction in prices of alcohol.
  - Noise and disturbance to the neighbours.
  - Children could be encouraged to drink and smoke as they would be able to buy cheaper alcohol and tobacco products if prices were reduced.
- The objectors listed a number of additional proposed conditions they would have liked to be imposed if the Sub-Committee was minded to approve the application.
- Following discussions with Thames Valley Police, the applicant had agreed to the inclusion of a number of additional proposed conditions as set out in the agenda.
- There had been no representations from the other Responsible Authorities or the Parish Council.
- No mediation had taken place and no individual had offered to represent the objectors.

Councillor Graham Bridgman asked all parties if they had heard the presentation. All parties confirmed they had heard the presentation.

There were no questions put to the Licensing Officer.

Mr Suresh Kanapathi (applicant's agent), in addressing the Sub-Committee, raised the following points:

- The premises was to be a family business and the family who would be running the convenience store had over twenty years' experience of holding a premises licence.
- With regard to the objections raised, the applicant had agreed additional conditions with Thames Valley Police and these were detailed on page 35 of the agenda pack.
- In respect to the concerns regarding crime and disorder, the Premises Licence Holder had agreed to have a robust CCTV system and process in place.
- With regard to the prevention of children from harm, it was noted that the premises would at all times operate a Challenge 25 age verification policy.
- The Premises Licence Holder was currently lawfully selling alcohol under a Temporary Event Licence (TEN) which was valid for a period of three weeks.
- The applicant had already made efforts to mitigate the objections raised with the additional conditions. None of the objectors had attended the Sub-Committee to discuss their concerns.

## LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

- The applicant was an experienced licence holder and it was hoped that the Sub-Committee would look upon the application in a positive light.

All parties present confirmed that they had heard Mr Kanapathi's presentation.

In response to a question from Councillor Phil Barnett regarding training, Mr Kanapathi said a comprehensive staff training programme was in place which included modules on the four licensing objectives, Challenge 25, how to manage nuisance and also conflict management. The Sub-Committee noted that full details of the training to be provided were outlined on pages 35 and 36 of the agenda.

Following a question from Councillor David Marsh, regarding the size of the village and whether there would be enough business to justify a fourth convenience store, Mr Kanapathi said that store would be selling a range of products and alcohol sales was just one element. Mr Kanapathi said that the applicant wished to provide the products and services that people wanted and it was good for customers to have a range of goods available to them including alcohol if they wished to purchase it. The Sub-Committee noted that the site was previously occupied by the Lambourn Convenience Store which had had a licence. The store had been closed for a couple of years due to an issue with the previous leaseholder and had been refurbished before recently re-opening.

In response to a question from Councillor Rick Jones (representing the Ward Member Howard Woollaston), Mr Kanapathi confirmed that the premises was currently open for business and selling alcohol under a Temporary Event Notice (TEN) for a period of 21 days.

All parties present confirmed that they had heard the questioning of the agent.

There were no objectors present to speak on the application.

Before inviting the supporters to the application to speak, the Chairman reminded all parties present that the Sub-Committee was a public meeting and was being live streamed and recorded. The Chairman reminded all parties to speak with care and refrain from mentioning the names of any third parties in their presentations.

Mr Sohail Akhtar and Mr Shoaib Akhtar (supporters), in addressing the Sub-Committee, raised the following points:

- The Akhtar family had owned the premises for the last 18 years and had run the premises themselves for 10 of those 18 years.
- The store had been operating for decades with a licence and this was of integral value to the premises.
- The previous lease holders had run the store for three years at which point they illegally sub-let the premises (without the permission of the owners) to a third party company for a period of four months. As a result, the premises licence was illegally transferred to the third party company on 21<sup>st</sup> June 2019 who then surrendered the Premises Licence on 27<sup>th</sup> September 2019. The company then gained a Premises Licence for a store further up the High Street that they owned. In addition the previous lease holders had removed stock, equipment, ripped out fixtures and fittings and owed rent arrears for 18 months. The owners had instructed Mr Goddard of Kidd Rapinet LLP in respect of these matters.
- The store had been closed for two years for refurbishment and the owners had only been made aware recently that the store was without a licence as a result of the actions of the previous leaseholder.

## LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

- It was the view of the supporters that it would be unfair to restrict the alcohol licence for this premises and not all the premises in Lambourn with a similar licence.
- The owners of the premises had lived in Lambourn for 10 years and worked in Lambourn for 18 years. The new leaseholders had already established a good rapport with the local residents many of whom had been awaiting the re-opening of the premises.
- The supporters thanked the Sub-Committee for the opportunity to address them.

All parties confirmed that they had heard the presentation by the supporters.

In response to a question from Councillor Graham Bridgman, Mr Akhtar said that there were around 5,000 people living in Lambourn and that there had previously been four convenience stores selling alcohol in the village. The viability of the premises would be severely affected if they were not able to sell alcohol and the other stores in the village had a full licence. If customers wished to buy alcohol with their weekly shop for example, they would go to one of the other stores.

In response to a question from Councillor David Marsh, Mr Akhtar said that he did not feel the price of alcohol would vary much between the stores as the licence holders all used the same wholesaler and paid the same prices. A level of customer loyalty had already built up since the store had re-opened.

With regard to a further question raised by Councillor Marsh, Mr Akhtar the supporter said he was not aware of any public nuisance associated with the premises.

All parties present confirmed that they had heard the questioning of the supporters.

Councillor Rick Jones (representing Councillor Howard Woollaston the Ward Member), in addressing the Sub-Committee, raised the following points:

- Councillor Howard Woollaston, Ward Member had no objections to the alcohol licence per se and understood the history of the store.
- Councillor Woollaston's objection was to the garish advertising signs outside the premises and on the wall next to the church which he felt were not in keeping with the centre of Lambourn.

In response to a question from the Councillor Graham Bridgman, Mr Brad Timm, (Licensing Officer) confirmed that signage was a Planning issue and did not fall under the remit of Licensing.

There were no questions of Councillor Rick Jones (representing ward member, Councillor Howard Woollaston).

All parties confirmed they had heard the presentation by Councillor Rick Jones.

In addressing comments made in the Sub-Committee and summing up, the applicants agent, Mr Kannapathi said that the DPS for the site would be happy to speak with the Ward Member, Councillor Howard Woollaston to resolve any issues he had with the signage.

The Sub-Committee retired at 10.42 am to make its decision.

## NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire District Council met on 22<sup>nd</sup> September 2021 and resolved to approve **Application No 21/00555/LQN** for a premises licence in respect of **3 Market Place, Lambourn, West Berkshire, Hungerford, RG17 8XU** subject to a number of conditions which are set out below.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. the protection of children from harm.

They also considered the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 and West Berkshire Council's Statement of Licensing Policy.

The Sub-Committee considered the Application submitted by the Applicant and heard oral representations made by:

1. **The Applicant:** Kugarani Mohanarajah, Thilaxshi Mohanarajah, Suresh Kanapathi (on behalf of the Applicant)
2. **The Supporters:** Sohail Akhtar and Shoaib Akhtar
3. **Ward Member:** Councillor Rick Jones on behalf of Councillor Howard Woollaston

The Licensing Sub-Committee also considered that the Responsible Authority, Thames Valley Police, had proposed conditions which had been accepted by the Applicant.

The Licensing Sub-Committee considered the written representations of the following objectors who did not attend:

1. Wendy Read
2. Brett Jarvis
3. Pam Olvor
4. Alistair Paton
5. Susie Watson
6. Doreen Fowler
7. Liz Beard
8. E. A. Spence
9. P. Mitchell
10. E. Pilch
11. Martin
12. Watson
13. K. Mintern
14. R. Chapman

Having taken those representations into account, the Licensing Sub-Committee **RESOLVED** that Application **No 21/00555/LQN** be granted subject to a number of conditions as set out in the operating schedule as modified below, as well as the relevant mandatory conditions under the Licensing Act 2003 and secondary legislation.

## LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

### Operating Schedule

#### Box J: Supply of Alcohol (Off the premises)

Monday to Sunday 08:00 – 23:00

#### Box L: Hours premises are open to the public

Monday to Sunday 06:00 – 23:00

### Conditions:

#### CCTV

1. The Premises Licence Holder shall ensure:-
  - a. The premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping.
  - b. The entire licensable area shall be covered by the CCTV. Data recordings shall be made immediately available to an authorised officer of West Berkshire District Council and/or an officer of Thames Valley Police, together with facilities for viewing upon request, subject to the provisions of the Data Protection Act 1998 and the UK General Data Protection Regulation and any associated legislation.
  - c. Recorded images shall be of such a quality as to be able to identify the recorded person in any light.
  - d. At least one member of staff on the premises at any time during the operating hours shall be trained to access and download material from the CCTV system.
2. Signage advising customers that CCTV is in use shall be positioned in prominent positions.
3. A refusal register, whether written or electronic, shall be used, kept and maintained at the premises. The refusal register shall record the time and date of the refusal, which age restricted product was refused, details of the staff member refusing service and a description of the person refused. The refusal log shall be produced to authorised officers of West Berkshire District Council and/or Thames Valley Police upon request.
4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid driver's licence showing a photograph of the person, a valid passport, Military ID or proof of age card showing the "Pass" hologram (or any other nationally accredited scheme as set down within the mandatory conditions) are to be accepted as identification.
5. Notices advertising the premises Challenge 25 scheme shall be displayed in prominent positions on the premises.

## LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

6. Staff employed shall undergo training upon induction before they are allowed to work. This shall include, but not be limited to:-
  - a. Dealing with refusal of sales
  - b. Knowledge of the four Licensing Objectives
  - c. Identifying signs of intoxication
  - d. Conflict management
  - e. How to identify and safeguard vulnerable persons who attend and leave the premises
  - f. Proxy purchasing and identifying attempts by intoxicated persons to purchase alcohol.
  
7. Training sessions set out at condition six above, are to be documented and refreshed every six months and shall be kept to a minimum of two years and shall be made available to an authorised officer of West Berkshire District Council and/or Thames Valley Police upon request.

### Reasons

The Sub-Committee took into account the written and oral representations made. The concerns raised by the objectors related to three of the licensing objectives, namely the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

The Sub-Committee carefully considered those concerns and afforded the appropriate weight in light of the fact no objector attended the hearing and made an oral representation.




The Sub-Committee also took into account the fact no responsible authority had objected to the application which included the Local Safeguarding Children Board and Environmental Health. In particular, Thames Valley Police who are a key source of information in relation to crime and disorder, had proposed additional conditions which had been accepted by the Applicant.


The Sub-Committee decided on balance that the concerns were not justified by evidence and the conditions which had been put forward by Thames Valley Police, as amended, and the relevant mandatory conditions, were sufficient to promote the licensing objectives.


The Sub-Committee did not take into account any concerns outside the Licensing Regime, namely whether there was a need for another store selling alcohol or issues in relation to the signage which were planning-related matters. It is important to note that the purpose of the hearing was to determine the Application although the Sub-Committee found no evidence the Applicant had acted in breach of the licensing regime.


In reaching its decision, the Sub-Committee noted the Council as Licensing Authority must determine each application under the Licensing Act 2003 on its own merits, and every decision must be both justified and proportionate based on the available evidence in accordance with Statutory Guidance and the Council's Licensing Policy. There was no evidence before the Sub-Committee that the licensing objectives be undermined in actuality and the Sub-Committee decided the promotion of the licensing objectives could be achieved through conditions. The Sub-Committee considered the conditions are proportionate, reasonable and appropriate.

LICENSING SUB-COMMITTEE - 22 SEPTEMBER 2021 - MINUTES

<b>Cllr Graham Bridgman</b> 	(Chairman)
<b>Cllr Phil Barnett</b> 	
<b>Cllr David Marsh</b> 	
<b>Date:</b> 28 <sup>th</sup> September 2021	

**Name** Graham Bridgman   
**Date of Signature** 1.11.2021.....

**Name** David Marsh   
**Date of Signature** 31.10.2021.....

**Name** Phil Barnett   
**Date of Signature** 16.11.2021 .....