

# LICENSING SUB COMMITTEE A

Wednesday, 9 August 2017

**PRESENT:** Councillor J.M. Charles (Chair)

**Councillors:**

C.A.. Davies and R.E. Evans

**Also present as observers:** Councillors F. Akhtar, A. Fox and K. Howell

**Present as a representative of a Responsible Authority:**

E. Jones – Principal Licensing Officer, Carmarthenshire County Council

K. Smith – Licensing Officer, Carmarthenshire County Council

**The following Officers were in attendance:**

R. Edgecombe, Legal Services Manager

S. Murphy, Senior Solicitor

K. Thomas, Democratic Services Officer

**Chamber, County Hall, Carmarthen - 10.00 - 10.52 am**

**1. DECLARATIONS OF PERSONAL INTEREST.**

There were no Declarations of Personal Interest.

**2. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - CROSSHANDS SERVICE STATION, CROSSHANDS ROAD, GORSLAS, CARMARTHENSHIRE.**

The Legal Services Manager briefed all present on the procedure for the meeting and advised the Sub Committee that an application had been submitted by Motor Fuel Ltd to vary the premises licence in respect of Crosshands Service Station, Crosshands Road, Gorslas, Carmarthenshire, SA14 6RR to allow:-

Supply of Alcohol:-	Monday to Sunday 00:00 – 24:00
Late Night Refreshment:-	Monday to Sunday 23:00 – 05:00
Opening Hours:-	Monday to Sunday 00:00 – 24:00
Amendment to Current Plan	

The Sub-Committee noted that the following documentation was attached to the report:

- Appendix A – A copy of the application
- Appendix B – representations submitted by the Dyfed Powys Police
- Appendix C – representations submitted by other persons
- Appendix D – copy of the current premises licence

The remaining responsible authorities had not made any representations in respect of the application.

The Legal Services Manager referred to the representations of the Dyfed Powys

Police (Appendix B), and drew the Sub Committee's attention to document B6 within that appendix whereby the Police had formally withdrawn its representations following agreement with the applicants on the proposed inclusion within any approved variation to the licence of condition numbers 1-15 in their original representations detailed in Appendix B1-B3. With regard to the representations submitted by an interested party (Appendix C), as that party was not in attendance at the meeting, the Sub Committee would need to have regard to its written representations when deliberating on the application.

The Applicants legal representative advised the Sub-Committee that the variation application was in two parts. The first related to the sale of alcohol for an additional 6 hours between 00.00 p.m. and 05:00 a.m., resulting in the premises being licensed to sell alcohol 24 hours a day, thereby matching its operating hours. The second, for the sale of late night refreshments, was required to facilitate the sale of hot drinks only between the hours of 23:00 and 05:00, and would not involve the sale of hot take away foods.

He advised that the application complied with both the Council's guidelines and statutory guidance. No responsible authorities, apart from the Dyfed Powys Police, had made representations on the application, with the Police having subsequently withdrawn its representation following agreement with the applicants on the inclusion of additional conditions to the variation licence. With regard to the role of responsible authorities in the Licensing process, he drew the Sub-Committees attention to Paragraph 9.12 of the Statutory Guidance, particularly, the role of the Police whereby Licensing Authorities should accept its advice unless evidence was presented to the contrary

He thereupon referred to the representation received from the Gorslas Community Council, as detailed in appendix C1, which had only objected to the application for the additional six hours sought for the permitted sale of alcohol, and not the Late Night Refreshment Element, and made the following responses with regard thereto:-

- Point 1 relating to the proximity of the premises to Gorslas Park. It was felt the variation, for the hours of 00.00 until 05.00 would not impact on the use of the park by families and children.
- Point 2, relating to the increase of availability of alcohol in the area and the potential for anti-social behaviour to occur in the park. It was agreed that whilst the application, if granted, would increase the availability of alcohol, no responsible authority, including the Dyfed Powys Police, had made any representations on that aspect.
- Point 3 and there being sufficient availability of alcohol from existing outlets. It was contended that related to need which was not a relevant matter which the Sub Committee could lawfully take into consideration unless, the premises lay within a cumulative impact area which, it did not.
- Point 4, and the concern increased availability of alcohol could adversely impact on health. It was contended the determining factor in that regard was the consumption, and not the availability of alcohol.

He thereupon outlined his client's approach to the sale of alcohol and its established procedures with regard thereto which included the adoption of 'Challenge 25', regular training and authorisation for staff selling alcohol, regular inspection regimes and maintenance of refusal logs, daily and monthly monitoring

logs and the use of C.C.T.V. He advised that his clients operated 413 sites across the U.K., many situated in villages, 390 of those sold alcohol, with approximately 200 being licensed to sell alcohol 24 hours a day.

In summary, he requested the Sub Committee to approve the application for the additional six hours requested on the basis no evidence had been produced to the effect that the sale of alcohol during that time would be contrary to the licensing objectives, the application should be determined on the evidence presented and not concerns of potential future impact, which could be addressed by a review of the licence, and no responsible authority had objected to the application. With regard to the Late Night Refreshment element of the application, he requested that also be approved on the basis it related to the sale of hot drinks only and not take-away hot foods and that no objections had been made to that proposal.

All parties present were afforded the opportunity of questioning the applicants' representative on his submission.

The Sub-Committee thereupon

**UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12A to the Local Government Act.**

Following the adjournment, the Sub-Committee reconvened to advise of its decision and, having regard to the relevant paragraphs of the Licensing Authority's Statement of Licensing Policy and the guidance issued by the DCMS and the Home Office, it was:-

**RESOLVED that the application for the variation of the premises licence for Crosshands Service Station, Crosshands Road, Gorslas Carmarthenshire be granted subject to the inclusion within the variation licence of conditions 1-15 of the Dyfed Powys Polices' representation, as agreed by the applicant.**

REASONS:-

In coming to its decision, the Sub-Committee made the following findings of fact:-

1. There was no evidence of a history of alcohol related crime and disorder at or connected with the premises
2. The police did not oppose the application
3. No representations had been received from the other responsible authorities
4. The applicant had agreed to the additional control measures requested by the police becoming licence conditions.

The Sub-Committee had attached weight to the views of the police and the absence of any representations from the other responsible authorities.

The Sub-Committee recognised that its decision must be based upon real evidence, and that concerns and fears about what might happen if a licence were granted, where unsupported by such evidence, were not matters which they could properly take into account.

The Sub-Committee noted the representations from Gorslas Community Council and accepted that the concerns outlined were genuinely held. However, whether there was already sufficient availability of alcohol in the locality was not a matter that the Sub-Committee could lawfully take into account when coming to its decision. Furthermore, the representations regarding the proximity to Gorslas Public Park, anti-social behaviour and any impact on public health were not supported by any evidence to show on the balance of probabilities that those issues would, if the application were granted, undermine one or more of the statutory licensing objectives.

On the evidence before it the Sub-Committee was therefore satisfied that there were no grounds to depart from the view of the police that to grant the application subject to the agreed licence conditions was an appropriate response to promote the licensing objectives and an proportionate response to the issues that had been raised.

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**CHAIR**

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**DATE**