

Minutes

of a meeting of the

General Licensing Panel



held on Monday, 4 December 2023 at
10.00 am in Meeting Room 1, Abbey
House, Abbey Close, Abingdon,
OX14 3JE

Open to the public, including the press

Present in the meeting room:

Councillors: Jo Robb (Chair), Georgine Heritage, and Kellie Hinton
Officers: Darius Zarazel (Democratic Services Officer), Ashley Peachey (Licensing Officer), Ben Silverthorne (Trainee Democratic and Electoral Services Officer), and Sam Fowles (Legal Counsel)

Remote attendance:

Officers: Jeremy Lloyd (Broadcasting Officer)

1 Election of a chair

A motion moved and seconded, to elect Councillor Jo Robb as chair of the panel was carried on being put to the vote.

RESOLVED: that Councillor Jo Robb be elected as chair of the panel.

2 Declarations of interest

There were no declarations of interest.

3 Procedure for the meeting

The chair confirmed that all parties present understood the procedure.

4 Application for street trading consents for The Greyhound, Whitchurch; The Red Lion, Chinnor; and The Cross Keys, Wallingford

The chair began by inviting Michelle Hazlewood, representing the applicant Oak Taverns Limited, to present their preliminary submission (presented in a written submissions received by the Council on 28 November and expanded in oral argument). The applicant argued that:

- (a) Paragraph 5.5 of the Council's licensing policy provides that new applications will be subject to a 28-day consultation. Paragraph 5.20 provides that consent for a consent will automatically be granted where no objections are received. The licensing officer's report noted that the panel will not permit late evidence unless all parties agree.
- (b) Mr Cockhill's evidence (objecting to the application on highways grounds) on the application at The Cross Keys, Wallingford, was the only objection and was submitted after the consultation had closed. The Council should, therefore, not take account of Mr Cockhill's submission and should, in effect, determine the application as if there were no objections.
- (c) Further or in the alternative, Mr Cockhill's submission was generic and did not relate specifically to the premises. Mr Cockhill's submission should, therefore, be discounted on that basis.

In oral argument, the applicant accepted that the panel must not fetter its discretion and must be prepared to depart from the policy when material considerations so required. It was argued, however, that Mr Cockhill's submission was made without evidence and so should not be considered a material consideration.

Mr Cockhill did not appear in person at the hearing.

The panel adjourned to discuss the preliminary point made by the applicants. The panel took these arguments into account. It nevertheless determined to admit Mr Cockhill's submission at The Cross Keys, Wallingford, for the following reasons:

- (a) The panel was bound not to fetter its discretion. It was, therefore required to consider the issue in the round. The panel was also aware of its duty to ensure a fair hearing.
- (b) Mr Cockhill was a highways expert speaking on behalf of the Local Highways Authority. For this reason, his submission was likely to be material.
- (c) The generic nature of Mr Cockhill's submission, and the fact that it was not supported by evidence from local objectors was a matter which might reduce the weight placed on the submission, but it did not make it immaterial. The weight placed on Mr Cockhill's submission was a matter for the panel and was best decided when considering all of the relevant issues in the round.
- (d) The applicant accepted that it was not materially prejudiced by the late provision of Mr Cockhill's submission. It could, therefore, be admitting without prejudicing the fairness of the hearing.

The panel reconvened and conveyed their decision before moving on to consider the applications for street trading consents at The Greyhound, Whitchurch; The Red Lion, Chinnor; and The Cross Keys, Wallingford, and the chair invited the licensing officer to present their report.

Licensing officer

The licensing officer informed the panel that the street trading applications were for enabling 11 traders to trade at three Oak Taverns sites across the district. The application sought to allow for the serving of hot and cold food from midday to 9pm for seven days a week at The Red Lion, Chinnor, The Cross Keys, Wallingford, and The Greyhound, Whitchurch.

During the consultation period, the licensing officer confirmed that the applications had received a number of objections, but she acknowledged the one of the highways authorities' objections was from outside of that period but were materially relevant representations.

The licensing officer noted that, should panel be minded to grant the consents for the requested sites, the applicants would still be required to apply for planning permission before they could legally trade on the sites. Overall, the licensing officer informed the panel that they were asked to grant, grant subject to conditions, or reject the applications.

No members of the panel, or the applicant or objector, had questions for the licensing officer.

The applicant

Michelle Hazlewood, representing the applicant, then presented their case to the licensing panel. Some of the key information they highlighted was that Oak Taverns had been running pubs for over 30 years and had refurbished and invested in properties they were requesting these consents to be outside of. They clarified that they did not want to provide a food offering inside the pub and so saw an opportunity through street traders to provide a diverse food offering bring mutual benefit for the pub, traders, and the local community.

The applicant's representative informed the panel that all three applications were on land owned by Oak Taverns who did not initially realise that permission was needed. Since then, they had ceased having traders on the sites and were looking to permission through applying for a consent.

On the first site, The Greyhound, Whitchurch, the applicants highlighted where the street traders would be located for the panel via photographs and the image in the supplementary reports. Ms Hazlewood said that the applicants did not believe that the application would impact negatively on the surrounding road network. On the comments from highways about the site being close to the junction, the applicants responded to this by indicating that there were no issues at the junction when the traders were operating on the site. On the highways point about the application potentially causing indiscriminate parking, she noted that the representation did not mention if this was referencing legal or illegal parking. She also emphasised that there was no evidence of parking issues when the traders were operating and that the volume of public response to the consultation did not indicate any parking issues.

On the other highways authority comment, from Mr Jon Beale, about improving pedestrian movements in the vicinity of the premises, Ms Hazlewood noted that a

potential solution would be to paint on pedestrian white lines around the site but that its implementation should not delay the approval of the application.

Although the applicants initially requested trading permission for seven days a week, in response to residents' comments, they had agreed to reduce this to a maximum of five days and proposed a further condition for a maximum of 200 days per year on the site. They also agreed to further conditions on bins and clean-up.

On The Red Lion, Chinnor, the representative for the applicant highlighted that the traders would not take away from any of the off-street parking spaces. She also noted the highways comment from Mr Cockhill but informed the panel that the application site was on a side road away from a junction leading to a residential area. The applicant also informed the panel that they had conducted an informal survey of traders and found that 20 per cent of people using the vendors took the food away and 80 per cent ate the food in the pub, and that a majority of those eating in walked to the pub and did not use cars.

The representation of Mr Cockhill was also noted but Ms Hazlewood informed the panel that the comments about indiscriminate parking were not evidenced and as there were no parking restrictions on the road outside the car park, any parking there was not illegal. In addition, the applicants did not believe that the presence of street vendors materially impacted the parking situation.

On a comment from an objector about potentially obstructing emergency access to Cromwell Court, immediately opposite The Red Lion car park, Ms Hazlewood stressed that this was not something that could be addressed in the application, but it would be for the highways authority to address.

The applicants also confirmed that they had agreed to several additional conditions to be applied to the site.

On The Cross Keys, Ms Hazlewood reminded the panel about the applicant's preliminary point and asked the panel to consider the relevance of Mr Cockhill's representation due to it being the sole objection submitted. In addition, she noted that the site had a significant car park and was not near a junction and had double yellow line parking restrictions to the side. Furthermore, they informed the panel that the representation from the highways authority also included replicated paragraphs from their other representations on the other sites.

Finally, the representative for the applicant highlighted that there was no evidence to suggest that the times where the street vendors had been trading led to an increase in traffic disorders such as fixed penalty notices. For this reason, and the lack of other objections, they believed that the weight of the representation was limited.

Members of the panel asked the applicant about the hours and days proposed in their additional conditions and how they would be recorded and enforced. In response, the applicant informed the panel that they would use a calendar-based booking system to track the hours and vendors on the sites. They also notified members that all vendors would be issued a trading policy document to outline their obligations and be directly engaged with by managers on the site who would enforce the end of trade litter check.

The applicants also noted they these booking documents would be for internal use but that they would be open to sending this to the council if asked.

On a question about if the applicant had considered the existing food offering in the village in an attempt to not duplicate offerings, the owners responded that, as they did not feel like the street vendors were competition to restaurants, this was not a part of their consideration for the vendors. In addition, they also highlighted that the vendors would be on rotation and so the offering outside their pubs would be variable.

In response to a question about car parking spaces outside The Red Lion, the owners confirmed that the marquee had taken some car parking spaces and left them with four spaces. However, they reminded the panel that the food trucks would not take up one of those spaces.

Members inquired into the method the applicants used to get the informal survey of vendors at The Red Lion about the percentage of people who ate out or took the food inside the pub and the owners confirmed that this was the trader's information but that they did not expect the people drinking in the pub to be using cars. The applicant noted that they had discussed parking issues on the road outside the pub with the objector and agreed to help raise their case with highways.

The panel enquired into the position of the food vendors at The Greyhound as a member of the panel had seen the vendors when they were at the site, and they were not positioned as was being described in the applicant's submission. In response, the applicant confirmed that the vendors would park away from the junction, on the far end of the parking area.

Members also discussed the applicant's proposed condition for the cleaning of oil and the applicant responded that they were open to the requiring of drip trays if the panel thought this would be beneficial.

Neither the licensing officer nor objector had questions for the applicant.

The objector

Julie Elliot, the objector, supported by Pauline Gutherie, then presented their case to the licensing panel. The objector highlighted their objection to the application outside The Red Lion, Chinnor, on the grounds of road safety due to cars parking on Lower Icknield Way. They provided pictorial evidence, included in the agenda pack, which showed the view from the objector's house into The Red Lion's car park as well as their access onto the main road. She noted that this access had become dangerous due to the obstruction that had been caused by people parking on the road outside their access.

The objector also noted that emergency vehicles would struggle to get into Cromwell Court due to the lack of parking restrictions on the road allowing for vehicles to obstruct the access, as well as causing potential issues for residents leaving Cromwell Court due to the vision splays being impacted by the parked vehicles. They also stressed that the food vendors had led to an increase in parking on the road as people throughout the village had used cars to pick up food from The Red Lion's car park.

A potential solution to the parking issues was raised as being parking restrictions on the road around the entrance to Cromwell Court and the Red Lion's car park but that this was a point for the highway's authority.

Finally, the highlighted that the supporters for the application had not referenced the objections from the residents on the road in their responses.

Members of the panel asked the objector what could be improved in the application to make it more acceptable. In response, the objector discussed potential of implementing double yellow lines down the road. They also noted that limiting the trade to weekends could ease the traffic issues they would cause.

On a question about if the parking issues were made worse by the vendors, the objectors confirmed to the panel that the parking issues started occurring when the food vendors started trading.

Neither the licensing officer nor the applicant had questions for the applicant.

Final submissions

The chair then invited each party to present their final submissions and the applicant concluded by highlighting to the panel that none of the representation or objections raised any concern about the traders themselves. In addition, each application site was on land wholly or principally owned by Oak Taverns and was private land. The applicant's representative acknowledged that planning permission was still needed if the consents were granted but that all three sites had the benefit of off-street car parks. The applicant also noted that if the pubs decided to become gastropubs, then they would not need to submit any applications and the impact of the two approaches would be the same. However, the applicant stressed that the purpose of the applications was to generate more sales in the pub, and that due to the sale of alcohol people will not be able to drive or use their cars. The applicants believed that there was sufficient parking available for The Cross Keys and The Red Lion but at Greyhound, they informed the panel that the local reputation for the area was that parking was bad, so they did not expect any issues there.

On The Red Lion, Ms Hazlewood believed that there was no clear evidence from the photos provided linking the vendors to the parking issues in the area and also drew attention to the comments of a local parish councillor who had no concerns. However, the applicants were open to helping the objectors talk to the highway's authority about any issues.

The applicants also understood that the original application was too wide regarding trading days so listened to the comments from residents and agreed to limit the trading days they had asked for. In addition, they were open to a condition on the inclusion of drip trays.

Finally, on The Cross Keys, the applicant's representative highlighted again that there was no objection to the application aside from the one received from the highways authority which they believed was unevicenced and so should have negligible weight in the panel's deliberation.

The licensing officer did not provide a final submission.

The objector's final submission was to bring the panel's attention to the parking issues on Lower Icknield Way and that the application would contribute to those issues.

Finally, the chair invited all the relevant parties to confirm that they had been provided with a fair opportunity to put their respective cases to the panel and each party confirmed that they had received that opportunity.

The panel then retired and excluded all the people from the meeting room apart from the democratic services officer and the legal advisor while they deliberated on the application.

Deliberation

The panel then deliberated the application.

The panel considered the written and oral evidence of all parties, schedule 4 to the Local Government (Miscellaneous Provisions) Act ("the Act"), and the council's Joint Street Trading Policy ("the policy"). The panel only considered what would be reasonable and proportionate having regard to the Act and the council's licensing policy and the criteria to be considered in deciding whether a street trading consent should be granted and on what conditions.

On The Greyhound, Whitchurch, the objections to and discussion around the application focused on the following relevant issues:

- (a) The risk of creating increased traffic and parked cars around the premises and local area, thereby negatively impacting on residents and road users.
- (b) The potential for waste products from the proposed activities to impact negatively on the local environment.
- (c) The ability of the owners of the premises to monitor compliance with any conditions to the consent were it to be granted.

The panel gave weight to the submissions of Thomas Cockhill, of Oxfordshire County Council Highways, on the basis that he was a highways expert and might be expected to have a particular insight into highways impacts. The applicant suggested that the panel should be reassured by the fact that most of the parking around the premises occurred legally. However, the panel was not persuaded by this argument. The panel's role was to consider whether the granting of a street trading consent in relation to a location with insufficient space, it will cause "undue interference or inconvenience to persons using the street" [1982 Act, Sch. 4, para. 3(6)(a)]. This entitled the panel to go further than merely considering whether the parking in the vicinity was lawful. Nevertheless, the panel was satisfied that, with the proposed further conditions, any interference or inconvenience to street users could be suitably mitigated.

Similarly, the Panel concluded that the issues of environmental impact and compliance monitoring could be addressed through conditions. The panel therefore

concluded that the application at The Greyhound, Whitchurch, should be granted subject to the agreed conditions.

On The Red Lion, Chinnor, the objections to and discussion around the application focused on the following relevant issues:

- a) The risk of creating increased traffic and parked cars around the premises and local area, thereby negatively impacting on residents and road users.
- b) The potential for waste products from the proposed activities to impact negatively on the local environment.
- c) The ability of the owners of the premises to monitor compliance with any conditions to the consent were it to be granted.

The panel gave weight to the submissions of Thomas Cockhill, of Oxfordshire County Council Highways, on the basis that he was a highways expert and might be expected to have a particular insight into highways impacts. The Panel also gave weight to the submissions of local residents who reported high levels of congestion in the locality and difficulties accessing their homes.

The applicant suggested that the panel should be reassured by the fact that most of the parking around the premises occurred legally. However, the panel was not persuaded by this argument. The panel's role was to consider whether the granting of a street trading consent in relation to a location with insufficient space, it will cause "undue interference or inconvenience to persons using the street" [1982 Act, Sch. 4, para. 3(6)(a)]. This entitled the panel to go further than merely considering whether the parking in the vicinity was lawful.

Nevertheless, the panel was satisfied that, with the proposed further conditions, any interference or inconvenience to street users could be suitably mitigated. The panel took the view that there was sufficient evidence in relation to the Red Lion (particularly taking into account the oral evidence of local residents and the applicant's admission that there was a traffic problem that it was trying to address). On this basis, the panel reached the view that a condition should be imposed limiting the total number of trading days under the proposed consent to 180 per year.

Similarly, the panel concluded that the issues of environmental impact and compliance monitoring could be addressed through conditions. The panel therefore concluded that the application at The Red Lion, Chinnor, should be granted subject to the agreed conditions.

On The Cross Keys, Wallingford, the panel was assisted by paragraphs 3.1-3.3 of the officer's report, which set out the relevant policy considerations. The panel noted that the grounds on which it might refuse an application were limited to those in the Local Government (Miscellaneous Provisions) Act 1982, Sch. 4, paras. 3(4) and (6). It was, however, (if minded to grant a consent) entitled to attach such further conditions as appear to it to be reasonable [Sch. 4, para. 4(4)].

On the substantive issues of the applicant, the objections to and discussion around the application focused on the following relevant issues:

- (a) The risk of creating increased traffic and parked cars around the premises and local area, thereby negatively impacting on residents and road users.
- (b) The potential for waste products from the proposed activities to impact negatively on the local environment.
- (c) The ability of the owners of the premises to monitor compliance with any conditions to the consent were it to be granted.

The panel gave weight to the submissions of Thomas Cockhill, of Oxfordshire County Council Highways, on the basis that he was a highways expert and might be expected to have a particular insight into highways impacts. The applicant suggested that the panel should be reassured by the fact that most of the parking around the premises occurred legally. However, the panel was not persuaded by this argument. The panel's role was to consider whether the granting of a street trading consent in relation to a location with insufficient space, it will cause "under interference or inconvenience to persons using the street" [1982 Act, Sch. 4, para. 3(6)(a)]. This entitled the panel to go further than merely considering whether the parking in the vicinity is lawful. Nevertheless, the Panel was satisfied that, with the proposed further conditions, any interference or inconvenience to street users could be suitably mitigated.

Similarly, the panel concluded that the issues of environmental impact and compliance monitoring can be addressed through conditions. The panel therefore concluded that the application at The Cross Keys, Wallingford, should be granted subject to the agreed conditions.

The panel, satisfied with the decisions that were reached, called all members of the hearing back into the meeting room.

Decision

The chair then read out the decision notices:

That the panel grant the street trading consent for The Greyhound, Whitchurch, subject to the standard street trading consent condition and the additional following conditions:

1. Between the hours of 12 (midday) and 9pm, the street trader shall only trade for a maximum of five hours.
2. The consent will only be used for a maximum of four days per week.
3. The annual usage will not exceed 200 days per consent.
4. The traders will provide an additional bin for use by customers.
5. At the end of trading, the traders will undertake a litter sweep of the immediate vicinity of the street trading space.
6. Any deposit of cooking solution on the ground or anywhere else as a result of

the activities of the Traders shall be cleaned in full at the end of each day of trading and/or traders shall install drip trays to any cooking or food preparation equipment.

7. All traders are to operate within the curtilage of the Premises.
8. No vehicle associated with any of the activities permitted by the consent shall have its engine idle for more than one minute before commencing a journey or after completing a journey.
9. Any generators used must be industry recognised silent generators.
10. To provided information about the name of vendor, date of operation, and hours of operation to the council if requested.

That the panel grant the street trading consent for The Red Lion, Chinnor, subject to the standard street trading consent condition and the additional following conditions:

1. Between the hours of 12 (midday) and 9pm, the street trader shall only trade for a maximum of five hours.
2. The consent will only be used for a maximum of four days per week (save for Bank Holidays weeks which will only be used for a maximum of four days).
3. The annual usage will not exceed 180 days per consent.
4. The traders will provide an additional bin for use by customers.
5. At the end of trading on each day on which they trade, the traders will undertake a litter sweep of the immediate vicinity of the street trading space.
6. All traders are to operate within the curtilage of the Premises.
7. Any deposit of cooking solution on the ground or anywhere else as a result of the activities of the Traders shall be cleaned in full at the end of each day of trading and/or traders shall install drip trays to any cooking or food preparation equipment.
8. No vehicle associated with any of the activities permitted by the consent shall have its engine idle for more than one minute before commencing a journey or after completing a journey.
9. Any generators used must be industry recognised silent generators.
10. To provided information about the name of vendor, date of operation, and

hours of operation to the council if requested.

That the panel grant the street trading consent for The Cross Keys, Wallingford, subject to the standard street trading consent condition and the additional following conditions:

1. Between the hours of 12 (midday) and 9pm, the street trader shall only trade for a maximum of five hours.
2. The consent will only be used for a maximum of four days per week.
3. The annual usage will not exceed 200 days per consent.
4. The traders will provide an additional bin for use by customers.
5. At the end of trading, the traders will undertake a litter sweep of the immediate vicinity of the street trading space.
6. All traders are to operate within the curtilage of the Premises.
7. Any deposit of cooking solution on the ground or anywhere else as a result of the activities of the Traders shall be cleaned in full at the end of each day of trading and/or traders shall install drip trays to any cooking or food preparation equipment.
8. No vehicle associated with any of the activities permitted by the consent shall have its engine idle for more than one minute before commencing a journey or after completing a journey.
9. Any generators used must be industry recognised silent generators.
10. To provided information about the name of vendor, date of operation, and hours of operation to the council if requested.

The meeting closed at 1.39 pm
