

LICENSING COMMITTEE HEARING

TUESDAY, 16 JULY 2019 - 10.30 AM



PRESENT: Councillor M Humphrey (Chairman), Councillor Miss S Hoy, Councillor A Maul and Councillor R Skoulding (Substitute)

OFFICERS IN ATTENDANCE: Michelle Bishop (Licensing Manager), Colin Miles (Legal Representative) and Linda Albon (Member Services & Governance Officer)

LH2/19 **DETERMINATION OF AN APPLICATION FOR A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - HERON FOODS, UNIT 9-10, HORSEFAIR SHOPPING CENTRE, WISBECH**

Members considered an application for a premises licence in respect of Heron Foods, Unit 9-10, Horsefair, Wisbech.

The Chairman introduced the Panel and others present were:

- Chris Berry, Area Manager, Heron Foods
- Sarah Taylor, Store Manager, Heron Foods, Wisbech
- Mr Andrew Woods, Solicitor for Heron Foods
- Joseph Keegan, Public Health for Cambridgeshire County Council

The Licensing Officer, Michelle Bishop, outlined the report advising that the supermarket are applying for off sales of alcohol, Monday to Saturday 8am to 8pm and Sundays 10am to 4pm. She pointed out that during the statutory 28-day consultation period, two objections were received; one from Public Health and one from Cambridgeshire Constabulary. However, the police consequently withdrew their objection as they are happy with the conditions agreed by both parties.

Joseph Keegan gave his representation on behalf of the Director of Public Health. He highlighted the evidence regarding local public health issues, in particular alcohol and its misuse, the consequences and destructive impact. He understood that Heron would not necessarily be aware of these consequences and did not want to put the burden on them, but felt duty-bound to make it clear to them. He added that it was the professional opinion of Public Health that there are already enough premises selling alcohol in Wisbech and the Cumulative Impact Zone (CIZ) policy is in place.

The Chairman invited questions from the panel and applicant.

Councillor Hoy stated that there had been a store in the same complex as Heron which closed at least a year ago and it had a large area selling alcohol. The statistics showed there was no decrease in street drinking after it closed and Councillor Hoy asked Mr Keegan if he knew why that might be. Mr Keegan said that the drinkers probably diverted to the 19 other places selling alcohol in that area. Councillor Hoy said based on that, if we were to offer a licence it would not make things worse. Mr Keegan added that the CIZ is in place for a good reason, there is supposed to be a rebuttable presumption saying that we would refuse any premises opening, so why we would want to increase the risk? He can only advise on the cumulative impact seen in the area.

The Chairman invited the applicant to provide their representation.

Andrew Woods stated that the panel had visited the shop this morning, Mr Keegan has rightly put in a representation and yes, there is a policy in place. However, the policy relates to whether there will be an impact on the four licensing objectives and he would hope to be able to persuade the panel that granting this licence will have no impact on those licensing objectives, taking into account Mr Keegan's representation with regards to the wider issues.

Mr Woods pointed out the following:

- This is a fairly minimal application for alcohol in terms of the hours applied for and the range and extent of the alcohol on offer. The character of the shop is that the sale of alcohol will generally be ancillary to the buying of other goods. He drew attention to the fact that the original application has already been amended from 8am to 8pm Monday to Saturday to 8am to 6pm.
- Some supermarkets or convenience stores will put a red line around the whole of the store, meaning they can sell alcohol wherever they want to on the premises. That is not the case with this application, if granted there will be a small area of just three bays with alcohol on offer. A variation to change would have to be made if Heron ever wanted to increase this area. Also, the suggested area is in full view of the CCTV and one of the tills, which is manned at all times.
- The shop will not be selling spirits; it only wants to sell beers, ciders and wine. Alcohol sales in other shops are about 3% of their turnover. Heron would like their customers to buy alcohol from them as convenience goods without having to go somewhere else to top up their shopping. Mr Woods added that this licence will not attract new people into Wisbech to buy alcohol.
- Heron have a range of very good policies on alcohol sales, including Challenge 25. All employees will undergo comprehensive due diligence training prior to being given permission to sell alcohol which will be updated on the staff training records on a 6-monthly basis. There will also be a book for refusals, mainly for people without ID. Therefore alcohol will be sold responsibly in the shop.
- Heron have predominantly been a frozen food shop for 20 years but have evolved into a spar-style shop. In the last 18 months, they have been granted 68 alcohol licences and no issues have been raised by the police or local authorities. Mr Woods reminded the panel that the police had withdrawn their objection. Whilst he took nothing away from Mr Keegan's representation, this application deals with the four licensing objectives and the police are now of the view that granting this particular application will not undermine them.

The Chairman invited questions from the panel and public health representative.

Councillor Maul asked what controls are in place regarding selling alcohol to someone who is intoxicated. Mr Berry replied that this forms part of the staff training and those sales would be immediately refused.

Mr Keegan stated that beer and cider are products favoured by street drinkers and asked what market the store is looking at, for example would this include speciality beers and more expensive products? Mr Woods replied that the market is the Heron customer, and the Heron aim is to sell quality brands at reasonable prices. It would not be an attractive proposition for someone who just wants to buy alcohol. Mr Berry added that there would be a very small range of red, white and rose wines and lagers, beers and ciders available in small packs and single bottles. Promotions would not be offered and alcohol would not be sold cheaper than other stores in order to undercut them.

Mr Keegan asked the Chairman if he could make one further observation and the Chairman agreed. Mr Keegan then stated that Heron had stated that the change in hours from 8pm to 6pm had been agreed more as a business decision as that is when the Horsefair closes. He wanted to highlight that street drinking is a bigger issue in the daytime than it is in the evening and so the

change in hours did not alleviate the concerns of Public Health.

The Chairman invited both parties to sum up.

Mr Keegan reiterated that Public Health have a lot of experience of working in the Wisbech area where there are considerable issues as a result of alcohol misuse. The store is situated in the area covered by the CIZ. He understands that the business is trying to make money which he respects, but they are not responsible for the consequences which Public Health see. There are already enough businesses in the area to obtain alcohol and he is concerned that this will be another business with a cheaper, bargain-end approach which will be attractive to the service users affected by alcohol. Overall, therefore he would encourage this application to be not to be granted.

Councillor Maul had one further question for Heron Foods. In the application there was reference to CCTV, which was briefly discussed at the site visit earlier today. Reference was made specifically to the congregation outside the front of the store, and he suggested consideration be given to the rear of the store in relation to monitoring the off-loading of goods and the areas where people can congregate. Mr Woods consulted with the Area Manager and agreed that a camera could certainly be installed to cover the entrance that had been discussed on the visit. If the camera was installed on the back door, it would cover deliveries and the immediate area outside also. Councillor Maul thanked Mr Woods.

Mr Woods then summed up on behalf of Heron Foods. He stated that they fully understand and respect the policy and all that Mr Keegan has said. Mr Woods had listed all the points he had asked the panel to take into account as to why the application should be granted and referred again to the police and their view that granting the application would not undermine the licensing objectives. Heron started as a family business and take their obligations seriously. If the application is granted they will work with all agencies to ensure that the licensing objectives are not undermined.

The panel withdrew from the hearing at 11.13am to deliberate the application, returning at 11.33am.

The premise sits within the Cumulative Impact Area therefore it is accepted that there is a rebuttable presumption not to grant. A site visit was made earlier today.

We heard from Public Health in person who raised concerns, including but not restricted to:

- **19 other alcohol outlets**
- **Alcohol related crime and anti-social behaviour**
- **Adverse effects of excess alcohol to individuals and to families and children**
- **Adverse impact on normal family life such as schooling,**
- **Problematic street drinking**
- **Homelessness, rough sleeping**
- **Daytime drinking.**

The Applicant stated:

- **Alcohol will only form about 3% of the turnover**

- **Allow Heron shoppers to purchase alcohol**
- **Offer to reduce hours for the sale of alcohol:**
 - **Mon – Sat 8am – 6pm**
 - **Sundays 10am – 4pm**
- **Robust policies and training for staff**
- **No spirits will be offered for sale**
- **No promotions on alcohol**
- **CCTV coverage will extend to the rear of the premise, and this will be an additional condition.**

We note that the police have withdrawn their representation due to the Applicant accepting additional conditions.

We consider that the Operating Schedule as amended is robust and will not further add to the cumulative impact issues and will not offend the four licensing objectives.

We therefore grant the licence subject to the Operating Schedule as amended.

11.37 am

Chairman