

**Notice of Determination – Application for the grant of a premises licence under the Licensing Act 2003 regarding Morrisons Store and Petrol Filling Station, Albion Way, Norwich NR1 1WU.**

Licensing Sub-Committee date – 19<sup>th</sup> January 2022. This hearing was held remotely.

Members of committee present– Councillors Stutely (Chair of committee), Maxwell and Sands.

Applicant – WM Morrison Supermarkets Limited

List of attendees:

	<b>Name</b>	<b>Role</b>
1	Cllr Marion Maxwell	Committee member
2	Cllr Susan Sands	Committee member
3	Cllr Ian Stutely	Committee member
4	George Zormelo	Licensing Manager of the applicant company
5	Richard Taylor	Agent for the applicant, licensing solicitor, Gosschalks.
6	Cllr Lesley Grahame	Objector
7	Maxine Fuller	Officer
8	Leonie Burwitz	Officer
9	David Lowens	Solicitor, legal advisor

**Summary Notes of Hearing**

There were no apologies received and no declarations of interest were made. There were no additional papers given to committee prior to committee or during the hearing.

Due to technical issues Ms Fuller was not present at the start of committee and the report was presented by the legal advisor.

Mr Taylor then addressed committee. Morrisons had been trading on this site for a number of years and held a premises licence under the Licensing Act 2003. The purpose of this application in practical terms was to include the petrol filling station within the licensed area, to enable the display and sale of alcohol. If granted the existing premises licence covering the store would be surrendered.

Mr Taylor explained that both the hours sought, and the conditions matched those on the existing premises licence.

Since the start of the current pandemic there had been an increase in shopping at the petrol filling station, both in addition to the purchase of petrol and in using the petrol station as a convenience store. Many persons wished to shop in a smaller environment. Over the last year approx. 47,000 persons had used the petrol station just as a convenience store.

Morrisons operated 530 stores, in all cases without being the subject of a review or prosecution under the Licensing Act 2003. The Norfolk Constabulary had been contacted and there were no concerns with the management either of the store or the petrol filling station.

Regarding promotion of the licensing objectives the premises used CCTV, available to the police and the licensing authority upon request, and the petrol station held a panic button with a direct link to the main store. All staff, if selling alcohol, are personal licence holders. Challenge 25 was in operation and till prompts existed regarding age restricted products. If selling alcohol, the petrol filling station would not be single-manned. There is an electronic refusals log and independent test purchases of age restricted items took place. Spirits/high value items were held behind the counter and the business did not sell single cans of alcohol.

Mr Taylor explained that the above were not written as part of the operating schedule proposals but were designed to inform committee how the premises were currently and were intended to be run.

Noting the issues raised by Cllr Grahame in her representation Mr Taylor noted that none of the responsible authorities had objected to the proposal and it was felt that she was concerned regarding what might happen. The petrol filling station needed to be open beyond store hours, as for example the store needed to close at 4pm on a Sunday but convenience shopping needed to take place outside the store hours.

The Chair noted concerns regarding the plan and the extent of the licensed area sought. Some confusion had arisen regarding the plan. Mr Taylor confirmed that it was not intended to licence any area except the store and the petrol filling station, and a new plan would be sent promptly to the licensing authority if the application was successful. There was no intention to have sales in the car park.

Mr Taylor noted the hours sought were for flexibility.

Cllr Maxwell questioned the safety of staff in the petrol filling station, Mr Taylor noted that the police had no concerns over what was proposed and that if alcohol was for sale then there would be two members of staff. Currently the petrol station could be staffed by only one person.

Cllr Sands asked whether alcohol only sales were expected. Mr Taylor confirmed that this was possible but noted the range in the petrol filling station would be much smaller than in the store. He confirmed that whilst it was not a written condition proposed for the licence the company did not sell cheap high strength white ciders and it was unlikely that strong beers would be sold in the petrol station.

Cllr Sands asked why Morrisons could not use TEN's for any needed flexibility, Mr Taylor noted that the proposed application involved future proofing and also that

there was a limitation on numbers for these temporary licences to 499 persons, so they could not meet capacity.

Cllr Grahame addressed committee. She confirmed that in her view Morrisons managed their site well. Her concerns were for areas beyond the CCTV and beyond the control of the management; the site was not overlooked and women in the area were vulnerable to harassment. She suggested that the petrol station should only sell alcohol whilst the store was open, or to 22:00 as a limit.

Cllr Grahame noted that this was not an issue of not selling single cans, but the vulnerability of persons in the area traversing quiet streets.

The Chair noted that the behaviour of the public when beyond the control of the premises licence holder was a matter for individual responsibility and that there were other places in the locality where alcohol could be purchased.

Mr Taylor confirmed that Morrisons had taken the decision not to sell single cans to discourage street drinking and again noted that these premises had been operated for some time with no difficulties whatsoever. Cllr Grahame's concerns were not shared by the police.

Mr Zormelo noted that staff were trained to stop drunk persons and that this premises had passed the last four test purchases of alcohol carried out by an independent assessor. The store was staffed 24 hours a day.

The Chair asked Cllr Grahame why she felt this store would create a problem. Cllr Grahame viewed this store as isolated, compared for example to Tesco. She did not doubt the professionalism of the store management, but she was concerned regarding the areas outside their control, the impact beyond the site.

Mr Taylor supplied details of sales of fuel only, fuel with convenience goods and convenience goods only at the petrol station. In response to a question from Cllr Sands as to persons becoming violent when refused service then there was the panic button and security staff or other staff could attend from the store. Mr Zormelo confirmed that the night manager would come over to the petrol station if needed.

Mr Taylor confirmed that the applicant company was happy to amend their proposed operating schedule to allow authorised officers of the licensing authority to be treated in the same way as the police regarding CCTV.

The legal advisor drew the attention of committee to paragraph 2.24 of the s182 statutory guidance.

Mr Taylor summed up the application, and invited committee to note the statutory guidance at paragraphs 9.42 and 10.15. The decision of committee should be evidence based and justified as appropriate and proportionate. He suggested there was no evidence before committee showing that it was appropriate to limit hours or impose other conditions. The evidence showed this was a good operator who worked with the police and had an unblemished record. The police, who the committee should rely upon regarding advice on the prevention of crime and disorder licensing objective, had no issue with the proposal.

The committee retired for a private discussion, returning to give their decision in public.

### **Decision of committee**

The application was approved and a premises licence was granted. There were no imposed conditions. Committee requested an amended plan be provided.

This was the unanimous decision of committee.

Reasons for the committee's decision

The committee gave significant weight to the views of the police in considering the crime and disorder licensing objective, in accordance with statutory guidance, and notes the police have not objected to the application.

The sought hours already exist on a premises licence, in practical terms the application is an extension to the petrol station of what exists already at the store.

There is no evidence to support any imposed condition or restriction in hours. The concerns of the objector relate to matters off site and beyond the control of the management.

The premises are well run. The provided history of Morrisons stores in general including this site indicates no problems arising under the licensing objectives. The site has run without issue for some time and there is no evidence to support a view that this will change due to the granting of the premises licence.

The committee noted the multiple mitigations in operation to avoid problems arising under the licensing objectives.

The concerns of the objector regarding anti-social behaviour in the areas outside Morrisons' control do not have a sufficient connection to these premises and the way they are run to justify refusal or amendment of the application.

### **Rights of appeal**

Rights of appeal are set out in Schedule 5 of the Licensing Act 2003.

Where a person who made relevant representations in relation to the application desires to contend—

- (a) that the licence ought not to have been granted, or
- (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of section 18 of that Act,

he/she may appeal against the decision.

Any appeal should be raised with a magistrates' court within 21 days of receipt of the written decision appealed against.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small flourish.

Signed.....Chair, Licensing Sub-Committee.

Dated 16<sup>th</sup> February 2022