

Richard W Leonard

Applicant Objection Response

In response to the letter of Objection from Mr F Dimitru of 8 Park Street, Woodstock, Oxfordshire OX20 1SP. As the applicant I have set out my response paragraph by paragraph and made reference to the actual application where appropriate to demonstrate that I understand the 4 Licencing Objectives and how those objectives are a consideration across our business as described in the application.

The text in red are extracted from the Letter of Objection. The following text in **Black** is my detailed response.

I am aware that any representation must be made in relation with one of the 4 Licencing Objectives, as I have got a Personal Licence myself and I strongly believe that my objection is relevant for most of the above mentioned objectives, and I trust that The Council will take in consideration all of the aspects and parties/residents that will be directly impacted by the grant of the Wine Merchant Licence.

The legislation requires a period of 28 days from the date of the application for the statutory authorities and the general public to make representation or objection to the Licencing Authority (WODC) and that representaiion is duly considered. The authority WODC cannot invent or suggest where there may be a negative impact if it is not presented, but that the applicant must show due regard for the Licencing Objectives.

I understand that only one objection was received by the Licencing Team at WODC and was from Mr Dimitru which we are hearing now.

As a Personal Licence Holder Mr Dimitru should understand that Love Wine Merchants Limited have applied for a Premises Licence for 6 Park Street and not a Wine Merchants Licence or Club Premises Licence. Mr Dimitru should also be able to demonstrate that he understands the requirements of the Legislation and the due Licencing Process.

I enquired with WODC team that Mr Dimitru was a local Personal Licence holder. Ms Thomas of the team said that the ability to be granted a Personal Licence was purley a demonstration that an applicant had attended a course and submitted a paper which had gained a minimum points requirement for a Personal Licence application.

I would like to make a reference to the fact that the same business applied for the Premises Licence on 13th January 2014 to use premises at number 20 Oxford Street Woodstock OX20 1TS, to sell wine and spirits and wine tastings between 10:30am-9:30pm, and I believe the application was rejected, the case officer could investigate.

It is a fact that Love Wine Merchants Limited did make an application to WODC for a premises licence for 20 Oxford Street, Woodstock in February 2014. The

application was sent to this panel for hearing as there was one written objection. The objection was not satisfied as the grounds were either not relevant to the Licence application or the applicant demonstrated they had considered the 4 objectives fully in the application. A Licence was granted. Shortly afterwards the prospective landlord at 20 Oxford Street, withdrew from the lease contract because of financial restraints to his business.

I would like to start with one of the four Licencing Objective that I feel relates and encompasses the whole situation, namely " Prevention of public nuisance". A Public Nuisance was defined by the English scholar Sir J F Stephen as, " an act not warrant by law, or an omission to discharge a legal duty, which act or omission obstructs or causes inconvenience or damage to the public in the exercise of rights common to all Her Majesty's subjects. Nuisance signifies that the "right of quiet enjoyment" is being disrupted.

I will exemplify now how my personal case relates with this objective. First of all I do not comprehend how the Woodstock Town Council accepted the Wine Merchant as a tenant when the property at number 6 Park Street is out of the commercial path, and most important totally unsuitable for the type of business operated by the possible new tenant due to the fact that is sandwiched in between two residential properties, number four where an elderly couple resides and number 8 where myself and my family resides. I must mention that we where not being consulted by the Council in regards with the new tenant/business coming to number 6.

Woodstock Town Council are the Landlords to the retail property 6 Park Street as they are to Mr Dimitrus. Their appointed Agent, Carter Jonas accepted our application for a tenancy based on our commercial model, our ability to pay and that the premises has the relevant consent for our usage as Love Wine Merchants Ltd. I cannot confirm but another interested party was requiring change of use consents away from the current A1 usage and so our application was proceeded because it was without complication and with funds.

It is well documented and a fact that the premises of 2-8 Park Street which includes the Post Office is owned by Woodstock Town Council is placed facing the "Market Square". Our proposed premises and the objectors domestic rental has been a commercial premises documented as far back as 1598. Occupied by Alderman William Metcalf, Woolen Draper through to Henry Hodgkinson, Mercer in 1719. Part of the building has been the Towns Post Office since 1886. It was remodelled in the late 17th century and the rooms to the rear were parlours and it included a China shop. In 1807 Edward Prescott, Mercer and Draper ran the premises. His family continued to do so till the early part of the 20th century. The rear west wing (No 8) was used as a Brew House in the 19th century.

The residents above the post office and part above the Love Wine premises have made no objection.

With regard the position of Prevention of Public Nuisance

I think Mr Dimitrus is confusing two aspects of English law – That of the Licencing Act 2003 England and The Landlord and Tenant Act 1985.

The ‘covenant of quiet enjoyment’. This is a term which is implied into all tenancies whether or not it is actually written down in the tenancy agreement.

The name is a bit confusing as it does not mean the property has to be quiet or that the tenants must be able to enjoy themselves. Basically it means that the tenant must be able to live in (or ‘enjoy’ to use the old fashioned meaning of the word) the property in peace without any disturbance from the landlord or anyone acting on his behalf.

As you can see it goes with exclusive occupation. If you have exclusive occupation (at a rent for a term per *Street v. Mountford*) then you have a tenancy, which brings with it the covenant of quiet enjoyment.

So the landlord (Woodstock Town Council) will breach the covenant of quiet enjoyment if he enters the property without the tenants permission, or if he sends his workmen in without asking first. He will also breach it if he does anything else which prevents the tenants from ‘enjoying’ their use of the property. For example by failing to carry out essential repairs, or by cutting off the supply of services. In fact breach of the covenant of quiet enjoyment generally implies harassment and under the Protection from Eviction Act 1977 this is a criminal offence. The covenant of quiet enjoyment goes to the very heart of what a tenancy is and what a tenant is entitled to. It is one of the big rights that tenants have.

Woodstock Town Council is also aware about the fact that the only entrance/access to the property at number 6 can be made via the door and hallway situated under my son’s bedroom, as somehow the two properties overlap. The entrance to the property at number 6 is situated very close to the entrance of the property at number 8, which will make access to my house more difficult.

The type of business named above and the operating hours requested by the applicant 10:30am-9:30pm, are inappropriate and will cause an absolute chaos for me and my family.

It is a fact that apart from the Main shop area The tasting room and the Store Room shown on the plan have rented domestic properties above on the second floor. This has as far as we are aware always been the case for most of this century.

There is no evidence that there was any chaos caused by any previous premises operator or will be by Love Wine’s shop operation.

The hours we have requested in our application will allow us the flexibility to moderate our opening hours to suit the level of anticipated trade. As an example

and viewing through the windows when the shop is closed .

Love Wine will incorporate the latest technology at the point of sale both in-store and via the web. We anticipate the majority of business to be via credit/debit card sales so the technology and vigilance will assist in preventing card fraud.

The business will always promote responsible consumption of all alcohol and our raison d'etre is quality not quantity and the opportunity for customers to taste before they buy will be supported with high levels of customer service.

Our application clearly states the way in which the premises will be used and the area we have designated for wine tasting. It is important to stress that the application for the Premises Licence clearly describes our modus operandi or operating method and we by the very nature of our application believe that the licencing authorities have a duty to revoke or restrict a licence if it is deemed to be outside the parameters which have been outlined and set in this application. I cannot believe that there is any room for us to either want to or consider stretching the usage on this building. If we had wanted to open a Wine Bar we would have ensured a premises with the correct Planning Consent, size and location and then placed the description of such in our application.

I did have a conversation with Ms Andrea Thomas at WODC on this point and I was alarmed to hear that it was the opinion of a member of the Licencing Team that 'stretching' the Premise Licence is common place. I am surprised that WODC would tolerate or allow such activities to escalate. Our application has no room for 'stretching'.

Drinks will not be consumed outside the premises. Whilst we cannot stop people per-say from smoking in the street. We will not be tolerating smoking on or near our premises.

The logistics of our business – I am aware that the neighbouring property whos' entrance is close to both 6 and 8 Park Street access and egress – The Oxfordshire Museum (TOM) Fletcher's House, Park Street, has a premises licence. All the deliveries for the museum pass by the door of No 6 & 8 on a regular basis.

Love Wine does expect deliveries once or twice a week from transit sized vans from our suppliers and we will have our own small liveried van doing local deliveries.

Even during our initial stock delivery and shop fitting we do not anticipate any disruption to neighboring property.

There will be no industrial/business type of bins, no glass bottles, cardboard wine boxes, general waste, food waste, garden waste emanating from our premises. Any excess carton materials will be regularly taken from our stock room to the local recycling centre via our own transport.

We accept that at present and until such time in the future there is no provision for bin storage for No 6 Park Street.

Car Parking for Market Street Market Place High Street and Park Street is quite easy with a mixture of 1 hour and 3 hour periods and disabled bays very close by.

Our application clearly states the usage of the premises and that there are no events or activities such as films or live music included in the application and we do not anticipate noise levels to be a disruption or too great. If we were a convenience store operating from 7:00am till 11:00pm we would still be applying for a Premises Licence.

In the other hand we are literally surrounded by businesses licenced to sell alcohol, ranging from the COOP supermarket, to all the pubs and hotels/restaurants, therefore we do not need another business selling alcohol in our town centre.

Under the Licensing Act there is neither a quota or restrictions of number placed on Local Authorities granting licences and that in order to obtain a Premises Licence as the Applicant we have to show that as a requirement of our business to retail Wine we require a licence and our application should reasonably meet the criteria of the 4 Licencing Objectives laid out by statute and if we can clearly demonstrate the same we cannot be refused.

It is a fact that we have demonstrated that on a previous premises application in Woodstock we met all the criteria – and that premise too had residential units over with an adjoining entrance.

The other objective “Prevention of Crime and Disorder”.

The term Disorder may refer to Civil Disorder, one or more forms of disturbance caused by a group of people. We know that the applicant will have the right to organise the wine tastings, but we don't know what kind of clientele the business will attract and there is no insurance for how some of the guests will behave after a wine tasting, that will finish after 9:30pm, when the town is going quiet and not too many people are around.

In Our Premises Licence Application – I believe we have adequately answered this section by stating:

The venue will have a CCTV security cameras installed for the protection of the public and staff and to act as a preventive measure to protect against theft of merchandise and illegal use of ID and antisocial behaviour. High value wines will be kept in locked glass display cabinets. The building is also fitted with an infrared entry detection system and floor pressure pads and the front door exit is alarmed.

We are of the opinion that the amount of wine consumed at a tasting should be low as the etiquette to tasting is to spit out the wine, cleanse the palette with

water and then taste the next offering. Actual consumption of the 25 ml dispensed tasting measure of 30 different wines if swallowed would amount to 1 bottle of wine.

The natural current space restrictions mean that we will probably only have 8 red and 8 white wines in two eight bottle machines on taste and the space will probably take 10 people maximum.

The other objective is "Public Safety".

How would the business at number 6 will comply with the strict fire rules and regulations and how would that impact on my property, and all the other properties adjacent number 4, The Post Office, the Museum, the guests of number 6, in case of a fire knowing that the business has only one access door, with no other fire escape route or exit. What would be the maximum number of people allowed by the Fire Department for the property at number 6.

I personally think that it is a great Public Safety hazard.

CCTV is installed for the protection of the public and staff and to act as a preventative measure to protect against theft of merchandise and illegal use of ID and potential antisocial behaviour.

The installation of clear public advice and guidance information, including Drink Aware and Challenge 25 materials will be displayed at entry, checkout/point of sale and in all public areas including washroom and toilet.

A smoke detection system is fitted, however, on assignment of the lease adequate fire protection and advice will be sort from the local fire authority and all extinguishers and protection will be assessed and upgraded accordingly to comply with certification, recommendations and liability.

Appropriate public liability insurance cover will be purchased.

The last objective is "protection of children from harm".

I mentioned above that I have a 3 year old son that resides with me and my wife at number 8, what I did not mention previously is the fact that due to the shape and partition of the properties number 8 and number 6, there are two big windows from the property at number 6 that overlook into my garden, where my son spends a lot of time during the day. As I said earlier we do not know what kind of clientele the next door business will attract and how the new tenants will arrange their property inside, but I can tell you for certain that I would not feel comfortable at all knowing that the wrong people might look at my son while playing in the garden, I do not wish to take any risks.

Interestingly I have been working as a photographer in Education for many years producing School Prospectuses for schools across the county and further afield. I have had for that and for this occupation require a CRB or a DBS as it is now referred too in order to access school premises and for my Personal Licence. My

wife – a Director of this business is also head of a successful Pre-school and Day Nursery in the county and is also DBS disclosed.

Protecting Children from harm is one of the 4 Licensing Objectives and I think as a responsible business we have answered that section of our application:

Children will be only permitted to the front shop area of the premises when accompanied by, and under the control of a responsible adult. No children will be permitted into the tasting room of the premises. Members of the public considered to be under 25 years of age will be challenged for age identity and if not proven will not be able to taste or purchase wines or spirits. Love Wine will be registered with the Responsible Drinking Charity - Drink Aware and Challenge 25 posters will be displayed at the point of entry and at the point of sale.

We will choose not to serve customers who may be placing themselves or others at risk through excess alcohol consumption.

As to the Safe Guarding of children - We can never tell who may be potential child abusers and whilst the space he mentions will be a staff only stock room, I would like to reassure Mr Dimitru, that indeed we will be happy to place translucent film on the windows that overlook their garden and I will also ensure that a quiet door closer is fitted to the main access to the shop so there is no disturbance from an uncontrolled door slamming every time a customer enters or exits the shop.

I will conclude by saying that I trust that the Licencing Department will carefully consider my objection observing how the 4 fundamental objectives relate to the above objection, corroborated with the personal and social aspects of the case, and will reject the grant of a Premises Licence for Mr Richard W Leonard – Love Wine Merchant Ltd for the premises at number 6 Park Street Woodstock on grounds of unsuitability. I would like to thank you in advance for your help.

I think the suitability of the premises for our type of business is almost perfect. It is a location in Woodstock. it is a manageable size without being too costly and allows us to look for potential to grow the business by expansion to other towns in Oxfordshire and the Cotswolds.

When I spoke to the manager of the TOM she said that “A Wine Shop is very in keeping with Woodstock and will add to the interest for visitors – The last thing we need is another coffee shop or gifty nic nacs!”

Whilst we have demonstrated in the past to the WODC Licensing panel our capabilities and understanding of the Licencing Regulations and obtained a Licence for 20 Oxfords Street, Woodstock. The change of decision by the landlord not to rent was a disappointment. Before this application was submitted we surrendered that Licence.

In conclusion, As a Director of this new business we have very carefully assessed

the suitability of premises and the space it offers and its availability. Our application is written around the use of 6 Park Street for Love Wine – Woodstock. We have made this application based on the extent of the premises at 6 Park Street and have adjusted the operation and projections to work around the space and location. It is also a fact that we have to have a Food Hygiene Certificate from WODC Environmental Health in order to retail Wine.

I would ask the panel to grant a Premises Licence to Love Wine Merchants Limited so we may proceed with our vision for a business that will introduce new quality products in a new and inventive way to a discerning Oxfordshire clientele.