

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 17 November 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Keith Inston

Cllr Wendy Dalton

Premises Licence Holder

Lisa Gilligan

Solicitor

Other Persons

Elliot Russell

Marion Walker-Russell

Employees

Debra Craner

Sarah Hardwick

Jacob Stokes

Shelley Humphries

Licensing Section Leader

Senior Solicitor

Democratic Services Assistant

Democratic Services Officer (Host)

Item No. *Title*

1 Apologies for absence

There were no apologies for absence.

2 Declarations of interest

There were no declarations of interest.

3 Licensing Act 2003 - Application for a Variation of a Premises Licence in respect of Aldi, Stafford Road, Wolverhampton, WV10 6DH

An application for a variation of a Premises Licence in respect of Aldi, Stafford Road, Wolverhampton, WV10 6DH was considered following representations made from Other Persons.

The Chair welcomed all parties to the hearing and invited all those to introduce themselves. All parties did so. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

Debra Craner, Licensing Section Leader, provided an outline of the application.

Lisa Gilligan, Solicitor representing the Applicant, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Lisa Gilligan, Solicitor for the Applicant did so, as per Appendix 1 of the report. She stated the following:

1. The application would be part of a program of 400 applications. This program included the oldest stores in the Aldi estate, all of which have 08:00 opening times.
2. This store has opened at 07:00 at certain times through the use of Temporary Event Notices (TENs). The application for a licence variation is an operational flexibility move to ensure that the store does not need to apply for TENs in future.
3. There is no intention for this store to change its opening hours.
4. After receiving concerns from local residents, the application was amended from 06:00 – 00:00 to 07:00 – 23:00, as per Appendix 5 of the report.
5. As the current terminal hour on the licence is 23:00, the application would be limited to applying for one hour each morning between 07:00 – 08:00 only.
6. There have been no adverse comments from West Midlands Police or Environmental Health.

Responding to questions asked, Lisa Gilligan confirmed that delivery times were an issue for the Planning department and there were no restrictions on the current premises licence.

Sarah Hardwick, Senior Solicitor, confirmed that reference to other premises could not be considered by the Licensing Sub-Committee in decision making. She noted

that limited weight should be attached to submissions relating to store deliveries generally as the application before the Sub-Committee related to the sale of alcohol only.

Responding to further questions, the Senior Solicitor advised that written representations made by Other Persons should be considered in decision making, but that limited weight should be attached to this evidence where persons are not in attendance to give oral evidence and therefore are not able to be questioned about any representations made.

The Chair invited Other Persons to make representations. Mr Elliot Russell and Mrs Marion Walker-Russell did so. They stated the following:

1. The variation of the licence would not be suitable for the store's location as the store was currently open late enough.
2. Loud music, anti-social behaviour and inconsiderate parking were having a detrimental effect on residents living in the area.
3. Other residents had expressed concerns over the extension of the licence.
4. Noise complaints had been made to the Council.

Both parties provided summaries of their arguments. Councillor Page, Councillor Inston, Councillor Dalton, the Senior Solicitor and Democratic Services Assistant, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 14.05 hours.

The Hearing reconvened at 14.37 hours.

Councillor Page, Councillor Inston, Councillor Dalton, the Senior Solicitor and Democratic Services Assistant re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee, which was read out by the Senior Solicitor.

Resolved:

The Statutory Licensing Sub-Committee has taken note of all the written concerns raised in respect of the application for the variation of the premises licence in respect of Aldi, Stafford Road, Wolverhampton, WV10 6DH. It has listened to the arguments of those who have spoken at the hearing, both for and against the application.

The Licensing Sub Committee have heard from the applicant that:

1. This application is part of a programme of approx. 400 applications being submitted nationwide where the current premises licences start at 08:00.
2. The motivation for this application is simply to achieve operational flexibility moving forward and permit the store to open earlier on occasions as it has over the last 12 months particularly at Christmas and to achieve social distancing.

3. The premises are keen to avoid the need for future Temporary Event Notices but there is no current intention to permanently change the trading pattern of the store.
4. The concerns of other persons, namely local residents are appreciated and therefore the applicant proposes the following compromise:

Amend from 06:00 – 00:00 **to** 07:00 – 23:00.

5. As the current terminal hour on the licence is 23:00 the application would be limited to applying for additional hour each morning between 07:00 – 08:00 only.

The Sub-Committee have heard from Other Persons who have made relevant representations, namely Mr and Mrs Russell, who have presented orally at the hearing today and by written submission that:

1. The store is currently open late enough.
2. They have small children and a family that need rest.
3. They are forced to deal with ignorant parking and taxis blocking the road, loud music and social disturbance.
4. Any further extension in hours will add to these problems.

Relevant representations have been received from a number of other persons by way of written submissions only. Those persons were not in attendance at the hearing but have confirmed that:

1. Residents suffer noise from Aldi shoppers and associated traffic late at night, with inconsiderate parking from customers and Aldi delivery lorries.
2. Delivery drivers arrive each day during the early hours of the morning and make noise by leaving vehicle engines running and headlights on.
3. Drug dealing and other crimes has been witnessed on the store carpark. The police have been notified.
4. Complaints to Aldi have been made.

The Sub-Committee have attached limited weight to representations made by way of written submission only as those making the representations were not in attendance at the hearing and therefore could not be questioned about submissions made.

The jurisdiction of the Sub-Committee here today is limited to considerations relating to licensable activities only, namely the sale of alcohol.

It is noted that the applicant has offered to reduce hours on the application and therefore, the Sub-Committee are satisfied that this application, for one additional hour each day, will not undermine further any of the Licensing Objectives.

Based upon the above and in accordance with Section 35 of the LA 2003 the Sub-Committee has decided that the application to vary the premises licence should be granted, as applied for but subject to the modification to the application proposed, that being the sale of alcohol/opening be permitted between the hours of 07:00 – 23:00.

It is considered that the above decision is in support of all the licensing objectives.

Written confirmation of the Sub Committee's decision will be forwarded within the next five working days.

All parties have a right of appeal to the Magistrates Court within 21 days of receipt of this decision.