

Statutory Licensing Sub-Committee

Minutes - 17 December 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Keith Inston

Cllr Anwen Muston

Premises Licence Applicant

Luciana Palmieri

Applicant

Mark Smith

Manager

Dr James Cruickshank

Landlord

Responsible Authorities

Greg Bickerdike

Licensing Authority

Sam Hoskins

Environmental Health

Neil Aston-Baugh

West Midlands Fire Service

Other Persons

Cllr Jonathan Crofts

Carol Hipkin

Ralph White

Janet MacDougall

Angus MacDougall

Karen Powell

Employees

Debra Craner

Section Leader Licensing

Donna Cope

Democratic Services Officer

Sarah Hardwick

Senior Solicitor

Shelley Humphries

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 new Premises Licence in respect of Al Sorriso, 18A Upper Green, Wolverhampton, West Midlands, WV6 8QH

An application for a Premises Licence in respect of Al Sorriso, 18A Upper Green, Wolverhampton, WV6 8QH was considered following representations received from the Licensing Authority, Environmental Health, West Midlands Fire Service, and Other Persons.

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

During the introductions, Sam Hoskins, Environmental Health, reported a typographical error in his written submission and confirmed that was representing Environmental Health not the Licensing Authority.

Debra Craner, Section Leader Licensing, provided an outline of the application, and reported that since the agenda had been published, a further two supplementary agendas, containing additional information, had been circulated. Ms Luciana Palmieri, Applicant, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Ms Luciana Palmieri did so as per Appendix 1 of the report. She stated the following:

1. She currently ran a restaurant in Albrighton, where there had been no issues, and was now opening a premises in Wolverhampton.
2. There was no intention to have live music and since hearing about the neighbour's concerns, she had agreed to reduce the opening hours.
3. She wanted to control the amount of alcohol consumed on the premises so by selling the alcohol she could control how much patrons drank and how they disposed of drinking receptacles.
4. A trade waste agreement was in place.
5. The premises would be run by professional persons.

The Chair afforded all parties present the opportunity to question Ms Luciana Palmieri in relation to her submission. Ms Luciana Palmieri and Mr Mark Smith responded to questions asked.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 3 of the report.

He stated that he had successfully mediated with the Applicant and no longer had concerns regarding the application.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. Greg Bickerdike responded to questions asked.

The Chair invited Environmental Health to make representations. Sam Hoskins, Senior Environmental Health Officer, did so as per Appendix 4 of the report. He stated that he had also successfully mediated with the Applicant and no longer had concerns regarding the application.

The Chair invited all parties present to question Environmental Health in relation to its submission. Sam Hoskins responded to questions asked.

The Chair invited West Midlands Fire Service to make representations. Neil Aston-Baugh, Fire Safety Officer, did so as per Appendix 5 of the report. He stated that a voluntarily undertaking had been accepted by the Applicant and therefore he had no further objections to the application.

The Chair invited all parties present to question West Midlands Fire Service in relation to its submission. Neil Aston-Baugh responded to questions asked.

The Chair invited Other Persons to make representations. Councillor Jonathan Crofts did so as per Appendix 6 of the report. He referred to the City of Wolverhampton Council's Statement of Licensing Policy and requested that further conditions be added to the licence if it were granted.

The Chair invited all parties present to question Councillor Jonathan Crofts in relation to his submission. Councillor Jonathan Crofts responded to questions asked.

The Chair invited Other Persons to make representations. Carol Hipkin did so as per Appendices 7-10 of the report. She stated that if the noise levels were controlled as discussed, and conditions adhered to, then she was happy with the application.

The Chair invited all parties present to question Carol Hipkin in relation to her submission. No questions were asked.

The Chair invited Other Persons to make representations. Ralph White did so as per Appendices 7-10 of the report.

The Chair invited all parties present to question Ralph White in relation to his submission. Ralph White responded to questions asked.

The Chair invited Other Persons to make representations. Angus MacDougall did so as per Appendices 7-10 of the report. He stated that although some of his concerns had been addressed, he still had concerns regarding parking.

In response to this, Sarah Hardwick, Senior Solicitor, explained that parking issues could not be considered by the Sub-Committee as parking was not regulated by the Licensing Act.

The Chair invited all parties present to question Angus MacDougall in relation to his submission. No questions were asked.

The Chair invited Other Persons to make representations. Karen Powell did so as per Appendices 7-10 of the report and stated that she was reassured by what had been discussed at the Hearing.

The Chair invited all parties present to question Karen Powell in relation to her submission. No questions were asked.

The Chair invited all parties present to make their final address.

Angus MacDougall, Councillor Jonathan Crofts, Neil Aston-Baugh and Luciana Palmieri made a final statement.

Councillor Page, Councillor Muston, Councillor Inston, the Senior Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.58 hours.

The Hearing reconvened at 12.42 hours.

Councillor Page, Councillor Muston, Councillor Inston, the Senior Solicitor and Democratic Services Officer 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 had taken note of all written concerns raised in respect of the application for a premises licence for Al Sorriso, 18A Upper Green, Wolverhampton, WV6 8QH. They listened to the arguments of those who spoke at the hearing, both for and against the application.

The Sub-Committee had regard to both the written and oral evidence that has been presented and attached appropriate weight.

The Sub-Committee heard from the Applicant that:

1. This was a small premises and there was no intention to have live music. Further, they had agreed to reduce licensable hours.
2. Customer satisfaction was most important to the premises.
3. Terms had been agreed with the Licensing Authority as Responsible Authority, and Environmental Health as Responsible Authority.
4. They had also accepted the voluntary undertaking offered by the Fire Service.

5. The premises had operated as a restaurant for the previous 6 years with no issues.
6. They did not want drunk persons on the premises and they wanted to control the amount of alcohol consumed. By selling alcohol from the premises they could control how much patrons drank and how they disposed of drinking receptacles.
7. The premises would be run by professional persons who knew the job.

The Sub-Committee heard from the Licensing Authority as Responsible Authority that:

1. They had made relevant representations in furtherance of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety and Protection and Protection of Children from Harm Licensing Objectives.
2. There was insufficient information within the operating schedule to show how the applicant would address the Licensing Objectives.
3. However, they had spoken to the Applicant and removed Late Night Refreshment and Live Music from indoors, plus terms had been agreed between the Applicant and the Licensing Authority as detailed in the report at pages 90 and 91.

The Sub-Committee heard from Environmental Health as Responsible Authority that:

1. They have made relevant representations in furtherance of the Prevention of Public Nuisance Licensing Objective.
2. They had concerns regarding potential noise nuisance to nearby residents if live music was to be permitted at the premises and potential noise generated if licensable activities continue until the proposed end hours of 00:30hrs (weekdays and weekends) and during non-standard timings.
3. However, terms had been agreed between the Applicant and Environmental Health as detailed in the report at page 3 of Supplemental Agenda Pack 2. These addressed the concerns of Environmental Health and they believed the premises could operate in furtherance of the Licensing Objective if these terms were added to any premises licence granted.

The Sub-Committee heard from the West Midlands Fire Authority that:

1. The premises had been inspected and there were some fire safety issues which could negatively affect the Public Safety Licensing Objective, if the licence was granted without remedial actions.
2. However, a voluntary undertaking had been offered to the applicant, to modify the proposed use of the premises and/or complete works to the appropriate standard as detailed below:
 - a. If artificial decorative effects (artificial leaves, plants etc) were to be used on the pergola at the approach to the premises, they would be supplied as suitably fire retardant. A certificate of fire retardancy, would be kept, (or other suitable evidence), and would be given to the fire officer upon request.

- b. The changes of floor level would be highlighted so that they were conspicuous and suitable signage would be provided to indicate the trip hazards.
- c. The premises would be suitably assessed (during the hours of darkness) to check if emergency lighting was required. If required, it would be provided in accordance with BS 5266-1.
- d. Staff would receive suitable instruction and training on the actions to take in the event of fire which would include hands on fire extinguisher training for appropriate staff.
- e. A Fire Risk Assessment would be undertaken as soon as was reasonably practicable. (Page 95 of the report)

The Sub-Committee heard from Other Persons (local residents) that:

1. Reference was made to City of Wolverhampton Council's Statement of Licensing Policy which referred to:
The location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise, use of amplified or live music operating within or abutting known noise-sensitive premises containing residential accommodation, and the Sub-Committee being mindful to strike a balance between the needs of residents and the business community.
2. There were 20 immediate residents and 30 more who could be affected by medium level of noise/vibration in the vicinity of the premises. Which were also in a Conservation Area, with 9 nearby premises -shops/restaurants/café's- with various alcohol licences. Type and Construction of the premises were wood and metal sheeting structure with a corrugated plastic roof meaning the likelihood of nuisance and disturbance was very high given non-brick construction and shared boundaries with homes, gardens and a narrow shared entrance.
3. There should be no live music, all licensed activities should cease by 11pm and certainly no recorded music after 11pm with no vertical drinking permitted.
4. The application should only be granted with appropriate conditions attached to the licence which should include controlling noise emanating from the premises.
5. There would be parking issues and increased footfall.
6. Drinking alcohol until midnight could lead to nuisance and anti-social behaviour.
7. However, they were reassured by conditions offered and assurances given at the hearing.

The Sub-Committee considered the additional conditions proposed by Councillor Crofts, representing Other Persons, but were satisfied on the evidence that terms agreed between the Applicant and Responsible Authorities were sufficient, and if attached to any licence would allow the premises to operate in furtherance of the Licensing Objectives.

Parking outside of the premises could not be considered by the Sub-Committee and any conditions attempting to control this would likely be unenforceable.

The Sub-Committee could take such steps as it considered appropriate for the promotion of the Licensing Objectives.

The Sub-Committee were satisfied that with agreed modification the application, if granted, would not undermine the Licensing Objectives.

The Sub-Committee considered the evidence presented and had regard to the application, representations made, guidance issued under section 182 of the Licensing Act 2003 and the Council's own licensing policy. The Sub-Committee have on the balance of probabilities, found that in order to promote the Licensing Objectives the application for a premises licence should be granted, as applied for, subject to the terms and conditions agreed between the Applicant and Responsible Authorities detailed at pages 90 and 91 of the report and page 3 of Supplemental Agenda Pack 2 in accordance with section 18 of the Licensing Act 2003. The undertaking made to the fire service was also noted.

It was considered by the Licensing Sub-Committee that the following modifications to the proposed Operating Schedule and additional conditions should be attached in support of the Licensing Objectives:

Modifications to the Operating Schedule

Remove:

Provision of Live Music (Indoors)

Monday to Sunday 19:00 to 23:30

Non Standard Timings Xmas eve end time 00:00, New Years Eve end time 01:00

Late Night Refreshments

Monday to Sunday 23:00 to 00:00

Non Standard Timings Xmas eve end time 00:30, New Years Eve end time 01:30

To replace:

From: Hours premises are open to the public

Monday to Sunday 09:00 to 00:30

Non Standard Timings Xmas eve end time 01:00, New Years Eve end time 02:00

To: Hours premises are open to the public

Monday to Sunday 09:00 to 23:00

The prevention of crime and disorder

To add:

Customers permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

An electronic or written incidents log will be maintained at the premises with a record of all incidents of crime and disorder reported to or by the premises; all ejections of patrons; any complaints received; fraudulent ID or other items; any visit by a relevant

authority or emergency service. The incidents log will be produced to an officer of a responsible authority upon request. Where a crime is believed to have been committed, the incident will be reported to the West Midlands Police. The incidents log will be kept for at least 12 months and will be produced to an officer of a responsible authority upon request.

All staff to receive training before their first shift when the premises is open to the public and refresher training every six months on their responsibilities with regard to licensing legislation, underage and proxy sales. Training will also cover Challenge 25, conflict management, recognising signs of drunkenness, how to refuse service, the premises' duty of care, safe evacuation of the premises, company policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services, and the conditions in force under this licence. This training must be documented and produced to an officer of a responsible authority upon request.

Public safety

To add:

The premises licence holder shall ensure that at all times when the public are present there is at least one competent and fully trained person able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment.

The prevention of public nuisance

To add:

Hours premises are open to the public Monday to Sunday 09:00 to 23:00

To add:

Noise and vibration should not be allowed to emanate from the premises so as to cause a nuisance to nearby properties or residents.

The protection of children from harm

To replace:

From: The applicant and the restaurant staff will operate a strict proof of age policy to ensure that no persons under 18 will be permitted to purchase, acquire or consume alcohol save for the exception provided in Section 150 of the Licensing Act 2003 in respect of young persons over the age of 16.

To: The Challenge 25 scheme will be operated to ensure that any person who appears to be under the age of 25 will provide documented proof that they are over 18 years of age. Proof of age will only comprise a passport, photo card driving licence, an EU/EEA national ID card or a card bearing the PASS hologram.

To add:

An electronic or written refusals log will be maintained at the premises with a record of all refusals of admission or service, including the sale of alcohol. The refusals log will include the basis of a refusal; the person making the decision to refuse; the date and time of refusal. The refusals log will be kept for at least 12 months and will be produced to an officer of a responsible authority upon request.

Finally, such conditions as are specified on/or consistent with the operating schedule would be attached to the licence, together with any mandatory conditions required by the Act.

The decision in writing would be sent to all parties forthwith.

All parties had a right of appeal to the Magistrates Court within 21 days of receipt of the decision in writing.