

Licensing Sub-Committee

Minutes - 16 September 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Rita Potter
Cllr Greg Brackenridge

Conservative

Employees

Linda Banbury	Democratic Support Officer
Rob Edge	Section Leader - Licensing
Sarah Hardwick	Solicitor

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 Premises Licence respect of Merridale Supermarket, Clifton House, Merridale Road

In attendance

For the premises

Simon Bailey – Solicitor
Lord D Deol – applicant
Mrs Deol – wife of applicant

Responsible Authorities

Elaine Moreton – Licensing Authority
Sergeant J Flanagan and PC M Harvey – West Midlands Police
Michelle Smith – Public Health

Other Persons

Mr Moore and Mr Singh – local residents

The Chair introduced the parties and outlined the procedure to be followed at the hearing.

The Section Leader (Licensing) outlined the report submitted to all parties in advance.

At this juncture, Mr Bailey submitted the application for a premises licence on behalf of the applicant. He advised that the premises would be a supermarket and not solely concerned with the sale of alcohol and summarised the steps to be taken to promote the four licensing objectives, as detailed at page 20 of the application. Responding to questions, he advised that the timings for the sale of alcohol had been reduced to 8am to 11pm.

In addition to the application, Mr Bailey produced letters from local businesses and a petition from local businesses supporting the premises licence application. The documents were printed and circulated to all parties at the hearing. The Council's Solicitor advised that although out of time, given that the Responsible Authorities had no objection, the letters could be accepted and the Sub-Committee would attach appropriate weight to them when determining the application. However, little weight could be attached to the petition as the details could not be verified.

Responding to further questions, the applicant advised that he would not be running the premises himself as it would be leased out, that he was associated with Banks' Bistro but had no involvement with any other signatories to the petition. It was confirmed that the opening hours would be 7am to 12 midnight and that notices would be displayed advising of the restrictions on the sale of alcohol and as landlord Lord Deol would keep strict control. In view of Responsible Authorities' concerns, Mr Bailey suggested that the opening hours be the same as those for the sale of alcohol and confirmed that late night refreshment would therefore be no longer applicable.

At this juncture, the Responsible Authorities outlined their representations.

Elaine Moreton, on behalf of the Licensing Authority, advised that she could not support the application in its present form due to the insufficient information contained within the operating schedule.

The Section Leader (Licensing) confirmed that, should the licence be granted, some of the conditions contained within the operating schedule on the initial application would not be enforceable.

The meeting was adjourned at this point to enable Mr Bailey to confer with his client.

The meeting was re-convened and Mr Bailey suggested that there were two options available, these being:

1. to withdraw the application in order to firm up the operating schedule, or
2. apply the same terms as a nearby licensed premise.

The Council's Solicitor advised that option 2 was not possible as any decision today had to be evidence based. A third option would be to adjourn to enable further consultation to take place between the parties. It would only be possible to dispense with the hearing if all parties, including the local residents, agreed. A discussion

ensued on the way forward and Mr Bailey confirmed that his client was prepared to continue with the hearing.

At this juncture Sergeant Flanagan outlined the objections of the West Midlands Police, indicating that there were serious concerns regarding anti-social behaviour in the area and the applicant had himself complained to the police in this regard. Fifteen calls had been made to the police in the previous five weeks. He responded to questions from the Sub-Committee and other parties with more details relating the incidents, adding that the problems in the area had been persistent and consistent over a period of approximately two years.

Michelle Smith advised that the Graiseley Ward had the highest alcohol related hospital admissions and deaths and Public Health believed that the current problems would be exacerbated by the presence of another licensed premise.

At his juncture the local residents outlined their concerns.

Mr Moore drew attention to a deterioration in the area as properties were sold and new landlords housed problem tenants and drew attention to issues of anti-social behaviour in Chapel Ash in the bus shelter outside a current licensed premise.

Mr Singh indicated that he had brought a petition into the Civic Centre but was advised that it was too late to submit it. The Council's Solicitor advised that those signing the petition had been at liberty to make representations in their own right and could not 'piggy back' on other representations. The petition was, however, copied and circulated to all parties at the hearing. A discussion ensued regarding the 'blue notice' displayed on the premises and it was confirmed that the representations period had been extended and that any received after 25 August would have been out of time.

Responding to questions, Mr Smith advised that he was employed at a licensed premises in Chapel Ash and that the police had used CCTV footage from the premises in regard to their investigations. He outlined the measures the premises took to promote the licensing objectives.

All parties were afforded the opportunity to make a closing statement.

4 Exclusion of press and public

Resolved:

That, in accordance with Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 2 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the premises licence application.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows:

7 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of Merridale Supermarket, Clifton House, Merridale Road, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

The Sub-Committee have heard today that:

1. the application submitted does not demonstrate effectively how the applicant will promote the four licensing objectives;
2. the applicant referred to staff training and other ways to control licensable activities, yet none of these are detailed in the operating schedule to the application;
3. the application is weak;
4. there have been fifteen calls to the West Midlands Police in the last five weeks. These calls have related to incidents in Compton Road, Chapel Ash, at the former eye infirmary and, more specifically, included two calls relating to Merridale Road. These calls related to males fighting, begging and urinating in the area surrounding the location of the proposed application;
5. Lord Deol himself complained to the West Midlands Police on 15 July 2015 about nuisance caused by alcohol related behaviour at the site which is the subject of the application;
6. Guidance under Section 182 of the Licensing Act 2003 provides that due regard must be given to the location where the premises will be situated;
7. these premises are not in a Cumulative Impact Zone. However, there is a cumulative effect making this a hot spot for anti-social behaviour due in part to alcohol and that the highest level of alcohol related death in the City is in this area, and
8. The West Midlands Police, Licensing Authority and Public Health do not support this application.

The applicant has today proposed a reduction in hours, but essentially gives only commercial arguments as to why the premises licence should be granted. The Sub-Committee are not satisfied that the premises will satisfactorily promote the licensing objectives, particularly as some conditions in the operating schedule appear to be unenforceable .

Today the applicant has submitted information to include letters in support of the application and a petition. The Sub-Committee is satisfied that this is additional evidence in support of the application. Mr Singh (Other Person) has also submitted additional information today to include letters from persons who could themselves hold the status of Other Persons and a petition. The Sub-Committee are satisfied that the letters should have been submitted as relevant representations and, as such, were not submitted in time to be considered here today. However, the petition is

accepted as additional evidence in support of the relevant representations made by Mr Singh.

With regard to both petitions, the Sub-Committee are satisfied that limited weight should be attached to them as the identity of those signing them cannot be verified.

Having considered the views of all concerned, the Sub-Committee have decided that the application for a premises licence should not be granted.

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