

Licensing Sub- Committee

Minutes - 4 November 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Bishan Dass
Cllr Keith Inston

Conservative

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
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 variation of a premises licence in respect of Compton Filling Station, Bridgnorth Road, Compton, Wolverhampton

In Attendance

For the Premises

Mr Chris Mitchener – Licensing Solutions

Responsible Authorities

PC Mitch Harvey – West Midlands Police

Elaine Moreton – Licensing Authority

Other Persons

Councillor Wendy Thompson (Tettenhall Wightwick)

Mr & Mrs Jevons

Mr & Mrs Tykiff (Mrs Tykiff acting as spokesperson for some residents)

Mr M Bradshaw

Mr & Mrs Hobbs
Mrs B Bates (spokesperson for Neighbourhood Plan Forum Committee)

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

The Section Leader (Licensing) outlined the report, circulated to all parties in advance of the hearing.

At this juncture, Mr Mitchener outlined the application to vary the premises licence on behalf of the Premises Licence Holder. He advised that, in light of the representations received from the Responsible Authorities and Other Persons, he had agreed to restrict the sale/supply of alcohol to Monday to Sunday, 0700 to 2300 hours inclusive. He further advised that there had initially been confusion regarding the hours granted under the planning permission and it had only recently been clarified that it was not for twenty four hours, but 0700 to 2300 hours. Mr Mitchener stated that, as a result of the changed hours, the police were now content with the application. He pointed out that there had been no representations from Environmental Health and no evidence forthcoming in regard to noise disturbance emanating from the premises. He indicated that he would be monitoring the site, would liaise with residents and would circulate his business card following the hearing to facilitate this. He drew attention to the comprehensive training regime for staff and audits undertaken by the Designated Premises Supervisor and field manager.

Responding to questions, he advised that it was not possible to legislate for delivery times under the Licensing Act and that they would not necessarily fall within the licensable hours. It was also pointed out that commercial concerns were not relevant to this hearing.

At this juncture PC Harvey outlined the representations of the West Midlands Police which related to the application for a 24 hour licence. He had checked the crime logs for the previous two years and advised there had been no reports of anti-social behaviour. The police had worked alongside the Licensing Authority with the applicant and agreed conditions to be added to the licence, including a variation to the timings. In view of this, the West Midlands Police were happy for the licence granted, subject to the agreed conditions being added.

Elaine Moreton outlined the representations on behalf of the Licensing Authority (as a Responsible Authority) and, in doing so, advised that the condition agreed with the Police in regard to sales of single cans of alcohol should replace that agreed with the Licensing Authority.

At this juncture the 'Other Persons' outlined their representations.

Councillor Mrs Thompson indicated that she welcomed the reduction in licensable hours. She drew attention to the fact that the premises were in a quiet residential area, of the blight ensuing from lights at the garage and traffic problems. She also referred to problems of anti-social behaviour and the removal of a public convenience from the site. Responding to questions, she advised that, although there had been anti-social behaviour directly related to the premises, these had not

been reported either to the Police or Environmental Health. On points of clarification, Mr Mitchener advised that the toilet was a site one and not a public convenience and had been removed some 2 to 3 years previously; the premises had only been in the ownership of his client since September 2014.

Mrs Tykiff, in presenting representations on behalf of some of the neighbours, advised that her prepared statement related primarily to the initial application for a 24 hour licence. She expressed concern that no-one representing the owners had contacted local residents. She indicated that there had been considerable anti-social behaviour, noise, light pollution and littering, which related to "low level" behaviour and would not necessarily be reported to the Police. The issue regarding the lighting had been raised with the previous owners. She also expressed concern that the notice, advising of the variation application, had not been properly displayed and was not visible from the road.

The Section Leader (Licensing) confirmed that the application had been properly made, but undertook to take on board the concerns regarding visibility of notices on a site specific basis. He added that the application was also placed in the local press. The Solicitor advised that the Licensing Act was extremely prescriptive in what was expected in terms of the 'blue notice' and the Licensing Authority had to abide strictly to the law and not assist any one party more than another. She further confirmed that concerns regarding the lights in the garage were outside the remit of the Licensing Sub-Committee.

At this point Mrs Bates outlined the representation made on behalf of the Neighbourhood Plan Forum Committee. She indicated that the concerns related primarily to the initial 24 hour application and concerns about the local environment and ambience of the area, although accepted that these issues were outside the remit of the Licensing Sub-Committee to consider.

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 3 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 variation application.

6 Re-admission of press and public

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

7 **Announcement of decision**

The Sub-Committee has taken note of all the written concerns raised in respect of Compton Filling Station, Bridgnorth Road, Wolverhampton and has listened to the arguments of those who have spoken at this hearing, both for and against the application.

Having considered the views of all concerned, the Sub-Committee has decided that the application to vary the premises licence is granted as applied for, subject to the following modifications:

Conditions agreed between the applicant and the Licensing Authority dated 26 October 2015

- Sale/supply of alcohol off the premises is reduced to the following:
Monday to Sunday – 0700 to 2300 hours inclusive
- Designated Public Place Order (DPPO) notice, provided by the Licensing Authority, shall be displayed prominently on the premises visible from outside the store, advising that Police have powers to seize alcohol.

Conditions agreed between the applicant and the West Midlands Police dated 11 September 2015

1.
 - A CCTV system with recording equipment shall be installed and maintained at the premises.
 - CCTV should cover entry and exit points of the premises and all areas where alcohol/money is served/taken and all areas to where public have access and the immediate vicinity outside the premises.
 - Images/recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without any undue delay.
 - Images and recordings must be of evidential quality, must indicate the correct time and date and be kept for at least 31 days.
 - All staff to be trained to use the CCTV system and at least one member of staff to be on duty who is trained to download the system's images should any member of a Responsible Authority make a request.
2. An incident log must be maintained at the premises and a written record of any incident that occurs at the premises must be appropriately recorded. Where it is deemed appropriate the incident must be reported to the West Midlands Police. The incident log book shall be produced to a member of a Responsible Authority upon request.
3. To ensure compliance with 'Challenge 25' a refusals book shall be utilised, where any sale of alcohol is refused to persons who present themselves to be under age.
4. No single cans/bottles of beer, lager or cider with an ABV of 6.5% or over to be stocked or sold.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of crime and disorder and prevention of public nuisance licensing objectives.

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

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

8 **Licensing Act 2003 - Application for a premises licence in respect of House of India, 25 Market Street, Wolverhampton**

In Attendance

For the Premises

Mr R K Saharan – Applicant

Mr T Raj – Applicant's father

Responsible Authorities

PC Mitch Harvey – West Midlands Police

Elaine Moreton – Licensing Authority

Dawn Erkek and Sheetal Panchmatia – West Midlands Fire Service

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

The Section Leader (Licensing) outlined the report, circulated to all parties in advance of the hearing. He advised that the hearing had been adjourned to enable the applicant to submit revised plans for the premises due to concerns of the West Midlands Fire Service and to enable the Fire Safety Officers to re-visit the premises. However a copy of the revised plans had only been received that morning; two copies were produced to enable the Sub-Committee and Responsible Authorities to view them. It was noted that there was a typographical error in section 2.1 of the report relating to the applicant's name.

At this juncture, Mr Saharan outlined the application for a new premises licence as outlined at pages 11 to 27 of the agenda pack for the hearing. Responding to questions, he indicated that he had had difficulty in contacting his architect, hence the late delivery of the revised plans. He further indicated that the architect was the same one who had dealt with the planning application. The Fire Officer advised that the premises had been visited that morning and the required work to the premises was on-going with some last minute issues to be finished. Mr Saharan was able to quote the four licensing objectives and stated that a Cumulative Impact Zone was an area in which there were too many drinking premises. He stated that the premises would employ a door supervisor after 2300 hours and there would be a daily assessment of any occurrences.

At this juncture, Dawn Erkek outlined the Fire Service representations, advising that it would not be necessary to make a further visit to the premises as photographic evidence of the installation of a safety window would suffice.

Elaine Moreton, representing the Licensing Authority as a Responsible Authority, expressed concern that it was not clear whether the Planning Authority had seen the revised plans as it was clear that none of the Responsible Authorities had had chance to view them. Rob Edge, Section Leader (Licensing), clarified that the original Fire Officer had visited the premises in May, that the premises licence application had been submitted in July and it was not clear whether the planning permission had been amended. The Solicitor advised that it would be prudent for the applicant to speak to the Planning Authority following the hearing to ensure that the correct plans have now been submitted. However, this did not affect the decision making for this Sub-Committee, which could determine the application provided that the Licensing Authority and Fire Service were happy with the plans produced at this hearing.

At this juncture Elaine Moreton made representations on behalf of the Licensing Authority and, in doing so, expressed concern at the lack of time to view the amended plans. The Solicitor confirmed that, should the Sub-Committee be minded to grant the premises licence, the plans presented to this hearing would be attached to the licence. The Sub-Committee did not feel the need to adjourn the meeting to view the plans. Elaine Moreton advised that, notwithstanding the concern regarding the plans, the application was a reasonable one and she had worked with the applicant to agree a set of conditions to be added to the licence.

At this juncture PC Harvey outlined the representations of the West Midlands Police. He advised that the objection had been made due to the premises being situated within the Cumulative Impact Zone, that he had worked alongside the Licensing Authority to agree conditions on the licence and had visited the premises on three occasions. He had advised the applicant to cease work on the premises until the Fire Service had visited, but this advice had been ignored. He indicated that this did raise concerns regarding the applicant's ability to run a licensed premise and whether he would listen to advice in respect of crime and disorder issues. The applicant circulated details of his qualifications in regard to a Personal Licence and Food Safety in Catering.

All parties were afforded the opportunity to make a final statement. PC Harvey requested that stringent conditions be added, should the Sub-Committee be minded to grant the premises licence. Elaine Moreton expressed concern regarding the ability of the applicant to manage a premise in the Cumulative Impact Zone. Dawn Erkek advised that the majority of works had now been carried out and it would not necessitate a further visit. Mr Shaharan advised that he had not been at the premises most of the time when the Police and Licensing Authority visited, that he would be managing the premises but would have a qualified member of staff behind the bar.

9 **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 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

10 **Deliberations and decision**

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

11 **Re-admission of press and public**

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

12 **Announcement of decision**

The Sub-Committee has taken note of all the written concerns raised in respect of House of India, Market Street, Wolverhampton and has listened to the arguments of those who have spoken at this hearing, both for and against the application.

The Sub-Committee are satisfied that the Cumulative Impact Policy applies to these premises in relation to the promotion of the crime And disorder licensing objective.

1. The Sub-Committee has heard the following from the West Midlands Police that they have worked with the applicant and agreed possible conditions which can be attached to the licence, if granted. However the police are concerned that, following a number of visits they made to the premises, the applicant ignored advice given during the visits concerning permissions for building works. This led the police to have concerns regarding management of the business and the possibility that the applicant would ignore advice from the police on issues of crime and disorder.
2. The Sub-Committee has heard from the Licensing Authority (as a Responsible Authority) that revised plans have been submitted late in the process and that none of the responsible Authorities have had the opportunity to consider these properly. They have concerns that this demonstrates that management at the premises is sub-standard.
3. The Cumulative Impact Policy does not extend to public safety and therefore fire safety issues. The fire service has confirmed that when they first attended the premises they had concerns regarding the means of escape from the second floor of the building. The fire service visited the premises this morning and works to address this have been carried out. However, a window on the second floor requires the fitting of safety glass as indicated on the revised plan. Although the fire service has been given an assurance that this work will be carried out it has not yet been undertaken, which undermines the public safety licensing objective.

Having considered the views of all concerned in relation to crime and disorder, the Sub-Committee is not satisfied that sufficient evidence has been produced to show that the premises will not add to the cumulative impact already experienced and therefore the presumption of non-grant is not rebutted.

In addition the Sub-Committee is not satisfied that granting the licence would promote public safety and therefore the application is refused.

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