

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 29 June 2020

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw (Chair)

Cllr Keith Inston

Cllr Jonathan Crofts

Premises Licence Applicant

Erastus Ndi

Ese Adams-Aliu

Applicant

Solicitor

Responsible Authorities

Elaine Moreton

Emma Waites

Gurjinder Bans

Neil Aston-Baugh

Licensing Authority

Environmental Health

Public Health

West Midlands Fire Service

Employees

David Abel

Debra Craner

Jas Kaur

Donna Cope

Solicitor

Licensing Section Leader

Democratic Services Manager (Host)

Democratic Services Officer

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 in respect of First Class Lounge, 6 School Street, Wolverhampton, WV1 4LR

An application for a Premises Licence in respect of First Class Lounge, 6 School Street, Wolverhampton, WV1 4LR was considered following representations received from the Licensing Authority, Environmental Health, West Midlands Fire Service and Public Health.

Jaswinder Kaur, Democratic Services Manager, welcomed all parties to the hearing and explained that the meeting would be conducted in line with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. She invited all parties to introduce themselves and all parties did so.

The Chair welcomed all parties to the hearing and outlined the procedure to be followed. All parties confirmed that they understood the procedure.

Debra Craner, Section Leader Licensing, provided an outline of the application. She reported that shortly before the Hearing an application to transfer the premises licence had been submitted by the Applicant but was incomplete.

Mr Ese Adams-Aliu, Solicitor representing the Applicant, confirmed that the summary provided was accurate but questioned why the application to transfer the premises licence was incomplete.

Debra Craner, Section Leader Licensing, explained that the application did not specify which floor of the premises was to be transferred and that a box certifying the Applicant was over 18 had not been ticked.

The Chair sought legal advice on the matter, and it was agreed that as the issues were minor the hearing would continue and the Applicant would submit a complete transfer application during a break in the proceedings.

The Chair invited the Applicant to present the application.

Mr Ese Adams-Aliu, Solicitor representing the Applicant, did so as per Appendix 1 of the report. He stated that his client had worked closely with the Responsible Authorities throughout the application process and had made amendments to their application following mediation with West Midlands Police.

The Chair afforded all parties present the opportunity to question Mr Ese Adams-Aliu in relation to his submission.

In response to questions asked, Mr Ese Adams-Aliu outlined his understanding of the Cumulative Impact Zone and discussed his client's proposals in relation to security, planning permission, noise nuisance, and fire safety.

The Sub-Committee adjourned at 13.15 hours for a short break

The Hearing reconvened at 13.30 hours.

The Chair invited the Licensing Authority to make representations. Elaine Moreton, Section Leader Licensing, did so as per Appendix 4 of the report.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. No questions were asked.

The Chair invited Environmental Health to make representations. Emma Waites, Senior Officer, Food and Consumer Safety, did so as per appendix 5 of the report.

The Chair afforded all parties present the opportunity to question Environmental Health in relation to its submission. No questions were asked.

The Chair invited Public Health to make representations. Gurjinder Bans, Senior Public Health Specialist, did so as per appendix 7 of the report.

The Chair afforded all parties present the opportunity to question Public Health in relation to its submission. No questions were asked.

The Chair invited the West Midland Fire Service to make representations. Neil Aston-Baugh, Fire Safety Officer, did so as per Appendix 6 of the report.

The Chair afforded all parties present the opportunity to question West Midland Fire Service in relation to its submission. Neil Aston-Baugh responded to questions asked.

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

Neil Aston-Baugh, Emma Waites, Elaine Moreton and Mr Ese Adams-Aliu, all made a final statement.

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

The Sub-Committee adjourned at 14.00 hours.

The Hearing reconvened at 14.39 hours.

Councillor Bolshaw, Councillor Crofts, Councillor Inston, the 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 Solicitor.

Resolved:

The Statutory Licence Sub-Committee had taken note of all written concerns raised in respect of the application for a premises licence for First Class Lounge, 6 School Street, Wolverhampton WV1 4LR. They had listened to the arguments of those who had spoken at the hearing, both for and against the application.

The Sub-Committee heard from the Applicant and his representative that:

1. The Applicant had worked hand-in glove with the Police and with all Responsible Authorities.
2. West Midlands Police as Responsible Authority had not submitted relevant representations in response to the application however, the Applicant had met with them and following talks the Applicant had submitted a re-worded Section to the Operating Schedule.

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

1. The premises were situated within a Cumulative Impact Zone (CIZ) and therefore there was a rebuttable presumption of non-grant unless the Applicant could demonstrate through their operating schedule or with supporting evidence that the operation of the premises would not add to the cumulative impact already experienced.
2. There was concern for the promotion of the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm Licensing Objectives as there was insufficient information within the initial application (operating schedule) to show how the Applicant would promote and address all four Licensing Objectives and therefore not have an adverse effect on them.
3. Previously, the Applicant had submitted applications for temporary events which had been returned to the Applicant as void. Therefore, the Licensing Authority was concerned that the Applicant had insufficient understanding of his legal and licensing obligations.
4. The Licensing Authority had concerns that the presumption of refusal created by the CIZ had not been rebutted in the operating schedule submitted by the Applicant.

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

1. There was concern for the promotion of the Prevention of Public Nuisance Licensing Objective especially given the proposed housing development near to the premises.
2. Concerns were raised regarding noise nuisance and the lack of sound proofing measures and soundproofing materials used at the venue.

The Sub-Committee heard from West Midlands Fire Service as Responsible Authority that:

1. There were a number of fire safety concerns including, plastic wall panels to first floor which were a fire hazard, the number of patrons at 220 could lead to overcrowding and that no risk assessment or other requested documents had been provided despite the Applicant's promise to do so.

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

1. The Applicant had failed to provide evidence which rebutted the presumption of non-grant for the Prevention of Crime and Disorder, Public Nuisance and Public Safety Licensing Objectives.
2. There were no policies in place regarding drinks promotions or discounted drinks at the venue.

The City of Wolverhampton Council had five Special Policies or Cumulative Impact Zones (CIZ's)

Within the City of Wolverhampton Council's Statement of Licensing Policy, Cumulative Impact was defined as the potential impact upon the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.

The special policy would only be overridden in exceptional circumstances. The effect of this special policy was that applications for new premises licences within the area which were likely to add to the existing Cumulative Impact, would be refused following relevant representations. This presumption could be rebutted by the applicant if they could show that their application would have no negative Cumulative Impact.

The Sub-Committee were satisfied that the Cumulative Impact applied and that the application for a new premises licences was likely to add to the existing Cumulative Impact unless the Applicant could rebut the presumption of non-grant and show that their application would have no negative Cumulative Impact. Whilst it was accepted that the original Police objections had been addressed, and that the proposed opening hours and hours for the sale of alcohol had been reduced, the steps that the Applicant had taken and the Applicants proposal's as contained in the operating schedule submitted, fell short of what would be required to rebut the presumption of refusal as mandated by the CIZ.

The Sub-Committee had considered the views of all concerned together with all relevant information before them and were not satisfied that sufficient evidence had been provided by the Applicant to show that their application would have no negative Cumulative Impact. The Licensing Sub-Committee's decision was therefore to refuse the application.

The reasons for this were as follows:

The Applicant had failed to demonstrate that the operation of the venue would not add to the existing cumulative impact of problems within the area and that there

would be no negative cumulative impact on one or more of the Licensing Objectives. The concerns of the Responsible Authorities had not been resolved. The Fire Service had not received a risk assessment in respect of the premises and the Environmental Health Department had real concerns on noise nuisance adversely impacting upon the nearby proposed housing development. The Sub-Committee were of the view that none of the concerns raised by the Responsible Authorities had been sufficiently met and that the proposals submitted by the Applicant were severely lacking in detail. The approach taken by the Applicant was indicative of a lack of experience and understanding of what was required to meet the Licensing Objectives.

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