

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 24 September 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Keith Inston

Cllr Rita Potter

Premises Licence Applicant

Kuljinder Pahal

Jagdip Pahal

Tajinder Pahal

Leo Charalambides

Applicant

Designated Premises Supervisor

Premises Events Manager

Legal Representative

Responsible Authorities:

Amitabh Singh

Aimee Taylor

Michelle Smith

Licensing Authority

West Midlands Police

Public Health

Other Persons:

Councillor Paul Birch

Employees:

Elizabeth Gregg

Donna Cope

Sarah Hardwick

Jas Kaur

Senior Licensing & Compliance Officer

Democratic Services Officer

Senior Solicitor

Democratic Services Manager (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 Premises Licence in respect of Rose Garden Banqueting Hall, 295 Parkfield Road, Wolverhampton, WV4 6ED

An application for a Premises Licence in respect of Rose Garden Banqueting Hall, 295 Parkfield Road, Wolverhampton, WV4 6ED was considered following representations received from the Licensing Authority, West Midlands Police, Public Health 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.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application. She highlighted an error on page 4 of the Agenda Pack and noted that the date the application was received should state 29 July 2021.

Leo Charalambides, Barrister representing the Applicant, Mr Kuljinder Pahal, questioned the status of Appendix 3 and asked if there were maps for the five Culminative Impact Zones as he could not find them within the published Statement of Licensing Policy.

Following a discussion on the matter, it was agreed to continue with the proceedings and that Sarah Hardwick, Senior Solicitor, would provide clarification on the issue before close of the Hearing.

The Chair invited the Applicant to present the application. Leo Charalambides, Barrister representing the Applicant, did so as per Appendix 1 of the report. He stated the following:

1. There was an existing premises licence in place for the ground floor and the Applicant now wished to extend operations to the mezzanine/first floor area.
2. There would be no overall change to the occupancy restrictions of 600 people or to the proposed hours of operation.
3. The premises were mainly used as a banqueting hall for weddings.
4. In relation to Cumulative Impact, the City of Wolverhampton Council's Statement of Licensing Policy talked about primary activity which for this premises was food led. The policy further promoted a matrix approach, supported restaurants, and suggested that they should be allowed to open until midnight. These premises were only open until 23:00 and alcohol sales were a minimal part of what the premises did. This type of premises was an

exception to none grant under the policy and the responsible authorities had not objected to that argument.

5. Environmental Health had made no representations and were satisfied with the Noise Management Plan that was in place.
6. West Midlands Police had withdrawn their representations.

The Chair afforded all parties present the opportunity to question Mr Charalambides and his client in relation to his submission. In response to questions asked Mr Charalambides stated the following:

1. There had been three Temporary Event Notices at the premises in the last year and no issues had arisen.
2. Additional parking provisions had been agreed with the Planning Authority.
3. The current schedule would be incorporated into the new licence.
4. The premises were not alcohol led.
5. Overparking was not a licensing issue and was being dealt with by the Planning Authority.
6. Environmental Health were the experts, and they had no concerns regarding noise.

The Chair invited the Licensing Authority to make representations. Amitabh Singh, 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 West Midlands Police (WMP) to make representations. Aimee Taylor did so as per Appendix 5 of the report. She stated that WMP had not withdrawn their representations, but the supplementary documents submitted by the Applicant had alleviated much of their concerns.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Miss Taylor responded to questions asked.

The Chair invited Public Health to make representations. Michelle Smith, Principle Public Health Specialist, did so as per Appendix 6 of the report.

The Chair afforded all parties present the opportunity to question Public Health in relation to its submission. Miss Smith responded to questions asked.

The Chair invited Other Persons to make representations. Councillor Paul Birch did so as per Appendix 7 of the report. He stated the following:

1. His primary concern was noise which had not been adequately addressed by the applicant.
2. The sound management plan only discussed the exiting of customers and their vehicles from the venue.
3. The sound emanating from the venue would cause a nuisance to nearby homes, and residents would complain to him.
4. The application made no reference to preventing the escape of sound noise from the venue.

5. There were no measures taken to attenuate or isolate the noise from recorded or live music or to take mitigating measures to avoid its occurrence.
6. There had been no attempt in the construction of the building to take any account of sound isolation and no reference to it in the Noise Management Plan.
7. The premises did not hold a PPL or PRS licence.

The Chair afforded all parties present the opportunity to question Councillor Paul Birch in relation to his submission. Councillor Birch responded to questions asked and stated that Councillor Jas Dehar fully supported his representations.

In response to comments made, Sarah Hardwick, Senior Solicitor, confirmed that PPL and PRS licences were not a matter for consideration, and that members of the Sub-Committee should only consider the evidence before them, not the possibility of future issues.

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

Councillor Birch and Mr Charalambides made final statements.

Sarah Hardwick, Senior Solicitor, reported that she had looked at the Statement of Licensing Policy, and confirmed that the Culminative Impact Policy, containing the maps, was a separate document and that it would now be made available to the Applicant and his representative.

Mr Charalambides, for the Applicant, confirmed that provided he was able to see a copy of the maps he was content for the Licensing Sub-Committee to outline conclusions drawn, upon the status of Appendix 3 and whether the policy extended to the premises, in their decision.

Councillor Page, Councillor Potter, 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 11.45 hours.

The Hearing reconvened at 12.44 hours.

Councillor Page, Councillor Potter, 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 The Rose Garden Banqueting Hall, 295 Parkfield Road, Wolverhampton WV4 6ED. 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 premises consisted of a two storey building, purpose built for use as a banqueting hall for weddings, parties and events. There was a car parking surrounding the premises.
2. The premises were near to commercial properties and next to a Health Centre. There were residential properties opposite the venue and park area to the rear.
3. In April 2020 the ground floor of the premises only was granted a Premises Licence subject to conditions. Those conditions, including a Noise Management Plan, had been complied with. The Applicant now wished to extend operations to the mezzanine/first floor area.
4. There would be no overall change to occupancy restrictions of 600 people. All other conditions on the current Premises Licence would be complied with on grant of this application.
5. The application was submitted following discussions with Environmental Health and Planning. Environmental Health had made no representations, no complaints of noise had been reported, and there had been 20 events since the premises re-opened in July 2021, following Covid-19 restrictions.
6. The premises were within, but on the boundaries of, a Cumulative Impact Zone. The premises impact on the area had been considered in the April 2020 hearing.

Given that:

- a. there was an existing premises licence in place,
- b. the application only affected the parts of the already constructed building not currently in use,
- c. there was no change to the proposed hours of operation or capacity limits,
- d. there would be proposed extra car parking made available,
- e. it was proposed that all conditions on the existing licence would also apply to this application,
- f. the first floor was not previously licenced due to planning issues which had now been resolved,
- g. the premises were a banqueting hall. In relation to Cumulative Impact, the City of Wolverhampton Council's Statement of Licensing Policy talked about primary activity which here was food led. The policy further promoted a matrix approach, supported restaurants and suggested that they should be allowed to open until midnight. These premises were only open until 23:00. Alcohol sales were a minimal part of what the premises did. This type of premises was an exception to none grant under the policy and the responsible authorities had not objected to that argument.

It was not considered that the application would have a negative, or any, impact on the area or the promotion of the Licensing Objectives.

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

1. They had submitted representations in furtherance of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm licensing objectives.
2. The premises were located within the Dudley Road Cumulative Impact Zone (CIZ). There was a rebuttable presumption that applications within a C.I.Z would be refused unless the applicant could demonstrate that there would be no negative cumulative impact on one or more of the licensing objectives.
3. The current premises licence in place was granted by the Statutory Licensing Sub-Committee on condition that the licence should only apply to the ground floor of the premises, specifically excluding the first floor area. The application in question sought to licence the first floor of the premises.

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

1. They had submitted representations in furtherance of the Prevention of Crime and Disorder licensing objectives.
2. The premises were situated in the CIZ however there was no mention of what steps the applicant would take to ensure they did not contribute to the impact zone.
3. In written submissions it was confirmed that the conditions outlined under the Prevention of Crime and Disorder heading, were not enforceable and therefore could not be managed.
4. West Midlands Police had not withdrawn their representations. However, documentation submitted as part of the application process had resulted in police concerns being reduced, and verbally, at this hearing, exceptional circumstances under Cumulative Impact, had been addressed.

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

1. They had submitted representations in furtherance of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm licensing objectives.
2. The premises were located within the Dudley Road Cumulative Impact Zone (CIZ). There was a rebuttable presumption that applications within a C.I.Z would be refused unless the applicant could demonstrate that there would be no negative cumulative impact on one or more of the licensing objectives.
3. The current premises licence was granted by the Statutory Licensing Sub-Committee on condition that the licence would only apply to the ground floor of the premises, specifically excluding the first floor area. The application in question sought to licence the first floor of the premises, contrary to the conditions of licence.

The Sub-Committee heard from other persons, (Councillors Paul Birch was in attendance at the hearing), that:

1. They had submitted representations in furtherance of the Prevention of Public Nuisance and Protection of Children from Harm licensing objectives.

2. The representation was in respect to the music licence. The primary concern was noise which had not been adequately addressed by the applicant.
3. The premises had applied for licensing hours 11.00 am to 11.00pm, 7-days a week for an alcohol and entertainment licence to include recorded music, live performance, and dancing on the ground and this was for the ground and upper floor. The premises argued that it had a sound management plan in operation, however, the sound management plan only discussed the exiting of customers and their vehicles from the venue.
4. The sound emanating from the venue would cause a nuisance to nearby homes, as the application made no reference to preventing the escape of sound noise from the venue. There were no measures taken to attenuate or isolate the noise from recorded or live music or to take mitigating measures to avoid its occurrence.
5. The premises construction was a steel framework and glass. There had been no attempt in the construction of the building to take any account of sound isolation and no reference to it in the noise management plan.
6. Consideration had been given to how it could be established whether noise was likely to be a concern. Noise had no adverse effect so long as the exposure did not cause any change in behaviour, attitude, or other physiological responses of those affected by it.
7. With increased exposure to noise, it caused changes in behaviour and attitude and would start to have an adverse effect, and consideration needed to be given to mitigating and minimising those effects. Details of the effects of differing levels of noise exposure had been provided.
8. Children were at risk if their sleep was interrupted. NHS advice upon creating a good sleeping environment for children had been provided.
9. Who would residents call if there were noise complaints at night. Reference was made to guidance principles relating to access to remedy.
10. There had been 20 events since the premises re-opened in July 2021, following Covid-19 restrictions however, the premises were only half filled and if you elevated activity to the first floor it would increase the potential for issues.

The West Midlands Fire Authority had not made a relevant representation. However, the applicant had entered into a voluntary undertaking with them which was supplementary to the application and dealt with public safety.

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.

Exceptional circumstances *may* include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact, community support, and alcohol sales ancillary to business activity. Evidence had been provided that the primary function of the premises was food led, a restaurant, and that alcohol sales formed a small part of the premise's activity.

Having considered the City of Wolverhampton Council's Statement of Licensing Policy and associated Cumulative Impact policy the Sub-Committee were satisfied that Cumulative Impact applied and therefore the Sub-Committee needed to consider whether the application for a new premises licences was likely to add to the existing Cumulative Impact and if so, whether the applicant had been able to rebut the presumption of non-grant and show that their application would have no negative Cumulative Impact.

The Sub-Committee considered the views of all concerned together with all relevant information before them and were satisfied that sufficient evidence had been provided by the applicant to show that their application would have no negative Cumulative Impact and that exceptional circumstances existed and therefore, these premises were an exception to non-grant under the Statement of Licensing policy.

The Sub-Committee therefore determined that, in accordance with s18 LA 2003, the premises licence was granted, as applied for.

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

All parties would receive a copy of the decision in writing forthwith.

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