

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Friday, 30 September 2016

Present:

Members: Councillor G Crookes (Chair)
Councillor R Auluck
Councillor C Thomas

Employees (by Directorate):

Place: D Cahalin-Heath, R Masih

Resources: L Knight, A Wright

In Attendance: T Gnanalingam – Applicant
C Streeten – Applicant’s Representative

Responsible Authority: West Midlands Police
PC K Healy

Environmental Health:
N Chaplin

Councillor N Akhtar – on behalf of Councillor J O’Boyle

Public Business

28. **Appointment of Chair**

RESOLVED that Councillor Crookes be appointed as Chair for the meeting.

29. **Declarations of Interest**

There were no declarations of interest.

30. **Licensing Act 2003 - Application to Vary a Premises Licence**

The Sub-Committee considered an application to vary the premises licence in respect of Hillfields Service Station, Harnall Lane East, Coventry. The application sought to extend the hours of licensable activity, namely the supply of alcohol off the premises to 6.00am to 2.00am Monday to Saturday and 7.00am to 11.00pm on Sundays.

The Sub-Committee’s statutory duty was to consider the application and any representations and to take such steps as contained in the Licensing Act 2003 as it considered appropriate for the promotion of the licensing objectives.

Four objections had been received from two responsible authorities, one from a local resident and one from a Ward Councillor.

At the outset of the hearing, the Licensing officer alerted the Sub-Committee to a discrepancy that appeared on the plan contained within the application. The shaded area on the plan was referred to as the area for 'consumption of alcohol'. The Applicant's Representative confirmed that this was an error and should have read 'sale of alcohol'. The Sub Committee was satisfied that the application could be amended in this regard.

The Sub-Committee heard representations from the Applicant's Representative, who advised that the Applicant wished to extend the opening hours at the premises to 24 hours, with late sale of alcohol off the premises. The premises had been run by the Applicant and his wife since 1993 and that he had held the premises licence since 2004. The licence had never been reviewed in this time and the Applicant had never received any complaints regarding his management of the premises.

The Sub-Committee heard that the Applicant and his wife run the premises between them and work long hours. He would therefore need to hire more staff in the event that the opening hours were extended which, it was submitted, would benefit the economy in a working class area of the city.

The Applicant's Representative submitted that anti-social behaviour within the general area could not be attributed to the premises. He disagreed that anti-social behaviour was likely to be exacerbated if the licensable hours were extended, submitting that people were unlikely to behave poorly in a well-lit forecourt.

The Applicant's Representative expressed concern regarding the logs presented by West Midlands Police as part of their objection, stating that they were un-particularised events scattered across the local area and did not relate directly to the premises. The Applicant's Representative confirmed that the Applicant had never been contacted by the Police to provide his CCTV, suggesting that anti-social behaviour was not prevalent near to the premises as suggested by West Midlands Police.

The Sub-Committee heard that the Applicant would offer a number of conditions to ensure that the licensing objectives would be upheld, including the use of a hatch for service between the hours of 11.00pm and 6.00am, recruitment of a Manager with a personal licence, implementation of a banning and age verification policy and introduction of a sign at the exit door encouraging customers to be quiet when leaving the premises.

The Applicant's Representative asked the Sub-Committee to consider that the Licensing Act 2003 aims to permit the grant of a premises licence provided the licensing objectives would be upheld. He pointed out that the application to vary the premises licence had derived from a demand within the area for the premises to stay open late, predominantly by taxi drivers who wished to use the petrol pumps during the night.

In response to questions from the Sub-Committee, the Applicant confirmed that CCTV is already in place at the entrance/exit of the premises. He also advised the Sub-Committee that he had always cooperated with the Police and would continue to do so.

The Sub-Committee then listened to representations from each Objector against the grant of the variation.

Environmental Health objected on the basis that the licensing objective of Prevention of Public Nuisance was likely to be undermined if the variation was granted. The Sub-Committee was advised that the premises is situated in a predominantly residential area, with houses on all sides of the premises, and were directed to consider the photographs contained within the hearing pack. The Sub-Committee heard that it was likely that the extension of hours would serve to attract more people into the area to buy alcohol, which would almost certainly cause disturbance to nearby residents. Environmental Health confirmed that no complaints of nuisance had been forthcoming in the past, indicating that the current hours were working.

West Midlands Police objected on the basis that the licensing objective of Prevention of Crime and Disorder was likely to be undermined if the variation was granted. The Sub-Committee heard that the premises is situated in an area that has been subject to large amounts of work by the Police.

The premises itself had made 14 calls to the Police during the last twelve months. Of these, 5 related to individuals making off without payment (of petrol), 2 related to thefts and the remainder were for disorder and miscellaneous offences, which the Police say demonstrated that there was an existing problem with anti-social behaviour which would likely be exacerbated if the premises were allowed to sell alcohol late into the night.

The Police advised that they had worked with local residents who were particularly concerned with individuals congregating on the wall of the premises, often drinking alcohol and causing a nuisance. The Police were concerned that an extension of hours would attract people to the area and allow them to stay longer.

The Sub-Committee also heard that a facility exists a very short distance from the premises, known as "Gateway". This facility provides accommodation and support for homeless individuals and the Police were concerned that residents of the facility would leave late at night in order to seek alcohol from the premises in the event that the hours were extended.

The Sub-Committee then heard representations from Councillor Akhtar, Ward Councillor of St Michael's Ward, within which the premises are situated. Councillor Akhtar had attended the hearing in place of Councillor O'Boyle (also a Ward Councillor for St Michael's) who had provided written representations against the grant of the variation. Councillor Akhtar endorsed a number of points made by Councillor O'Boyle regarding concerns surrounding the premises, and introduced new points for the Sub-Committee to consider.

The Applicant's Representative was concerned that some of the representations made by Councillor Akhtar went beyond those contained within Councillor O'Boyle's written representations, and that he needed to take further instruction from the Applicant.

The Sub-Committee adjourned to allow this to take place and to discuss whether the hearing should continue given the Applicant's concerns. Following the adjournment, the Sub-Committee advised the Applicant and the Applicant's Representative that the decision had been taken to adjourn the hearing and re-hear the application in front of a new panel. This was entirely in keeping with ensuring that the Applicant received the fairest possible hearing.

The Applicant's Representative was grateful for the Sub-Committee's regard for the fairness of the hearing but directed the Sub-Committee to Regulation 19 of the Licensing Act 2003 (Hearings) Regulations 2005, which allows a Sub-Committee to simply disregard information given by a party or any person. The Applicant's Representative confirmed that he and the Applicant were content to continue with the hearing if the Sub-Committee would be minded to disregard the verbal representations made by Councillor Akhtar that went beyond those contained within the written representations of Councillor O'Boyle.

The Sub-Committee had a further discussion and agreed to follow this course provided the Applicant and the Applicant's Representative were happy to do so. The Sub-Committee agreed to disregard the verbal representations of Councillor Akhtar, and instead to only have regard for the written representations of Councillor O'Boyle.

The hearing continued with the Sub-Committee asking questions of the objectors.

In response to questions from the Sub-Committee, Environmental Health confirmed that the premises were situated within a quiet area meaning that the possibility of raised voices from individuals hanging around the premises late at night, car doors shutting etc would likely create an unreasonable amount of noise and disturbance to local residents. Environmental Health confirmed that no conditions could be attached to the licence that could meet their concerns regarding the Prevention of Public Nuisance, as it directly related to the likely scenario that individuals would be attracted to the premises to purchase alcohol beyond the current hours of 11.00pm, and continue to hang around the area thereafter. The Sub-Committee heard that as far as Environmental Health were concerned, the licensing objective of Prevention of Public Nuisance could only be upheld with a restriction on the operational hours. Environmental Health confirmed that there were other convenience type stores in the area but all commercial activity ceases at 11pm.

Finally, Environmental Health raised the point that a condition existed on the planning permission of the premises, meaning the business could not trade beyond the hours 7.00am to 11.00pm. The Sub-Committee noted the point but understood that this must have no bearing on the determination of the licensing application before them. This point was therefore disregarded.

In response to questions from the Sub-Committee, West Midlands Police advised that there were many different people within the local area including students and families. The Police confirmed that measures may be put in place by the Applicant to mitigate the concerns, such as banning procedures.

The Sub-Committee heard that Harnall Lane East, upon which the premises are situated, had been subject to 321 calls within the last twelve months. The Police

confirmed that this figure had been included in the representations to give a feel for the type of activity requiring police attention in the area, and accepted that the calls did not reflect the management of the premises.

The Sub-Committee noted that Log 2364, as provided by West Midlands Police, derived from the premises, although the Applicant denies making any such call so it must have come from a member of the public. The Police confirmed that there was nothing to suggest that any of the intoxicated individuals contained within the logs were served alcohol from the Applicant's premises.

The Police confirmed that there were concerns regarding individuals congregating on the wall at the premises, causing a nuisance to residents.

In summing up, the Applicant's Representative submitted that much of the evidence heard by the Sub-Committee from the Objectors did not reflect the premises. He confirmed that the Applicant wished to work constructively with the Police. He asked the Sub-Committee to weigh any concerns surrounding anti-social behaviour with the potential economic benefit.

In reaching its decision, the Sub-Committee had regard to both national guidance and the Council's own policy.

In relation to the Prevention of Crime and Disorder and the Prevention of Public Nuisance the Sub-Committee noted the position of West Midlands Police and Environmental Health, namely that only a restriction on the hours that the premises are open would be an appropriate measure to uphold the licensing objectives.

The Sub-Committee had regard for Guidance point 2.1 and 9.12, namely that the Police should be the primary source of advice on the licensing objective of Prevention of Crime and Disorder. The Sub-Committee also considered Environmental Health as an important source of advice on the licensing objective of Prevention of Public Nuisance.

The Sub-Committee had regard for the written representations provided by a local resident and Ward Councillor, attaching the appropriate weight to these representations when reaching their decision.

The Sub-Committee noted the representations of the Police, namely that there was an existing problem with anti-social behaviour in the general area. The Sub-Committee accepted that a number of the logs provided by the police did not relate directly or indirectly with the premises. They attached the appropriate weight to this. The Sub-Committee did however note that the premises had made a number of calls for service within the last twelve months, during their existing licensing hours. The Sub-Committee also had concerns that there was an issue with individuals congregating on a wall outside the premises, often drinking alcohol and causing a nuisance to local residents.

The Sub-Committee was concerned that on the balance of probabilities, anti-social behaviour was likely to be exacerbated in the event that the hours were extended.

The Sub-Committee was particularly concerned that the premises was situated within a predominantly residential area, as demonstrated by the photographs provided by Environmental Health, giving rise to concerns of nuisance being caused to those in the locality. The Sub-Committee considered at length whether any conditions could be imposed which may serve to uphold the licensing objectives, and allow them to grant the variation.

However, the Sub-Committee considered the impact that the extension of hours would have on residents living, working and sleeping in the locality. The Sub-Committee was satisfied that the extension of hours was likely to negatively impact the amenity value of the area to local people. On a balance of probabilities, the Sub-Committee believed that nuisance would be caused to local residents should the application to extend the hours be granted.

In the circumstances, having taken all matters into account, the Sub-Committee could not be satisfied that the licensing objectives would be upheld should they grant the variation. As such, the decision was taken to refuse the application to vary the premises licence.

RESOLVED that the application to vary the premises licence in respect of Hillfields Service Station, Harnall Lane East, Coventry be refused.

31. **Any Other Business**

There were no other items of business.

(Meeting closed at 12.55 pm)