

LICENSING PANEL SUB-COMMITTEE

THURSDAY, 10 JANUARY 2019

PRESENT: Councillors Malcolm Alexander, Phillip Bicknell and Derek Wilson

Also in attendance: Mr & Mrs Hamilton, Rodrigues family (three members), Mr Rosha

Officers: Nabihah Hassan-Farooq, Katia Russo, Greg Nelson, Daniel Bayles and Sarah Conquest

APPOINTMENT OF CHAIRMAN

Councillor Alexander proposed Councillor Bicknell to be Chairman for the Panel. This was seconded by Councillor Wilson.

APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATIONS OF INTEREST

No declarations of interest were received.

PROCEDURES FOR LICENSING PANEL SUB COMMITTEE

The Chairman explained the procedure for the meeting. All present indicated that they understood the procedure.

CONSIDERATION OF APPLICATION FOR A VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003

Licensing Officer

The Licensing Lead for the Royal Borough, Greg Nelson introduced the application for Members to consider. It was explained that the application related to a variation to the current licence.

The Licensing Officer had received relevant representation from Thames Valley Police, Environmental Health, Trading Standings, objectors and residents.

The Licensing Officer explained that the application related to a variation to the current license. The Licensing Officer informed the Panel that the application sought approval to expand the extension area from 60 to 66 covers and to extend the licensed hours.

The Licensing Officer explained that the application related to a variation to the existing licence. It was outlined that there were two elements to the application which included, the amended plan of the premises, which included increasing the number of covers within the premises from 60 to 66 and secondly, to vary the licensed hours. The Panel were shown the map of the extended plan of the premises and were directed to the proximity distance of the cottage and surrounding residential area. It was highlighted that the application for extended hours were to extend opening hours to 1.30am (Monday-Thursday) and 2am (Friday-Saturday) when live music and/or recorded activities were taking place.

The Licensing Officer had received relevant representation from Thames Valley Police, Environmental Health, Trading Standards and interested parties (objector). The Panel were

informed that if they granted the variation to the current license then further conditions had been submitted. All the representations were available in the Agenda pack.

The Panel were reminded that they should have consideration for the four licensing objectives as set out in the Licensing Act 2003 and the wider community intention when making their decision on whether to permit the variation to the licence, permit with conditions or to reject the variation to the licence.

Questions to the Licensing Officer

Councillor Alexander sought clarification on the extended number of covers that had been applied for. It was confirmed that the application sought to increase the existing 60 covers to 66. A supplementary question was asked by Councillor Alexander which sought to clarify the total occupation of the premises and it was confirmed that this was 100 customers. Councillor Bicknell requested for clarification as to where the shed area was upon the plan drawing within the agenda papers, and this was outlined to the panel.

The chair allowed the objectors to ask questions of the licensing officer. It was deemed that the question was related to a planning query and it was outlined that Planning were a responsible authority and that they had not responded to the application or made representations.

(Applicants arrived at 10.24am)

Applicant's Case

Mr Rocha introduced himself as Mr Rodrigues' representative and also introduced Mr Rodrigues as the owner and designated premises supervisor (DPS).

Mr Rocha informed the panel that Pazzia restaurant had been a successful restaurant and that it had received good reviews from customers and patrons. It was outlined that the restaurant employed 8-9 members of staff. The variation had been submitted to increase the capacity to accommodate 66 customers. Mr Rocha stated that the current hours of operation were in line with when they were unable to sell alcohol and therefore closed at this time. Mr Rocha stated that the applicant felt it would be simpler to operate with standard operating hours which had been implemented across the borough. Members were told that the restaurant had received multiple visits from officers but that there had been no reports on excessive noise when officers had attended the premises. Meetings had been held with the premise licence holder and the police, and it was highlighted that the applicant had wanted to work proactively with the authority and police to enforce measures. The Panel were told that the applicant had been happy to implement signage and provide refresher training and that they hoped this would reduce noise and public nuisance.

The objectors addressed the committee and stated that the agenda bundle contained 15% of actual incidents that had occurred. The objectors were wary that the Panel could infer that the incidents that had happened were recent and that a full historic picture was not shown. The objectors highlighted that there had been 100 incidents and that 15 had been followed up with a visit from Thames Valley Police. The objector also outlined that there had been multiple email exchanges and that these dated back to when the licence was first approved.

Questions to the Applicant

Members asked the following questions to the applicant;

- How would the applicant address ongoing compliance of the licensing objectives if the application to vary the licensed hours was granted? Mr Rosha stated that this process had been a "wake up" call and that there was a clear need to improve upon existing

- practices and the most serious issues had now been highlighted. Mr Rosha outlined that further training of staff was needed and that refresher training would be provided.
- How would the applicant address the issue of patrons leaving the premises quietly? The applicant, Mr Rodrigues confirmed that signage was in place at the premises and had been there to serve as a reminder to patrons to leave the premises in a quiet fashion with regard to the surrounding neighbours.
 - Where is the designated smoking area? Mr and Mrs Rodrigues stated that the designated area was located on the right hand side of the building

The Objectors asked the following questions to the applicant:

- Had a bar with speakers been erected in the outside shed area? The applicant confirmed that there had not been any speakers placed in the shed, and that this had been used as a storage facility.
- How were the bins emptied? The applicant confirmed that the rubbish was collected by staff after a dinner service and placed by the back door for hygiene reasons. The bottles and waste were collected by the contractor in the morning.
- Had any changes been made to emanating light from inside of the property? The applicant advised that there had been issues pointed out in the past with an existing light installation and that these bulbs had been covered by black film to reduce the light. A new pub sign had been installed but no complaints had been received in relation to the emission of light from the sign.

Objectors Case

Mr Hamilton (Resident-Interested Party)

Mr Hamilton registered to speak in objection to the premise licence variation. It was outlined that there had been a loss of privacy due to addition of the party wall erected as part of the extension. Members were told that since the premise licence had been approved that there had been an increase level of noise and anti-social behaviour. Mr Hamilton stated that there was a historic evidence base of complaints to the environmental health, Thames Valley Police, Ascot Police and other council departments in relation to the reported incidents over the past twelve years. Mr Hamilton informed the Panel that the police had been called out on several occasions where music had been playing after licensed hours and where events had taken place outside of the premises.

Environmental Health

Daniel Bayles, Community Protection Lead stated that the application for the variation in premise licence had been submitted on the 1st September 2018. Members were informed that this was a complex case with historic complaints regarding light and noise issues. It was highlighted there were concerns that if the variation was granted that the surrounding residents would be subjected to further noise and anti-social behaviour. It was also highlighted that Pazzia restaurant was located in a residential area and that emanating noise from the premises was high. It was also noted that there had been high levels of noise from patrons at the premises. Panel members were told that the licensing plan was out of date and that there were concerns surrounding public safety at the premises. The Community Protection Lead suggested five conditions if the application to vary the premises was allowed which were detailed in the agenda pack. It was recommended by the Community Protection Lead that the application be refused based on the information received by the residents and site visits.

(The meeting was adjourned at 11.21am, and reconvened at 11.32pm)

Thames Valley Police (Licensing)

Debbie Pearman (Licensing Lead for Thames Valley Police) stated that there were concerns with ongoing noise complaints and there were serious concerns relating to the application to

extend the licensed hours. Complaints from 2012 onwards had been looked at and a summary had been provided in the agenda pack of these incidents. It was noted that there had been incidents where the police had been in attendance but that it had not always been possible to attend all calls when requested, due to other higher priority service demands. Thames Valley Police had visited the site jointly with the licensing officer (RBWM), Steve Smith. It was outlined that a caution had been issued to the premises and details of this were detailed in the agenda pack. It was highlighted that there were sporadic occasions where there had been reports of crime and disorder. It was recommended that the premise licence variation be refused. The representative RBWM Licensing officer, Katya Russo highlighted that RBWM was in support of the recommendations made by Thames Valley Police, Licensing Department.

Questions to objectors

Members asked the following questions:

- Councillor Alexander asked whether there were any paid transactions made in the outside area of the premises? It was confirmed by the applicant that all payments were made inside of the premises.
- Councillor Wilson asked Daniel Bayles whether he had seen signage notifying patrons to leave the premises quietly. It was confirmed that no signage had been seen when the inspector had visited the premises.

It was also discussed that:

- Whether all of the incidents were necessary to the panel hearing and it was confirmed by Daniel Bayles, Environmental health lead that the history of problems was well known but that not all incidents could be included in the bundle. Information had been included in the pack which reflected the seriousness of concerns received.
- Daniel Bayles confirmed his involvement with the premises and objectors and that he had been involved for the past 24 months and was aware of incidents that had predated his involvement.
- The objector, Mr Hamilton highlighted that they had not received 10 days before the meeting and it was confirmed that papers were available online 5 working days before the panel and that they were able to download these from the RBWM website beforehand. The objectors were asked whether they wished for the meeting to be adjourned and they confirmed that they would like to carry on with the hearing.

Applicant's summary

Mr Rosha summed up that the applicant had an existing premise licence to play music and that there had been a change in management over the past twelve months who would require more training after what had been discussed at the panel hearing. Mr Rosha stated that there was significant room for improvement and that the premise licence holder was willing to review and improve on the highlighted areas of concern. He highlighted that Pazzia restaurant had been a reputable and successful local business and that they were willing to work with residents for a better solution to the noise and anti-social behaviour concerns.

Objectors summary

Mr Hamilton summarised that he felt uncomfortable with the nature of the variation request as there had been multiples incidents of concern, relating to noise, light and anti-social behaviour. Mr Hamilton felt strongly that there had been a documented history of incidents with the premises and that there was no business need for the premises to stay open beyond their current operational hours. Mr Hamilton felt that if the variation was granted

that it would contribute to further disruption and that the residents in the locality would be disadvantaged.

The Licensing Officer summed up by clarifying all the conditions requested by the police, trading standards and environmental protection and the history of problems/complaints dealt with by numerous authorities. The Licensing officer outlined all the conditions suggested by the applicant if the variation was granted. The Panel were then informed of all of the wider community effects.

Decision

After careful consideration, the Licensing Panel Sub Committee refused to grant the full variation to the current licence.

After careful consideration of all the evidence, the Sub-Committee decided to:

1. Grant the retrospective application to vary the premises plan to include the extension area as shown on the plan at page 37 of the bundle
2. In granting paragraph 1 above, the number of covers permitted within the licensed area will increase from 60 to 66 only.
3. Paragraph 1 above will be subject to the following conditions;
 - i) There will be no speakers situated in the extension area
 - ii) There are to be no live music played from the extension area
 - iii) There be prominent internal and external signage reminding patrons that the premises are in a residential area, and that noise and disturbance ought to be kept to the minimum.
 - iv) That the window situated within the extension be kept shut after 10pm.

It was considered that these conditions are appropriate to further the licensing objective of prevention of public nuisance, particularly the prevention of noise nuisance.

The meeting, which began at 10.00 am, finished at 1.40 pm

CHAIRMAN.....

DATE.....