

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

THURSDAY, 30 SEPTEMBER 2021

PRESENT: Councillors John Bowden, Mandy Brar and David Cannon

Also in attendance: Mr Razim Bakiri (Applicant) and Mr Marcus Lavelle (Applicants Representative)

Officers: Jane Cryer, Craig Hawkings and Mark Beeley

APPOINTMENT OF CHAIRMAN

Councillor Bowden nominated Councillor Cannon as Chairman, this was seconded by Councillor Brar.

RESOLVED UNANIMOUSLY: That Councillor Cannon was elected as Chairman for the meeting.

APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATIONS OF INTEREST

Councillor Brar declared a personal interest as she was a licensee.

PROCEDURES FOR SUB COMMITTEE

The clerk read out the procedures that the Sub Committee would follow.

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

The Reporting Officer to outline the application and the decision to be taken

Craig Hawkings, Licensing Team Leader, set out the application. This meeting of a Licensing Sub-Committee was convened to hear an application for a new premise licence located within the Royal Borough of Windsor & Maidenhead. In line with the Licensing Act 2003, when relevant representations were made against an application, a hearing had to be held to consider them. A relevant representation made against an application for a new premises licence had to relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These were; 'The Prevention of Crime and Disorder', 'Public Safety', 'The Prevention of Public Nuisance', and 'The Protection of Children from Harm'.

The purpose of this hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties and then to make a decision in respect of the application.

The Applicant was 365 Services (UK) Ltd and the DPS was Mr Blerim Pacolli for the premises 88 Maidenhead Road, Windsor, SL4 5EJ. 365 Services (UK) Ltd had applied, under the Licensing Act 2003, for a new premises licence to be granted. The application was to licence a café. A summary of the application was as follows:

- Sale of Alcohol on and off the premises
Monday – Saturday 10:00 – 18:00
Sunday 10:00 – 16:00

The Designated Premises Supervisor (DPS) was Mr Blerim Pacolli.

This application had received no representations from the responsible authorities which included; Environmental Health, Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Thames Valley Police and RBWM Licensing. There had been 13 individual representations from residents that were relevant to the application as they related to one or more of the four licensing objectives.

The Licensing Panel Sub Committee was obliged to determine the application with a view to promoting the four licensing objectives which were:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Sub-Committee had to have regard to all of the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps that were available to the Sub-Committee were:

- (a) Reject the application;
- (b) Refuse to specify a person in the licence as the premise's supervisor;
(*Note – not all of these will be relevant to this particular application)
- (c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence;
- (d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions had to be given.

The Sub-Committee were reminded that any party to the hearing could appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Questions to the Reporting Officer from Members

Councillor Bowden asked if 6pm was the end time on the original application.

Craig Hawkings confirmed that the end time had always been 6pm, the additional regulated activity had been withdrawn by the applicant.

Councillor Bowden commented that he was familiar with the premises.

Councillor Brar asked if the premises had CCTV, she was informed that this was a question for the applicant to answer.

The Chairman asked if the application was purely for the sale of alcohol and whether there would be any external noise after 6pm, as a number of the representations had been based on late night entertainment and music.

Craig Hawkings confirmed that the application was solely for the sale of alcohol and that there would be no external noise after this time as the premises would be closed. If the license was granted it would not override the planning restrictions which had been placed on the premises.

Councillor Bowden asked if the off sale of alcohol element of the application was in sealed vessels and if the petrol station alongside the premises was also a licensed premise.

Craig Hawkings confirmed that off sale was in sealed vessels and later in the hearing it was confirmed that the petrol station next to the premises was a licensed premise.

Questions to the Reporting Officer from the applicant

The applicant had no further questions for the Reporting Officer.

Applicants Case

The applicants representative explained that the café was the natural evolution of the site, it had been a motor based mechanics for over 40 years. The applicant had taken over the site in 2011 and had made over £500,000 worth of improvements, with the building being insulated and this had stopped noise from breaking out. In 2017, the applicant was granted planning permission and a change of use was applied for, with the premises being changed from industrial to restaurant/café use. The applicants representative showed where the premises was located on the site using images which had been provided to the Sub Committee. The applicants representative explained that sough dough pizzas would be served, which could be ready in around 5 minutes. There was expected to be a dwell time of around half an hour.

Questions to the applicant from Members

Councillor Brar asked whether there was CCTV in place at the site.

The applicants representative confirmed that they had accepted a condition from Thames Valley Police that CCTV was in place. The auto centre already had a CCTV system and the new building where the café would be located came with a new CCTV system already installed.

Councillor Brar asked if there was already anti-social behaviour in the area, as had been referenced by some of the representations made against the application.

The applicants representative said that most residential properties did not have direct line of site of the café building. On the anti-social behaviour, a complaint had been made to the council, who investigated but found no issues. The beeping of car horns was due to cars waiting at the garage, which did cause some noise. However, the applicants operations were all internal. The premises was based on a major road with an industrial area, there was a minimal chance that the café would be heard by local residents over this.

The Chairman commented on the anti-social behaviour and asked if there was any cut through which could be used or whether the perimeter of the site was secure.

The applicants representative confirmed that it was not possible to walk through the site.

The Chairman asked if the café was currently operating.

The applicants representative said that the refurbishment works were still ongoing so the café was not yet open.

Councillor Brar asked about speakers outside the café, which had been mentioned in one of the representations.

The applicants representative confirmed that small speakers were present at the premises but these were not currently in use as the café was not open.

The Chairman asked what the planned purpose of the speakers was and whether external tables were planned.

The applicants representative explained that low volume background music would be played but it was not there to provide entertainment. There were no plans currently for external tables.

Summary from applicant

The applicants representative made reference to a court appeal case for a failed application, quoting paragraph 24 of the judges comments; “while a licensing committee is not bound to follow a planning decision makers conclusion, nor vice versa, each will and should have regard to the other where both make decisions in the same context.” The applicants representative felt that this was similar to the case being presented to the Sub Committee, which was one of public nuisance, but the planning authority felt that in 2017 this site was of suitable use and therefore the Sub Committee should look to grant the license.

Summary from the Reporting Officer

The Licensing Panel Sub Committee was obliged to determine this application with a view to promoting the four licensing objectives which were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

In making its decision, the Sub Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Committee had to have regard to all of the representations made and the evidence that it heard.

The Sub-Committee had to, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives. The steps were:

(a) Reject the application;

(b) Refuse to specify a person in the licence as the premise's supervisor;
(*Note – not all of these will be relevant to this particular application)

(c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence;

(d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions had to be given.

The Sub-Committee were reminded that any party to the hearing could appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Decision

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and Objectors. The Panel also heard oral evidence provided from the following:

- Craig Hawkings (Reporting Officer at the Royal Borough of Windsor & Maidenhead)
- Mr Razim Bakiri (Applicant) and Mr Marcus Lavelle (Applicants Representative)

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 10.10 am, finished at 10.45 am

CHAIRMAN.....

DATE.....