

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

Thursday 16 February 2023

Present: Councillors Phil Haseler (Chairman), Sayonara Luxton and Mandy Brar

Also in attendance: Councillor David Hilton

Officers: Laurence Ellis, Oran Norris-Browne, Craig Hawkings and Roxana Khakinia

Appointment of Chair

Councillor Brar proposed Councillor Haseler to be Chair for the duration for the meeting. This was seconded by Councillor Luxton.

AGREED: That Councillor Haseler be Chair for the duration of the meeting.

Apologies for Absence

No apologies for absence were received.

Declarations of Interest

Councillor Brar declared that she was a licensee within the Borough.

Procedures of the Sub Committee

All parties present noted the procedures.

Consideration of an application for a new premises licence under the Licensing Act 2003

Craig Hawkings, Reporting Officer for RBWM, introduced the report to the Sub-Committee: consideration of an application made for a premises licence for 5 Winkfield Road, Ascot, SL5 7LX. He explained that the purpose of the hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties, and then to make the decision in respect to the application.

Craig Hawkings explained that the application was to licence a convenience store with the following activities:

- Supply of alcohol ON & Off the premises Monday to Sunday 07:00–23:00
- Hours premises are open Monday to Sunday 07:00–23:00

Craig Hawkings stated that the designated premises supervisor (DPS) was the applicant, Mr Honey Singh, and the application was advertised in accordance with statutory regulations. He also listed the four licensing objectives which were set out in the Licensing Act 2003:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

Craig Hawkings stated that there were no representations received from any of the responsible authorities that had consulted on the application for the 28-day consultation period, though there had been agreed conditions between the Applicant and Thames Valley

Police. However, the application did receive 17 representations of objection from other persons.

Craig Hawkings informed that the application did fall slightly outside of RBWM's recommended opening hours, with the opening hours being 2 hours earlier at 7:00-23:00 rather than the recommended 9:00-23:00.

Craig Hawkings then stated that the application would have been granted under his delegated powers if it did not receive representations of objection.

Craig Hawkings then presented the Sub-Committee's options:

- Reject the application.
- Grant the application but modify the activities and/or the hours and/or the conditions of the licence.
- Grant the application.

He reminded the Sub-Committee that they had a duty to behave impartially and that their decision must be based on the evidence that had been presented to them.

The Chair asked for clarification on whether alcohol would be served on the premises. Craig Hawkings replied that the Applicant could apply for that, but it was up to them.

Councillor Brar asked how long the store had been on the premises. Craig Hawkings answered that there had been previous shops beforehand, but it was currently not the convenience store of the application.

The Chair asked if the premises could be changed from the previous existing retail store into a convenience store without an alcohol licence or if the Applicant required additional authorisation or approval, stating the reason that the Sub-Committee had convened due to the application of an alcohol licence. Based on what he knew, Craig Hawkings replied that if the application was to establish a shop that did not sell licensable products (e.g., alcohol), then the Sub-Committee would not need to convene, and the Applicant would not be required to apply for a premises licence. Roxana Khakinia, Legal Officer, informed the change of use was a planning issue and not a licencing matter, and that the reason for the Sub-Committee was because of objections to the application.

Councillor Luxton asked about parking in the area around the premises. Craig Hawkings replied that there was a parking issue in the area, but it appeared to already have been an issue. He added that the weight of granting or refusing a premises licence by way of controlling a parking issue may be enforced by highways or parking enforcement.

Mr Honey Singh, Applicant, explained that he was open to changing their operating hours to satisfy resident objections. He conveyed that parking and traffic would always be an issue as businesses in the area would always attract customers. He also mentioned that there were couple of parking spaces outside the store. Regarding rubbish and litter, Mr Singh conveyed that he would provide a bin to be placed outside of the store and ensure that the bin was regularly collected. On public safety, he stated that CCTV cameras would be operating, and that the store's staff would ensure that there were no people standing outside the store.

Councillor Luxton asked about the plans on timings. Craig Hawkings replied that Mr Singh could sell alcohol for whatever hours and the Licensing Act allowed 24-hour sale of alcohol. He stated that the store's opening hours would be as stated in the application – 7:00-23:00 with 12:00 closure on Fridays and Saturdays – unless Mr Singh decided to change the opening times to satisfy resident objections.

The Chair asked if the store could open for longer hours than alcohol sales. Craig Hawkings replied that opening hours was not a licensable activity while alcohol sales was, and therefore the alcohol sales restricted by the licence.

Councillor Luxton asked how the licenced selling hours would be monitored. Craig Hawkings replied that this would be relied upon complaints to the RBWM Licensing Department as well as licensing enforcement monitors visiting the premises and looking at CCTV, till receipts and witness statements.

The Sub-Committee moved onto representations from other persons. Councillor Hilton, where the premises was located in his ward, spoke first. He first raised concerns about the store being closed at midnight on Fridays and Saturdays and raised that there was a mismatch in the report and the application, which stated midnight closing time for two evenings a week, and the notice on the store which stated the licence was for 23:00 closing time. Craig Hawkings replied that if there were any discrepancies or irregularities in the licensing process, then the Sub-Committee meeting could seek to resolve them. After consulting with Mr Singh, Craig Hawkings confirmed that the applicant was willing to reduce the opening hours on Friday and Saturday to 23:00.

Councillor Hilton began by stating that he was speaking on behalf of 3 Objectors: Mr David Wood, and Mr and Mrs Grant. The Objectors, he relayed, expressed concern about parking as the store had no dedicated parking and therefore would exacerbate the current challenging parking issue in the area. Regarding parking spaces outside the store along the footway in Kennel Ride, Ascot, he counterargued that this would block the footway for residents. He said that the Objectors he was representing have had their driveways blocked by parking. He also mentioned that cars being parked on the footway would affect mothers with children and pushchairs as they had to walk in the 40 mile-per-hour road to circumnavigate the parked car. Therefore, he argued, would risk public safety.

Regarding public safety, Councillor Hilton then discussed that Mr and Mrs Grant frequently noticed nitrous oxide containers and empty bottles of vodka littered near their house and around the nearby alleyway and grassland. He mentioned that the resident couple had once experienced an incident of an anti-social young person on their home property.

Councillor Hilton relayed that the Mr Wood that transforming the premises from a business that operated in daytime hours to a night-time store would be "out of character" in the residential location. Councillor Hilton then stated that Mr Wood raised concerns about the noise generated by the store, especially late at night as well as the customers who may congregate there. With other nearby stores in the area which had daytime opening hours, Councillor Hilton relayed that Mr Wood questioned whether another store which closed at 23:00 was needed. Councillor Hilton then mentioned that the Sub-Committee had the power to restrict opening hours to a more suitable time, such as 9:00pm.

Councillor Hilton then raised the concern of large delivery vehicles travelling through the area as well as loading and unloading.

The Chair suggested that Panel members and the Applicant ask questions to each speaker rather than having all questions asked after all representations had spoken.

The Applicant had no questions or comments.

The Chair asked about the age range of the anti-social youths who hanged around in the nearby alleyway and grassland. Councillor Hilton replied that anti-social behaviour was not a prominent issue, as it had not been recently raised by the Neighbourhood Action Group for a long period, but it nevertheless occasionally existed.

Councillor Luxton asked Councillor Hilton about opening times, who responded that the closing time of 9:00pm was the usual time that stores in the area closed. He conveyed that the Mr and Mrs Grant believed that late night opening hours was inappropriate in a residential area.

Councillor Luxton asked if the residents that Councillor Hilton was representing had expressed a preference of the timing of unloading. Councillor Hilton had not received a preference of time from Mr and Mrs Grant but believed 7:00am would be considered appropriate.

Elizabeth Michael, an Objector, expressed concern about the application. She explained that she owned a store nearby which would get busy during certain events like Halloween and therefore experienced busy traffic, arguing the area was not used to a high congestion of traffic.

Elizabeth Michael then conveyed that parking was a public health issue as there was no parking and therefore cars had to park on the side of the road, blocking the walkway. She stated this therefore forced residents to walk in the road to move around the parked cars. She added that this would be a major issue for people in wheelchair and parents with pushchairs. She also argued that the potential increase in traffic and parking would pose a greater risk to children. Elizabeth Michael was also sceptical that the applicant can manage people outside their store to diminish public nuisance.

The Chair asked the Objector if another convenience store nearby sold alcohol, to which Elizabeth Michael confirmed and added that it had some parking spaces outside. The Chair then questioned if the other store was where youths bought alcohol. Elizabeth Michael replied that Applicant's store was close to some grassland in which youths could gather in contrast to the other nearby store.

The Applicant, Mr Singh, counterargued that the issues raised by the Objector were already taking place and therefore found it irrelevant to his application. He then stated that it was a local council issue to ensure public safety. He reiterated that he would be managing people outside his store to mitigate anti-social behaviour but added that he would not be able to manage all people in Ascot.

The next Objector, Craig Duthie, spoke. He explained that he had experienced anti-social behaviour in the form of a break-in and theft in his property, adding that he wished for there to be no more nuisance in the area. The Objector then stated that parking was an issue with driveways frequently being blocked, including his. He mentioned that he welcomed the suggestion of double yellow lines. He also counterargued the Applicant's claim that there were 2 parking spaces outside the shop, stating that there was none, including the unloading of goods for the premises. The Objector concluded that he would welcome either a refusal of the application or the opening timings to be altered under public safety, stating that there were safety concerns for residents due to parked cars blocking the pavement.

The Chair asked the Objector what was causing the parking issues outside his property. The Objector replied that while it was quiet at the moment, it was previously people parking their cars on driveways for a supposedly short time to quickly access a shop. He believed that this issue may arise again if an off-licence store was established.

The Panel and Applicant had no questions or comments.

The final Objector spoke, Carl Durham. He stated that he lived near the premises and expressed concern about the potential high congestion of traffic and customers to the convenience store. He also raised that there was no parking outside the premises, adding that he had to be careful with his children and a risk of public safety. He also conveyed that anti-social behaviour would likely increase if the store was approved. He was also sceptical that the frequent unloading of goods could be done safely.

The Chair asked Craig Hawkings if the applicant would have to check with Planning on whether a change of use would be required. Craig Hawkings responded that it was the responsibility of the applicant to determine if a change of use was necessary and that it did not affect the licensing process. If there was a requirement for a change of use, it would have to go through Planning.

The Chair then asked Roxana Khakinia whether the parking went under any of the licencing objectives in which the Sub-Committee would base its decision on. Roxana Khakinia replied that the parking was dealt under Planning Department and therefore would not be under consideration. However, she added, the Sub-Committee could take into account residents' concerns in line with issues of public safety.

The Chair asked for any questions. On the change of use issue and that planning approval was required, Elizabeth Michael questioned whether there would be another consultation process. The Chair replied that a change of use may not be required to go through a planning committee and would be determined by planning officers under delegated powers.

Roxana Khakinia added that a consultation process may take place if there were objections to the planning application if it was required. She also stated that if a licence was granted to the applicant and there was a planning issue, it did not mean that they could open the store as they would be required to possess all appropriate licences. Craig Hawkings clarified that the granting any premises licence would not override any current planning restrictions on the premises.

Elizabeth Michael then asked how residents would be notified of a planning issue. The Chair replied that Planning Officers would notify the immediate neighbours in the area.

Councillor Hilton asked who would check that there were no planning restrictions on the premises. The Chair replied that it was down to the Applicant. Craig Hawkings stated that the consultation process did involve consulting planning officer who would highlight any irregularities.

Roxana Khakinia asked the applicant on how they were going to manage deliveries if they were granted the licence. Mr Singh replied that they would investigate to understand the area further (e.g., busy periods) to make the arrangements for deliveries and that they were dropped off in a small patch of land. Roxana Khakinia then asked about any arrangements for rubbish collections. Mr Singh replied that they have arranged for rubbish collection which would take place every fortnight.

Regarding the applicant's offer to compromise on changing opening times, an Objector asked if a 9:00pm closing time would be suitable for them and something they would consider. Mr Singh replied that he would look into this. Craig Hawkings clarified that the licence allowed opening times up to the timings which the licence allowed though some stores may work under that timeframe.

Councillor Luxton asked the applicant about moving youths from outside the store as well as the regular clearing of litter. The applicant replied that the bins would be cleared every day and that he would engage with any youths outside the store through communication and understanding.

Craig Hawkings summarised the licensing authority's case. Having regarded the application and to the relevant representations, the Sub-Committee had to take such steps as it considered appropriate for the promotion of the licensing objectives. The steps were:

- Reject the application.
- Grant the application but modify the activities and/or the hours and/or the conditions of the licence.
- Grant the application.

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

During the deliberations, the Sub-Committee considered all of the written submissions that were provided by the Applicant, Officers of the Council, and Objectors.

After having heard all the evidence that had been presented to them, including detailed consideration of the written and oral submissions that had been made by the 4 objectors and having taken into account the RBWM Policy Framework Hours, the Sub-Committee agreed to grant the licence as applied for, subject to the following conditions and the below timings for licensable activities:

- CCTV to be installed and maintained to Thames Valley Police standard and CCTV images to be kept for 31 days and made available (downloaded) upon the request of Thames Valley Police, Local Authority Licensing and Trading Standards Officers.
 - Nominated person is responsible in supplying the necessary media (discs, data stick) containing any downloaded content.
 - In the event the CCTV system fails, a notification will be made by telephone to Thames Valley Police and the Licensing Authority and immediate steps will be taken to put the equipment back into working order.
 - The licence holder shall ensure that adequate measures are in place to remove, on a daily basis, litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises.
- Supply of alcohol ON & Off the premises Monday to Sunday, 07:00–23:00

 - Hours premises are open Monday to Sunday, 07:00–23:00

AGREED UNANIMOSULY: That the application for a new premises licence with the aforementioned conditions be accepted.

The meeting, which began at 10.31 am, finished at 11.44 am

Chair.....

Date.....