

REGULATORY SUB COMMITTEE

At a meeting of the Regulatory Sub Committee on Wednesday, 12 June 2024 at the Civic Suite, Town Hall, Runcorn

Present: Councillors Wallace (Chair), K. Loftus and A. McInerney

Apologies for Absence: None

Absence declared on Council Business: None

Officers present: K. Hesketh and A. Strickland

Also present: Councillor E. Jones

ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

Action

RSC4 MINUTES FROM THE MEETING ON 31 MAY 2024

The minutes of the meeting held on the 31 May 2024 having been circulated were signed as a correct record.

RSC5 APPLICATION FOR A PREMISES LICENCE - 74 ALBERT ROAD, WIDNES, WA8 6JT

The Committee met to consider an application which has been made under Section 17 of the Licensing Act 2003 to grant the above premises licence. The hearing was held in accordance with the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005.

PREAMBLE

A meeting of the Regulatory Sub-Committee (acting as Licensing Committee under the Licensing Act 2003) of Halton Borough Council was held at Runcorn Town Hall on Wednesday 12th June 2024 commencing at 1.30pm. The meeting was held to hear an application made under Section 17 of the Licensing Act 2003 for the grant of a Premises Licence for a new restaurant at 74 Albert Road, Widnes. The application was amended prior to and during the hearing with the proposed closing hour for the premises being

amended from 1am to midnight (Sunday to Thursday) (with the supply of alcohol terminating at 11.30pm) and the proposed closing hour for the premises remaining at 1am (Friday and Saturday) (with the supply of alcohol terminating at 12.30am). It was this amended application that was determined by the Sub-Committee.

In attendance were: -

- Members of the Regulatory Sub-Committee comprising Cllr Pamela Wallace (Chair), Cllr Angela McInerney and Cllr Kath Loftus ('the Sub-Committee');
- Mark Marshall of M Squared Services Ltd (Poulton Le Fylde) representing the Applicant - namely Mr Karan Ravi Sasi ('the Applicant');
- Cllr Eddie Jones ('the Ward Member' and objector);
- Kim Hesketh (Licensing Manager); and
- Alex Strickland (Legal Adviser).

There were four written objections from local residents (Denis Leigh, June Leigh, Lyn Fletcher and Pauline Malcolm) and two Ward Councillors (Councillor Eddie Jones and Councillor Angela Teeling) ('the Objections' and 'the Objectors'). After the Chair of the Sub-Committee had introduced the parties, the Legal Adviser outlined the procedure to be followed. The Licensing Manager presented the Licensing Report with appendices including Location Plan (Appendix A), the schedule of Licensed Premises in the local area (Appendix B), the (original) Application (Appendix C), correspondence sent to objectors on behalf of the Applicant (Appendix D), copies of objections from the objectors (Appendix E) and relevant extracts from statutory guidance (Appendix F), setting out the nature of the application and the relevant representations that had been made, noting that there had been no representations from responsible authorities.

DETAILS OF THE APPLICATION (AS AMENDED BEFORE AND DURING THE HEARING)

The application as amended is for the grant of a Premises Licence as follows:-

Supply of Alcohol

Sunday to Thursday 11:00 to 23:30; and
Friday and Saturday 11:00 to 00:30.

Hours open to the public

Sunday to Thursday 11:00 to midnight; and
Friday and Saturday 11:00 to 01:00.

Late Night Refreshment

Sunday to Thursday 23:00 to midnight; and
Friday and Saturday 23:00 to 01:00.

Operating Schedule

The conditions as set out in the Operating Schedule to the Application dated 17 April 2024 (set out in Appendix C to the Licensing Report) (amended as above to reflect a change in hours) and taking account of the matters contained in the letter dated 4 May 2024 sent on behalf of the Applicant together with mandatory conditions under the Licensing Act 2003.

THE HEARING

The applicant and the objector were allowed a maximum of 20 minutes each to present their case.

Mr Mark Marshall for the applicant made clear that the proposal to open the restaurant constituted a low risk operation. The intention was to trade during the day and into the evening. It may be that the premises do not open late at night as much would depend on market demand. He maintained there was much less risk in a restaurant operation (which would have drinks with meals as part of table service) than that arising from a vertical drinking establishment. He also said he had received no response to the correspondence sent to the objectors and maintained that the conditions proposed in the operating schedule such as CCTV and Challenge 25 would further the statutory licensing objectives and minimise any potential problems. In response to questions from the Sub-Committee, Mr Marshall maintained he would provide staff training for the applicant and his staff that would deal with any drunkenness in an appropriate and effective way. The proposal is to offer a 'Nando style' operation.

Mr Marshall fully acknowledged that local Councillors (and the Ward Member present) know their area best. Any takeaway element would be ancillary to the table/sit down restaurant operation. Mr Marshall, for the Applicant, offered

amended hours (as set out in paragraph 2 above) and agreement to conditions as set out in paragraph 4 below. In addition, he maintained that the Applicant had received advice that the proposal was compliant with planning law, although in response to a question for clarification from the Legal Adviser to the Sub-Committee, he acknowledged that the Applicant had not approached the Planning Department. The Legal Adviser to the Sub-Committee made clear planning was not a matter for this hearing, but that it would be prudent to contact the Planning Department to ensure they were content with what was proposed.

In summing up, Mr Marshall maintained the Applicant was committed to making a success of the business and working in good faith with residents to resolve any issues that may arise. He maintained that the concessions offered up showed that the Applicant was serious about his commitment to the business and the area, and he underlined his view that this was a low risk operation.

The Ward Member, Councillor Eddie Jones addressed the Sub-Committee as an objector based on the representation that he had previously submitted.

Councillor Jones told the Committee that he represented local residents and was in support of the Objectors who had raised Objections. He said that colleagues all agree who know the area and noted that parking issues were causing serious problems in the local area.

Councillor Jones maintained the area was 'blighted by late night bar activity', that the area was unsuitable for the premises and that a sense of natural justice, common decency and fair play meant that the application should be rejected. Councillor Jones expressed concern for elderly people living in the area saying they had a right to live peacefully in their homes. Concern was also expressed about the establishment encouraging children to be out late at night.

In summing up, Councillor Jones noted that there were other vacant premises that would be more suitable, with less impact on residents.

In response to questions from the Sub-Committee, Councillor Jones accepted parking was an issue in general for the local area, that there would be potential noise problems (saying 'noise travels') and noting again that children should not be encouraged to be out late at night.

THE DETERMINATION

The Sub-Committee resolved to grant the (amended) application for the Premises Licence on the terms set out in paragraph 2 above with the additions set out below (and in the event of any inconsistency the points below shall apply):-

- 1) The placing of refuse such as bottles/glass into receptacles outside the premises shall only take place between 08.30 to 21.00 (Sunday to Thursday) and 8.30 to 22.00 (Friday and Saturday) to prevent disturbance to nearby premises;
- 2) All children to be off the premises by 22.00 hours daily;
- 3) Doors (except for purposes of obtaining access) and Windows to be kept closed;
- 4) Immediate area in front of the premises to be regularly swept/kept clean; and
- 5) Receptacle to be placed/installed at front of premises for litter/cigarette butts to avoid litter in the immediate area.

SPECIFIC REASONS FOR THE DETERMINATION

In making its determination, the Sub-Committee had regard to the licensing objectives, the statutory guidance and Halton Council's own Statement of Licensing Policy.

The Sub-Committee found that: -

- 1) The Applicant had improved the prospects of the licence being granted by engaging with Objectors prior to the hearing and by offering concessions on hours of operation and licence conditions before and during the hearing itself;
- 2) The Sub-Committee was encouraged that the Applicant had made a substantial investment in the Premises by taking a 16 year lease of the premises and noted the commitments given on behalf of the Applicant to run the premises in a responsible way. Members gave substantial weight to this assurance, noting in particular that staff would be trained to deal with the issue of drunkenness in an appropriate and responsible way;

- 3) As set out in the statutory guidance, the Sub-Committee looks to Cheshire Police as the main source of advice on crime and disorder/anti-social behaviour. The Sub-Committee was mindful that they did not make any representations in respect of this application. Similarly, there were no representations from Halton Borough Council (Children's Directorate) in respect of the protection of children from harm statutory licensing objective;
- 4) The Sub-Committee took account of the matters raised in the objections and in particular those matters raised by the Ward Member present, but it noted that issues such as parking were dealt with by a different regulatory regime, whilst questions around the need for the premises in that location were not matters to be taken into account by the Sub-Committee, in line with the statutory guidance issued under section 182 Licensing Act 2003. On balance, the Sub-Committee was satisfied that a range of conditions within the operating schedule covering issues from CCTV to Challenge 25 were sufficient to provide assurance that the premises would be run in a responsible way;
- 5) Notwithstanding legitimate concerns around the statutory licensing objectives – (in relation to public nuisance and child protection) raised by the objectors, the Sub-Committee considered that this had to be weighed against the specifics of this application, and in particular the fact that there was little/no evidence presented in support of the same that at this time, would link any problems to this particular premises, perhaps due in part to the fact that this was a new business which had yet to commence operations. The Sub-Committee noted the court decision in Daniel Thwaites Plc v Wirral Borough Council, and accordingly was not minded to impose additional regulation/conditions in this case; and
- 6) On balance, it therefore finds that the application (as amended before and during the hearing) does not undermine the statutory licensing objectives.

The Sub-Committee recommends that the premises licence holder and local residents engage in dialogue should there be any concerns in future. If the operation of the premises does lead to problems, residents are strongly advised to report matters to the Police and relevant Council

department, as appropriate.

The Sub-Committee was mindful that there are powers to deal with premises if a licence leads to the licensing objectives being undermined in the future. Options include reports to Environmental Health in relation to statutory noise nuisance, and mechanisms to commence a formal review of the Premises Licence, should that be necessary.

TIME THAT THE DETERMINATION SHALL TAKE EFFECT

Forthwith.

Meeting ended at 2.42 p.m.