

MINUTES of the meeting of Licensing sub-committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Tuesday 15 August 2017 at 10.00 am

Present: Councillors DW Greenow (Chairman); KS Guthrie and AJW Powers

Officers: Kate Coughtrie, Louise Portman and Fred Spriggs

56. APOLOGIES FOR ABSENCE

No apologies for absence were received.

57. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

58. DECLARATIONS OF INTEREST

There were no declarations of interest made.

59. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF: ST OWENS NEWS, 53A ST OWEN STREET, HEREFORD, HR1 2QW - LICENSING ACT 2003

The licensing officer reported that the premises licence holder had requested a three week deferment. The committee unanimously agreed to a deferment.

RESOLVED

That the application for a variation of a premises licence in respect of St Owens News, 53a St Owen Street, Hereford, HR1 2QW be deferred.

60. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF: 'THE TREACLE MINE, ST MARTINS STREET, HEREFORD, HR2 7RG'. - LICENSING ACT 2003

Members of the licensing sub committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, licensing officer and Sergeant Duncan Reynolds, West Mercia Police. Members also heard from the applicant

and the public representatives, Mr Andrew Catley, Ms Jane Smith and ward councillor, Chris Chappell.

Background

They heard from Sgt Duncan Reynolds that the police were objecting on basis of lack of on-street parking and concerns in relation to both noise and crime and disorder. The area had a history of boy racers congregating in the vicinity of the premises. However, the applicants had engaged with the police and environmental health resulting in some agreed conditions and reduced terminal hours. On the basis of these changes, the police were withdrawing their objections. When answering questions from members, the police confirmed there was not a current issue with boy racers. The withdrawal of objection was both on the basis of conditions and changes agreed but also having regard to the other statutory powers coming forward. A public place protection order was being put in place in this area that could be used to prevent on street drinking and the police also had dispersal powers. Sgt Reynolds clarified that parking issues were now only enforced by the police in limited circumstances i.e. where the parking was obstructing a driveway or preventing access to emergency vehicles.

The committee heard from the Councillor Chappell (ward councillor) who outlined the history of the area and that it had been a location attracting anti-social behaviour including boy racers, prostitution and people urinating in the nearby memorial park. This had been caused by its location rather than the previous public house. The councillor was concerned that the residents should not have to be exposed to further disturbance and problems and was sceptical that the serving staff on the premises would be able to deal with persons congregating and causing a nuisance and engaging in anti-social behaviour outside. In response to further questions from members of the committee he had not investigated whether there were current issues in the memorial park.

They heard from two residents. Jane Smith was a local resident who lived within 100 metres of the premises and had done so for in excess of 10 years. They had moved after the previous issues with boy racers had been resolved. She said that parking was a problem and the conditions proposed meant the delivery drivers could still park outside her house. There were only 10 spaces, 5 were for permits and showed photos she had taken showing parking issues. These were not dated and did not have times on them. They had experienced an instance of dangerous driving caused by a delivery driver from the premises being unable to get out and driving over the pavement. In addition family members had been verbally abused when challenging customers regarding their parking when they were visiting the premises. There was already an issue with pizza packaging and was concerned her garden wall would become a table and her garden a bin by people visiting the premises later at night. They had had problems with a moped delivery driver sounding his horn at night. Her husband worked as a lorry driver and had to get up early, it was dangerous for him not to be able to sleep properly and this, if granted, would cause disturbance.

A further local resident, Andrew Catley said that while he accepted that the premises has to operate and he accepted a certain amount of disturbance and smells up to 11.00 pm / 12.00 am at night the increased hours proposed would lead to more trouble. He was concerned that customers waiting would use the residents nearby carpark which was accessible on foot as a toilet. There had been problems with rat infestation in previous months relating to 4 other properties nearby and this had been dealt with but there was already a problem with litter and his wife had noted waste flowing out of the commercial bins at the rear of the pizza premises. They were concerned more waste would attract rats and further trading would mean more waste and more problems as a consequence. He noted that the applicants were proposing CCTV as if they anticipated there being trouble.

In response to questions from members, Mr Catley stated that the rat issue was a recent problem.

The applicant outlined that it was a family business and some £225 000 had been invested in the building. It would provide additional facilities for the community and create additional jobs. They already employed 30 people. They had not been aware of any historical crime and disorder issue as it must have predated their ownership. They had not experienced problems with boy racers and thought their operation would deter them due to the limited parking. They did not want drunk people in their building given the investment they had made in it and had not had problems to date. They already had CCTV so this was not an addition. He outlined they would have signs that made it clear when they were open for collection and they would be closed for collection before the clubs shut and have black out blinds and looked to keep noise levels down and have clear signs up stating when they were shut for collections. He clarified the telephone orders would include online orders. Further when the business had settled down only 20% of business would be collection in their experience. They had their own pest control contract. In response to questions from members the applicant confirmed that they served the city limits and Credenhill and that drivers typically did 3 to 4 deliveries each per hour. That people could not by pass the collection restrictions by ordering to a carpark etc. it had to be to a proper address. That staff would be trained to ensure adherence to conditions.

Decision

This is the decision of the licensing sub-committee in respect of a new premises licence concerning The Treacle Mine, St Martins Street, Hereford, HR2 7RG.

It is the committee's decision that the application should be granted and that the conditions attached to the licence therefore shall be those consistent with the operating schedule and the mandatory conditions required by the Act. The following conditions were offered by the applicant:

Prevention of Crime

1. Notices advising that CCTV is in operation shall be prominently displayed at the premises.
2. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/supply of alcohol occur.

Equipment MUST be maintained in good working order, be correctly time and date stamped and kept for a period of 28 days and handed to Police on demand.

The Premises Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format of any sort.

The Recording equipment shall be kept in a secure environment under the control of the premises licence holder or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number **0300 333 3000** immediately.

3. The premises licence holder shall ensure that any person within the premises who appears to be intoxicated, or who is involved in disorderly conduct in the premises shall not be served at the premises.
4. Staff will be trained to not serve people who show signs of being intoxicated.
5. The store management will work with the responsible authorities and will proactively engage with them and other local retailers to promote best practice working and also to assist in crime reduction by preventative measures

Public Nuisance

6. The management and staff shall ensure that the premises and the area immediately surrounding the exterior of the premises are cleaned on a regular basis (no more than 4 hour intervals) and remain free from debris and litter.
7. Staff must ensure that customers do not congregate outside the premises so as to avoid a noise disturbance to nearby residents.
8. Staff will ensure that the area outside the premises is free from litter at all times.
9. No music or TV will be played within the customer area.
10. Any music played in the kitchen area will be confined to the staff area only.

Public Safety

11. Customers will not be permitted in the kitchen area.
12. Emergency exits will remain unlocked and free from obstruction, both inside and outside the premises at all times.
13. An adequate, sufficient and appropriate supply of first aid equipment (capable of treating at least 6 people) and materials is to be made available on the premises at all times.
14. The licence holder will liaise with officers from the Responsible Authorities and Building Control Officers to ensure public safety within the premises and will act on any recommendation promptly when necessary

Protection of Children from Harm

15. Children of a school age will not be served during school hours.
16. Staff will be trained to challenge unsupervised children

In addition, the following additional conditions shall be added to the licence:

1. The premises shall close to “walk-in counter customers” on 0100hrs (Friday and Saturday) and at 2300hrs (Sunday to Thursday). There shall be no supply of hot food or hot drink to “walk-in counter customers” after this time. After these times orders of hot food or hot drink will be by telephone/online order and be for delivery to either a person’s home or workplace. A person’s home is defined as a place where someone normally resides and a work place as a premises which is open and operating a business at the time of delivery. The last time for telephone/online orders will be 0200 hrs (Friday and Saturday) and 2400 hrs (Sunday to Thursday). There shall be no supply of hot drink after these times.
2. All deliveries after 2300 hrs will be by car or similar (but excluding motorcycles, mopeds or similar two wheeled motorised vehicles). At times when delivery vehicles are stationary and parked in the vicinity (defined as a 100 metres radius from the premises) the vehicle engine will be turned off with no audio system playing (radio and music players). Delivery vehicles will not be parked in the bus stop lay-by immediately to the south of the premises.
3. When the walk in counter is closed all windows and doors that would allow the public to see into the premises will be covered to prevent the public seeing people working within the premises and all the doors and windows will be kept closed. Prominent, clear and legible signage (in not less than 32 font bold) shall be displayed that is always visible from the exterior of the premises that clearly shows the hours of operation and the hours that the premises is open for walk-in counter customers.
4. Prominent, clear and legible signage (in not less than 32 font bold) shall be displayed inside the premises that clearly asks patrons to keep noise to the minimum when exiting the premises so as not to cause disturbance to the residents living in the locality
5. The Premises Licence Holder or his nominee shall on no less than two occasions per calendar month carry out checks (that are not pre-notified to staff at the premises) at the premises at times when the premises are open for delivery only to ensure the conditions are being adhered to and shall keep a written log recording the checks and their outcome The log shall be produced on demand of an authorised person’ (as defined by Section 13 of the Licensing Act 2003) or the police.
6. All external waste bins used by the premises shall be kept closed and locked at all times, other than when waste is being immediately deposited in them.

Reasons

The committee in coming to its decision carefully considered all the representations both written and oral that it had heard, the statutory guidance, the Council’s statement of licensing policy and the provisions of Act. The committee was mindful of its duty to promote the licensing objectives, the importance of consistency of decision making but also the need to judge each application on its own merits having regard to the evidence before them against the statutory framework. Further they had regard to their local knowledge as they are entitled to do so. They considered that the physical location of this premises with the limited parking close to residential properties posed particular challenges to the operation of the business late at night so as to not cause a public nuisance or disorder. They had heard evidence from a resident that even with its current limited operating hours (which did not need a licence) there had already been incidences of discourteous driving and behaviour towards residents caused by the limited space to park and manoeuvre and noise from a delivery driver beeping his moped horn at 11.00pm at night. There was likely to be less parking later at night when residents were at home. They heard that there were only 5 parking spaces available for staff, customers and delivery drivers as there was a residents permit scheme. It was noted that litter was already a concern to residents both from customers on front gardens and from observing

an overflowing commercial waste bin at the premises. A resident had stated there had latterly been a rat infestation in relation to nearby properties (not the premises) and there was concern that increased trading would lead to increased litter that may exacerbate the situation. It was noted that the premises had a pest control provider. Concern was also expressed over cooking odours emanating from the premises and concern that residents should be exposed to for longer hours and through the night.

While members felt that the issues relating to litter could be addressed through the provision of appropriate conditions and it was noted that the operating schedule did refer to measure to prevent nuisance from litter. The issue of litter could be further proportionately and appropriately addressed by requiring that business waste containers to be capable of being kept closed at all times as well as locked. However, notwithstanding the measures proposed through the operating schedule and those conditions agreed with the responsible authorities (including a reduction in terminal hours for collection and delivery from original application) the committee considered to grant the licence in the terms now sought would undermine the "prevention of public nuisance" licensing objective. The principal concern was noise because delivery cars and similar vehicles would inevitably generate engine noise and there would be noise from vehicle movements including car doors opening/closing when background noise levels would be lower and people would be asleep. While the applicants only anticipated 2 drivers, this could change at busy times, and with 3 to 4 deliveries per hour per driver this could generate a number of vehicle movements and noise. Noise from people collecting food during permitted hours was also of concern and they shared the concerns of Councillor Chappell that if persons were to congregate outside the premises with just two staff on the premises later at night they would be unlikely to be able address and disburse people causing a disturbance outside the premises. The statutory guidance seeks to prevent public nuisance where it would have an adverse effect and unreasonable effect on people living and working in the locality. It was for all these reasons that members felt that shorter terminal hours would be appropriate and proportionate with the additional conditions above to promote the prevention of public nuisance licensing objective.

RESOLVED:

That the application be granted and that the conditions attached to the licence therefore shall be those consistent with the operating schedule, the mandatory conditions required by the Act and the conditions detailed above.

The meeting ended at 1.15 pm