

Minutes of the meeting of Licensing sub-committee held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Thursday 11 April 2019 at 10.00 am

Present: Councillor DW Greenow (chairperson)

Councillors: BA Baker and J Hardwick

14. APOLOGIES FOR ABSENCE

No apologies for absence were received.

15. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

16. DECLARATIONS OF INTEREST

There were no declarations of interest made.

17. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF 'MARYGOLD, 14-15 UNION STREET, HEREFORD. HR1 2BT'- 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.

Emma Bowell, Technical Licensing Officer, presented the report.

Elizabeth Laughland, Principal Environmental Health Officer, confirmed that all the environmental protection representations had now been agreed with the applicant.

Police Sergeant Duncan Reynolds of West Mercia Police then outlined the police's objection to the granting of a new premises licence:

- The premises were on Union Street, Hereford, which was in an area with a high concentration of licensed premises including fast food outlets, pubs and clubs.
- A special cumulative policy was in place which meant that particular attention to new or variation licences was required. The statutory S182 guidance stated that it was a reasonable assumption that new licences or variations should not be allowed in areas where there was a special cumulative policy but that each request needed to be considered on their own merits.
- The premises had had a licence until July 2018 under previous name but since this date no licence had been in existence. It was unfortunate that an interim authority notice had not been submitted.
- The premises had been contacted in January 2019 and encouraged to apply for a new licence. Advice had been offered but this had been ignored and the premises had operated without a licence.
- The police had visited twice and on both occasions the premises had been open and alcohol was being served.
- A letter had been sent to the owner of the business with written advice and this appeared to have been ignored.

- These incidents showed a disregard for the law.
- A meeting between the applicant and the police had taken place and whilst the applicant was apologetic, the police still had concerns.
- The premises had been operating without a licence to sell alcohol or serve late night refreshments for 236 days.
- The police's position was to object outright to the grant of a new premises licence. However, if the sub committee were minded to grant, then the police would request that the front of the premises did not form part of the licensable area. The reason was that Union Street was a through-route to the city centre and the police had serious concerns that the premises could become a flash point. The police had no confidence in the applicant's ability to prevent customers from taking alcohol away from the premises.
- The premises had previously been subject to a police review due to the employment of illegal migrants which demonstrated a lack of ability to uphold the licensing objectives. The police would also wish the sub-committee to consider modifying the licensable hours to those previously granted as to grant further licensable hours could be viewed as rewarding the applicant.

The sub-committee then heard from Mr Mikayeel Deen, the applicant, and the following points were made:

- He had been operating the premises for approximately the last five years and there had not been any incidents in front of the restaurant.
- With regard to the employment of illegal workers, he had corrected any issues with the employment checks and had never been taken to court.
- The licence had been in the name of a company and he was the designated premises supervisor (DPS). The company had been dissolved and changed into a sole trader business.
- His sister-in-law had not realised that there would need to be a change to the licence and there had been a breakdown of communication.
- He had gone to the licensing office and tried to renew or transfer the licence but had been informed that he needed a new licence.
- Customers at the restaurant tended to eat much earlier and were finished by 2200 hrs and after this there would only be a handful of customers left.
- In all the years that he had been at the premises, customers had only used the front to go out and have a cigarette. If customers were to take alcohol outside, he would get into trouble as he would not be outside and premises licence did not cover the front of the building.
- The licence was needed after 2200 hrs in case customers came in and he wanted to be able to serve them alcohol.
- Police officers were frequent customers of the restaurant and they are there until 0000 hrs. If he does not have a licence, then those customers will go to competitors.
- The restaurant employs 16 members of staff; 6 of whom have families
- MaryGold is the most successful restaurant in Herefordshire.

Following members' questions, the following points were raised:

- A DPS would have a personal licence and as part of the training for this, a DPS would have full knowledge of the Licensing Act and the principles.
- The applicant had been in the restaurant trade for 20 years and had received training.
- The police confirmed that the letters from them had been hand delivered and had been followed up by the police with emails to the applicant.

- The applicant stated that there were four flats behind the restaurant and that post was also delivered to the restaurant which is where the issue appears to be.
- As soon as the applicant had been made aware that there was no licence, no alcohol had been served.
- Since 18 February, the applicant had applied for temporary event notices (TENS) and as a result of these no further police visits had been conducted.

DECISION

The sub committee's decision is to grant the premises licence for the interior of the premises only and no exterior area was included. Signs were to be displayed which stated that no alcohol was to be taken outside of the premises. The licensable hours are to 2330 hrs seven days a week and as applied for in respect of Christmas Eve and New Year's Eve.

REASONS

The committee had listened to the applicant and the police and had taken into account from all the statements from the parties present. On the basis of the information provided by the applicant the sub committee was satisfied that a new premises licence should be granted. However given the concerns raised by the police the sub committee determined that the new premises licence should be granted subject to reduced hours to those applied for, with the exception of Christmas and New Year to reflect the primary restaurant use.

18. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF 'ST KATHERINE'S BARN, ST KATHERINE'S, LEDBURY, HR8 1EA' - 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.

Emma Bowell, Technical Licensing Officer, who presented the report.

Leah Wilson, Trading Standards Officer, reported that trading standards had submitted a representation during the consultation for this premises licence application. These representations were in connection with the protecting children from harm licensing objective. There had been no correspondence with the applicant and as such the representations had not been agreed.

Mr Jim Mooney, representing West Mercia Police, indicated that they were supportive of the trading standards representation. Again, there had been no contact with the applicant and as such the representations had not been agreed.

The sub committee then heard from Mr D Thomas who had made a relevant public representation. Mr Thomas resided next door to the premises and stated that the business had played live music for the last 12 months which appeared to stop whenever they liked. He felt that a good compromise would be live music ceasing at 2300 hrs with all customers leaving at 0000 hrs. If customers were still drinking at 0000 hrs, then they tended to loitered directly opposite his flat which caused a noise nuisance. The noise from the live music was such that he could not hear his own television and he had to leave the flat.

The sub committee heard from the applicant, Ms Lynn Jones who stated:

- That she believed that she had replied to the correspondence from trading standards and believed that the representations had been agreed.
- The barn was located at the rear of the Feathers where the kitchens were so there was noise from the kitchen operation.
- The premises were in a commercial area and they wished to have a level playing field with The Retreat and The Feathers.
- There had been very few complaints and none from the police.
- A number of temporary event notices (TENS) had been applied for.
- The premises operated as an art gallery / café in the day and do run events on occasion.
- Customers were leaving other premises and do use the car park.
- The applicant was planning on installing triple glazing and using the farther front point as an exit.

Following questions from members, the following was confirmed:

- That the trading standards and West Mercia Police representations had been agreed.
- The applicant had read and agreed to all the conditions proposed by trading standards and the police.
- There had been 8 TENS applications during the last 18 months with 7 TENS being granted.
- There were no complaints on file.

DECISION

The sub committee's decision is to grant the licence as applied for as the trading standards and West Mercia Police representations had now been agreed.

REASONS

The committee had listened very carefully to all the representations which had been made. The sub committee had particularly taken into account the public representation with regard to noise and had noted that given that the premises were located in a commercial area of Ledbury, that not all the noise heard may have emanated from the premises or their customers. The sub-committee also noted that they took the upholding of the licensing objectives very seriously and that when applicants received communication in connection with their licence that it was imperative that this was dealt with promptly.

19. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF 'MEREDITH FARM CAMPSITE, LLANCLOUDY, HEREFORDSHIRE'. HR2 8QR - 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.

Emma Bowell, Licensing Technical Officer presented the report.

It was reported that the West Mercia Police and Trading Standards' representations had been agreed.

It was noted that the person who had made the public representation and had submitted a notice of intention was not present. The sub committee would taken into account the written representation in reaching their decision.

The sub committee then heard from Mr Wheeler, the applicant, who stated.

- That the relevant representation made was in connection with noise prevention.
- The neighbours and customers of the campsite did not recognise the description of the business referred to in the relevant representation.
- The campsite was advertised as a rural and quiet campsite.
- The purpose of applying for the licence was to enable customers to come together and have a coffee; soft drink; glass of wine etc and be used as a centre for meeting and conversing.
- Camping within 100 yards of a boundary with a neighbour was prohibited and families were not allowed to camp within 300 yards.
- That measures had been put in place to prevent noise nuisance.

Following questions from members of the sub committee, it was confirmed that no complaints had been received in connection with these premises.

DECISION

The sub committee's decision is to grant the licence as applied for.

REASONS

The committee had listened very carefully to all the representations which had been made and had taken careful account of the written representation. The sub committee felt that the information from the applicant was credible and detailed and for this reason granted the licence.