

Minutes of the meeting of Licensing sub-committee held at Online meeting only on Friday 16 October 2020 at 10.30 am

Present: Councillor Alan Seldon (chairperson)

Councillors: Paul Andrews, Polly Andrews and Toni Fagan

Officers: Licensing technical officer and Legal Advisor to the Sub-Committee

85. APOLOGIES FOR ABSENCE

No apologies for absence were received.

86. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

87. DECLARATIONS OF INTEREST

There were no declarations of interest made.

88. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF MCDONALDS RESTAURANT, BELMONT ROAD, HEREFORD. HR2 7HB - LICENSING ACT 2003

Members of the licensing sub-committee from the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement published on 14 October 2020.

The technical licensing officer presented the report.

The sub-committee heard from West Mercia Police who highlighted

- That the premises were located south of the Hereford City and next to a residential area and hotel. West Mercia Police have a local office for police to work from close by.
- There had been a high level of anti-social behaviour at or near the business which had impacted on quality of life of residents.
- The anti-social behaviour had not occurred within the licensable hours of the premises and the police were aware that these incidents may or may not be considered by the sub-committee.
- The incidents which had occurred involved youth anti-social behaviour, stone throwing, causing minor property damage, noise nuisance, boy racers, adult drunkenness; reports of domestic issues; road safety issues (queuing on the A465 [Belmont Road] to access the drive-thru)
- There had been a history of contact with the manager of the premises to highlight the concerns.
- There was no consistency from managers at the premises as to how these incidents were dealt with and it was compounded by the inability of staff members to do deal with them or knowledge of how best to deal with such incidents.

- The majority of the incidents were youth related and occurred in the late afternoon / evening. There had been 5 incidents which had occurred after 2300hrs.
- There had been a meeting with police and if the applicant were to agree to a terminable hour of 0200 hrs, the police would support the application. The applicant had also offered other conditions which included short notice of employment of SIA staff. The police would be content to discuss additional conditions with the applicant. The applicant owned a number of other premises in the country and had similar conditions in place.
- During the last 12 months there had been no issues with anti-social behaviour.
- The police felt reassured by the current management and had been assured that there would be no repeat of previous occurrences.
- There was a commitment to an open dialogue between police and applicant and listening to the community.

The ward councillor for Hinton and Hunderton who had made a public representation highlighted the following:

- The premises were in a residential area
- There were 40 to 50 houses in the immediate vicinity
- There were adjoining neighbouring properties to the premises which were separated by a low fence and a row of trees.
- There was a long ongoing history of noise disturbance.
- There were high levels of anti-social behaviour which included vehicles.
- It was acknowledged that the premises could not control customers purchasing from the premises and then parking up nearby with their music blaring. However, by virtue of being open, the issues would continue.
- One nearby resident who had lived in the area for 30 years had moved their bedroom to another room due to the noise levels from the premises.
- Another resident had reported that they could still hear the noise when shut in their bathroom so they had no respite.
- The premises were already open for 18 hours a days and the residents deserved a decent level of peace and quiet, especially during the night to get decent sleep and to have a break from the noise.
- There was disappointment that the police were happy to allow 0200hrs
- The management of the premises could change, but the customers would still be the same customers and they could chose to make noise.

In response to queries from members of the sub-committee, it was confirmed:

- That the lady who could still hear the noise in her bathroom could hear the ordering system from the drive thru.
- The drive thru with vehicle noise was the biggest issue.
- Residents had not reported anything different even though the police had reported no incidents of anti-social behaviour in the last 12 months. Residents were suffering from resigned defeat as nothing was being done from a residents' perspective.

The sub-committee then heard from the applicant, who highlighted the following:

- The application had been submitted primarily for the viability of the premises.
- There had been a detrimental impact on the business due to the 9 week closure because of the pandemic. The pandemic had had a devastating effect on the hospitality sector.
- The premises were operating limited hours and a limited menu.
- The applicant owned numerous premises throughout the country and employed 2,200 staff. There were still 100 staff on the furlough scheme.
- The Hereford premises employed 100 staff and if the situation had been normal, it may have employed 150 staff.

- Whilst the applicant was not a local business person, they were committed to Hereford premises.
- There was agreement to the reduction in the terminable hour to 0200 hours.
- There was a commitment to go above and beyond to do the right thing.
- The senior managers were different and the business operated in a completely different way compared to 12 months ago.
- Applications to vary premises licences had been undertaken in 10 restaurants owned by the applicant which had all been successful. There had been no review of the licences or additional conditions added.
- Since the meeting with the police, an additional anti-social behaviour management plan had been submitted.
- There was an offer for the managers to wear body cameras which did have an effect on preventing anti-social behaviour in the first instance.
- The speaker post on the drive thru had been changed to night mode so there should be no noise when customers were ordering.
- There had been discussions with the police over additional conditions which included employing SIA staff at short notice.
- If the premises became a problem to the local neighbourhood, the applicant would stop trading.
- The applicant was in Hereford for the long term and wanted to be a good neighbour.
- A route had been submitted where the premises staff would spend 30 minutes, three times a day picking up any litter on the identified route.

Following queries from members of the committee, it was confirmed that:

- The applicant could improve the notices on the site to remind customers that there are local people who are asleep. This may mitigate the noise nuisance from people parking in residential streets to eat.
- There was zero tolerance to anti-social behaviour and the premises would be run differently to their predecessor.
- Examples were provided of other drive thrus owned by the applicant which were close to residential dwellings.
- The applicant had offered to meet with residents, but no one had taken up the offer. The applicant would be happy to set up a monthly or quarterly meetings to discuss any local issues in connection with the premises to see how the issues could be addressed.

The committee carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire Council's statement of licensing policy.

DECISION

The sub committee's decision was to refuse the application to vary the licence.

REASONS

The sub committee had taken into account all the statements from the parties present and the written public representations included within the agenda pack. The sub-committee did not feel that the conditions offered by the applicant which included the reduction in terminable hours to 0200 hrs from 0500hrs; litter picking; short notice of employment of SIA staff if there was an inability of staff to deal with incidents would be sufficient to promote the licensing objectives. For these reasons, the sub-committee refused the application on the basis that specifically the prevention of crime and disorder and prevention of public nuisance licensing objectives would not be promoted by allowing the variation of the premises licence.

89. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF BREWERY INN, BYE STREET, LEDBURY. HR8 2AG - LICENSING ACT 2003

This item was withdrawn from the sub-committee's agenda as the representations had been agreed between the parties.

90. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF 'BROMYARD SERVICE STATION, 1 THE BYPASS, BROMYARD. HR7 4DJ - LICENSING ACT 2003

Due to a technical issue, this item would be considered at the meeting of the licensing sub-committee due to be held at 10.30 am on 27 October 2020.