

Supplement to the agenda for

Licensing Sub-Committee

Tuesday 26 March 2024

10.00 am

**Online Meeting/Conference Room 1, Herefordshire Council
Offices, Plough Lane, Hereford, HR4 0LE**

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4. APPLICATION FOR A GRANT OF A PREMISES LICENCE IN RESPECT OF WYE LOUNGE, 39 HIGH STREET, ROSS-ON-WYE, HR9 5HD – LICENSING ACT 2003	3 - 8

WYE LOUNGE, 39 High Street, Ross-On-Wye

Good morning, Everyone.

I am Chris LUCAN from The Licensing Guys and I am representing the applicant here today. The application is for a premises licence at The Wye Lounge, trading as TWEETS BAR, represented here in the person of Bhafti ZHUZAR. This is a family oriented bar and restaurant into which the applicant has made considerable investment towards the layout and design of the venue, to ensure that it's made up to standards deserved for Ross-On-Wye, giving a first class aspect whilst creating further employment for local residents. Indeed, to further set the scene, the venue provides something for everyone from soft drinks and coffees, wine, beer, mock-tail and cocktails, but with the common aim of bringing families and communities together. Despite its High Street location; a banging night club this is not.

Importantly, Bafti has been working in the catering industry for some 17 years during which time, he successfully established and ran the AVELLINO restaurant, which is, in fact opposite our venue, at 10 High Street, from 2016 until 2021, during which time he has NEVER had ANY issues with police, neighbours, or, indeed any Responsible Authority.

We now appear before you with a new application, offering what must be seen as a comprehensive raft of inbuilt safeguards, which I will demonstrate offer the community the reassurance they rightly deserve.

As you will be aware, each application, of course, must be judged ON ITS OWN FACTS AND MERITS. The significant merits of this application are that it is a quality application, correctly conditioned with specific, appropriate and proportionate control measures, thus minimising ANY potential that ANY Licensing Objective would be undermined.

In this Hearing, the burden is on the applicant to show that the proposed operation, supported by the proposed Operating Schedule, is capable of promoting the Licensing Objectives, and will not undermine them. Any Representors opposing the application, have the burden to show that these premises, trading under the Operating Schedule before you, will undermine the Licensing Objectives AND demonstrate that with EVIDENCE. In my submission, any sub-committee properly advised could only refuse this application if it is found, on the evidence of the Representors, to be not capable of promoting the Licensing Objectives.

So you may ask yourselves: Why do the Representors aka Objectors need to produce evidence? That answer is found in para 9.43 of the s182 Statutory Guidance, which clearly states, and I quote; "The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve."

Significantly there is not a shred of evidence before you today that challenges or criticises in any way the Premises, Operating Schedule, the Applicant or the Designated Premises

Supervisor whatsoever. There is also no history of disorder, noise complaints or indeed any other cause for concern evidenced involving this venue, this applicant or any of his previous businesses before you. That is an undeniable and self-evident fact.

So first let me walk you through who has, or rather, in this case, who has not, raised any Representation or objection.

The Police, being the lead RA and source of expert evidence on all Crime, Disorder and ASB issues in the Ross-On-Wye area, have been consulted, and – alive to all the issues in Ross-On-Wye, have agreed a comprehensive raft of conditions which we have been pleased to accept. Consequently they make no Rep.

The Licensing Authority, being the lead RA for ALL Licensing matters in the Ross-On-Wye area have made no Rep.

Trading Standards and Children Services, the Responsible Authorities who protect children from harm, Public Health who deal with Substance Misuse, and the Planning & Highways Depts and Environmental Health, being the experts in Noise and Pollution and therefore the lead agency on the Public Nuisance Licensing Objective in Ross-On-Wye – ALL raise no objections.

As demonstrated, this is an evidence-based decision-making process. –You as a Committee cannot be insensible to the fact that, NOT ONE of the lead and expert Responsible Authorities has objected to this application or has presented ANY evidence against it. You can therefore rightly assume that, in the opinion of ALL of the Responsible Authorities, this application does not undermine the Licensing Objectives. Otherwise, they would be here, with evidence, to argue vehemently against it - as is their Statutory Duty.

We are left then, with the Objections from three residents. This, no doubt, comes with good intent, however we need to think hard about what they are telling us.

Firstly, Miss Richards speculates that noise and disturbance emanated from Tweets bar and Kitchen on one occasion, prescriptively on Saturday 24th February 2024 at 1.30 a.m and that customers were fighting upon what she sates was closing, in the Street after this event. She also kindly seeks an amicable solution.

The second Representor, Ms Patterson, concedes, she is a customer, describing the bar as ‘ a pleasurable experience’, but complains that late night opening over the past weeks has caused her distress and further speculates that youths outside and I quote “In the street with their alcohol, shouting screaming, even fighting”. She further speculates there is a lack of leadership at the cocktail bar to check the ages of the clientele. The dates specifically referenced are the 16th and 24th of February.

(Video evidence – I wrote to her, but received no response)

The third and final Representor, Mr Hadley makes mention of the past three weekends with music blasting out and fights and reckless behavior in the street, the cause of which he speculates, being rooted in Tweets Bar.

Now, one has to have sympathy with residents who experience that level of disruption, as described, however we are equally explicit in our response;

The source of this disturbance most emphatically was NOT Tweets Bar and Kitchen. Bafti has not, does not and will not, serve underage or rowdy persons or pump out loud music. This is not how he runs his business and is totally contrary to his customer avatar and business model.

In support of that statement, I present to you, empirical evidence in the form of video footage, served upon you and in the bundle, from a multitude of angles, showing a quiet and orderly dispersal of customers, just after midnight on the 24th and the venue closed thereafter. (BZ02)

With regards the 16th, we regrettably no longer retain the CCTV footage as, in that case, the Reps were made after the event, however we are able to provide you with the till receipt,(BZ01),which again gives proof of the venue ceasing to trade shortly after midnight. This in addition to the first hand witnesses present and with us today able to bear scrutiny and give you first hand testimony to the effect the premises were orderly and closed after midnight, on the nights in question and, indeed, every night, supported by independent witness statements also before you, one of whom from a resident who lives virtually on top of the bar, both of whom state, unequivocally, there are no disturbances emanating from our venue.

Balance that, against the testimony from the Representors, not one of whom provides any clear evidence that the source of the disturbance was Tweets, but rather speculates ,in my submission, erroneously, as to the source.

Let me now talk about FEAR & SPECULATION:

The Representors speculate that were to you grant this Licence then they fear that further problems might ensue. There are two main reasons why fear and speculation are not admissible in these proceedings:

1. Para 9.43 of the s182 Guidance clearly states that “The authority’s determination should be evidence-based...” Fear and speculation on what might or might not happen in the future or as a consequence of any decision is plainly not evidence.
2. There was a ruling in the case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court [(Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943,]. The Judgment indicates that your decision-making should be actuated by ‘proper’ and ‘real’ evidence. There is no history of problems with these premises, nothing before you

from the Responsible Authorities, and the potential for any such issues is more than properly addressed in the proposed Conditions.

In any event, Parliament has already provided a mechanism to deal with any future problems emanating from licensable activities at these or indeed any other premises. That is a Premises Licence Review provided by s51 of the Licensing Act 2003. Were you to grant this Licence and problems ensue, then the mechanism to control them is self-evidently provided through the afore-mentioned s51 Review process.

May I further, remind us all of para 2.26 of the s182 Guidance where it clearly states that “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in ASB is accountable in their own right.” Therefore, notwithstanding the fact that our premises was closed two to three hours before the disturbance, what happens away from the shop is not necessarily BAFTI’s responsibility UNLESS he has sold alcohol irresponsibly i.e. to children or drunks etc, which he never has.

Having then, rebutted the accusations erroneously levied, towards our premises, I now have the more pleasurable task of clarifying for you, those safeguards which will ensure, by condition, that these premises offer you and your communities the fullest support of the licensing objectives.

All of our staff will be regularly trained with regards to selling alcohol responsibly under RAR1. This in addition to the comprehensive raft of effective conditions agreed with the Police in the bundle before you, including the premises licence holder will operate the business with general consideration in respect of the surrounding areas, neighbours and businesses.

Noise or vibration shall not emanate from the premises so as to cause a nuisance. The Premises Licence Holder or DPS or the responsible person must immediately comply with any request to adjust noise levels/ frequency spectra made by an ‘authorised person’ (as defined by Section 13 of the Licensing Act 2003) or the Police.

Windows at the premises shall be kept closed after 2300hrs.

All external doors shall be kept closed after 2300hrs except during immediate access and egress.

No waste such as bottles or refuse shall be placed outside the premises between 2300hrs and 08.00hrs (10.00hrs on Sundays).

Prominent, clear and legible signage (in not less than 32 font bold) shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

A challenge 25 age verification scheme will operate at the premises whereby any person who appears to be under 25 years of age, and unknown to the staff member serving as a person over 18 years of age, shall not be served alcohol unless they provide identification

to prove they are over 18 years of age. Acceptable forms of identification will be a valid passport, a valid photo ID driving license or a valid proof of age scheme card with the PASS approved hologram.

Appropriate signage advertising the operation of the Challenge 25 scheme must be displayed in the vicinity of all points of sale for alcohol.

I will now rest, with your permission, and will deal with any further questions or queries in summary, but ask you to look favorably on this modest and well-conditioned application. Thank you.

SUMMARY:

This Hearing is simply about whether this very pleasant Bar and Restaurant, operating these hours in accordance with this Operating Schedule, including the comprehensive raft of Conditions, will undermine OR promote the Licensing Objectives. Very clearly our position is that it will not undermine them, and ALL the Responsible Authorities raise no issues with its substance, content and additional inbuilt safeguards.

We have established that there is no recorded history or indelible evidence of Noise Nuisance, Pollution, Safety, ASB, Drugs, or Crime or Disorder issues with the operation of these premises, or indeed ANY other cause for concern evidenced involving this premises, or this applicant, or any other businesses owned or run by him before you. That is an undeniable and self-evident fact.

Consequently, I respectfully request that you do indeed grant this application for the Premises Licence as sought, supported by the comprehensive raft of effective conditions and any others you may deem appropriate and proportionate, and in doing so you wish Bafti every ongoing success with his new and welcoming Bar and Restaurant.

Thank you.

