



## Minutes of Licensing Panel

**Meeting date**                      **Tuesday, 9 February 2021**

**Members present:** Councillors James Flannery (Chair), Jacky Alty and Alan Ogilvie

**Officers:** Tasneem Safdar (Shared Legal Services Team Leader), Chris Ward (Licensing Officer), Ruth Rimmington (Democratic Services Team Leader) and Ben Storey (Democratic Services Assistant)

**Other members and officers:**

Public: 0

## 14 Apologies for absence

None.

## 15 Declarations of Interests

None.

## 16 Full Variation application - Indigo

The Panel met to determine an application in respect of Indigo, pursuant to the provisions of S35 of the Licensing Act 2003.

The applicant was present at the hearing, as were three residents who had submitted objections in writing to the application.

The Chair welcomed everyone to the meeting and outlined the procedure to be followed.

## The Hearing

The Council's Licensing Officer took the panel through the contents of the committee report. He confirmed to the panel that all the notice and procedural requirements had been adhered to. The applicant has submitted a full variation application, pursuant to Section 34 of the Licensing Act 2003. As relevant objections had been received from residents a hearing has to be held.

The Licensing Officer explained that currently the premises consist of a first-floor premises which is situated on the junction of Chapel Brow and Fleetwood Street. In January 2019 a hearing was convened to determine the new application for the premises following public objections. The premises licence was granted with additional conditions, notably to this application the requirement for door staff at the premises on Friday and Saturday evenings when the licence has been granted until 00:00. Following a two-year period of being open to members of the public the applicant has applied for a variation to the licence.

As a result of the application, all Responsible Authorities were consulted. No representations have been received from Responsible Authorities, however, conditions have been agreed between the Applicant, the Police and Environmental Health Team. All other conditions relating to all other matters not relevant to the application will remain on the licence.

The Council's Licensing Officer explained that six written representations had been received from members of the public opposing the variation of the licence on the basis that if granted it would in their opinion, undermine the Prevention of Public Nuisance and Prevention of Crime and Disorder objectives. The Panel were told that no complaints had been logged with the Police or Environmental Health relating to the concerns which the residents had, since the premises had commenced trading.

The Panel were informed that after receiving the objections, the applicant has decided to withdraw the request to remove the door staff and has stated that he will continue to use door staff as stipulated in his current licence. The applicant provided a response to the concerns raised by the residents as a supplementary document.

The Licensing officer outlined the options available to the panel as stipulated by section 35 of the Act, these being;

- a) To grant the variation as set out in the application
- b) Modify the conditions of the licence
- c) Reject the whole or part of the application

As per the hearing procedure the applicant was requested to outline his application. He stated that the moving of the main door from Fleetwood Street onto Chapel Brow would benefit the residents, as patrons would be using that door after a certain time. Further, that he was moving the smoking area to the front of Chapel Brow. He was making the application to allow his business an opportunity to compete with other pubs, bars and takeaways in the commercial area of Chapel Brow.

The applicant explained that he had only received 1 complaint in the 2 years that he had traded, and this was a complaint about cigarette butts on the opposite side of the road. The complaint was made to the applicant's cleaner. The applicant stated that he is happy to work with the residents and that he had provided his mobile to do so.

The Panel queried the use of the Fleetwood Street door and whether any complaints had been received from the residents. The applicant told the panel that he wanted to be able to use the Fleetwood Street entrance on a Tuesday and Wednesday only as the tv's to allow the watching of football were upstairs and that he had not received any verbal or written complaints and had only received one complaint via his cleaner.

The Panel questioned the applicant around the dispersal policy and the use of the Fleetwood Street entrance as there was a contradiction, the experience and training for door staff and the duty general manager. In response the applicant explained that he uses door staff from a reputable company who are all SIA registered. In terms of the general manager, the applicant is the manager at the premises most days and takes his responsibility very seriously. Prior experience was attained at the Railway for over 9 years which was well managed, and no complaints were received. The applicant was also asked how door staff would ensure capacity is as required in the licence to which he was advised that staff use door clickers and when the premises is full, patrons are turned away.

The first objector asked the applicant to explain the conflict in the paperwork submitted. This was around the dispersal policy which was submitted and had made reference to customers only using the Chapel Brow door to exit premises whereas the condition agreed with Environmental Health allowed the use of the Fleetwood entrance until 22:30 between Mon-Thu, albeit with definite requirements. It was queried how patrons would leave the premises. The objector also queried whether capacity could increase given that the licensed

premises was being extended and the concern was around congregation outside of the premises. The applicant agreed that this could happen, however that he wasn't expecting a mass exodus at closing time. The objector also raised the question as to why the applicant wished to increase the hours on the licence. In response the applicant explained it was to bring his premises in line with other licensed premises in proximity.

The first objector was requested to put forward his objection. He explained that the premises are at the end of the street and therefore near residential properties. The conditions agreed with the Environmental Health Team were welcomed, especially the one relating to patrons not being allowed to congregate on Fleetwood Street, the moving of the main door to Chapel Brow and the fact that the applicant had agreed to continue to have door staff at the premises.

Nevertheless, the objector was disappointed to note that the Fleetwood Street entrance could still be used between Mon-Thu, but he did accept that patrons would drift away from the premises. He asked if there would be an increase in patrons at the premises which could lead to an increase in noise nuisance and therefore the current hours should remain. The objector did state that the applicant is a professional and experienced individual and he could understand why he would wish to maximise income but that this increase in hours would cause an impact on residents.

The Panel asked the first objector if the applicant had contacted residents in respect of the noise limiting device and whether that had been set in agreement with the residents. The objector answered in the negative.

The second objector was requested to set out her representation. The objector asked the applicant about the closing times of the other venues in the area. The applicant explained that the Queens Pub, Weatherspoon's and Bar 55 closed at 1am and the Roundabout bar was licensed until 1.30am. the objector stated that this may be the case but that none of them were at the end of the street. Noise could be heard from the Queens Pub and not only from his premises. Further she explained that has just had a baby and is concerned about the level of noise which will follow as a result of the granting of the variation.

The third objector was asked to set out her objections. She explained that she lived next door to the premises and could hear the noise and it was more than passing traffic. The change of the main door to Chapel Brown only transfers the problem to Chapel Brow. The objector did raise an issue around the proposed development of 6 residential flats on Chapel Brow which will have an impact on those residents. The Legal Advisor explained to the panel that this point could not be considered, as planning and licensing regimes are totally different, and this was a planning consideration.

The Licensing Officer read out the remaining objections before the Chair asked the applicant if he wished to amend his application. He said he had already amended the original application around the removal of door staff. He accepted there were concerns around the use of the Fleetwood entrance, but he didn't think it would be used extensively and it was only to provide some flexibility for his business. He reiterated that he would deal with any issues that residents raised with him.

The Legal Advisor queried the applicant around the discrepancy between the dispersal policy and the use of the Chapel Brow entrance only and the conditions which had been agreed with Environmental Health around the use of the Fleetwood Street entrance. The Legal Advisor questioned whether the dispersal policy would be amended or whether the conditions proposed could be tightened. The applicant explained that he had produced the policy and had concentrated on the weekend when there are large numbers of patrons attending but was willing to amend it to cover the use of the Fleetwood entrance.

The objectors were invited to sum up. The first objector had no further comments to make. However, he did raise an issue on the current licence in respect of the playing of recorded

music outdoors between Wed-Sun and if this could be amended. The Legal Advisor advised the panel that as this was not part of the application, the panel could not consider it during their decision making, but that if noise nuisance became an issue then as a resident there was a right to review the licence.

The second objector wished the applicant luck with his business but that increased capacity would lead to an increase in noise nuisance and this would only be to the detriment of the residents and therefore the increase in timings should not be allowed. The objector explained that she just wished to live in peace and hoped that everything is taken into consideration.

The applicant was invited to sum up. He stated that he had listened to what had been said and was willing to work with residents. In respect of noise, he explained that he had a decibel counter on his phone which he uses often and has taken readings outside the properties and all it ever records is traffic. However, he did take into account what was said by the objectors and would be willing to lower any sound of music.

The Legal Advisor sought to clarify a point raised about noise nuisance. The Legal Advisor explained that a condition was already included in the licence relating to the noise limiter and that this was set by the Environmental Health team.

The hearing was brought to a close and participants were advised that a decision notice would be issued to all the interested parties within 5 working days and any interested party aggrieved by the decision has a right to appeal the matter to the Magistrates Court within 21 days.

In reaching its decision the Panel considered the following:

1. Both Written and Oral Evidence presented in connection with the hearing from all parties
2. The Licensing Act 2003
3. S182 Revised Guidance of the Licensing Act 2003
4. South Ribble Borough Council – Licensing Policy

RESOLVED: (By Majority)

1. It was noted that the residents had raised concerns in respect of crime and disorder and public nuisance, specifically noise nuisance however, no complaints had been lodged with the Applicant (except one via the cleaner) Police or the Environmental Health Team since the opening of the premises two years ago.
2. It was apparent to the Panel that the applicant had a good working relationship with the residents and was open to listen and deal with any concerns that they may have, specifically the fact that he had amended his application and retracted the request to remove door staff. During the meeting, he had also confirmed that was willing to amend the dispersal policy to deal with the Fleetwood Street entrance.
3. No Responsible Authorities had made any representations in respect of the application. The Panel were of the view that significant weight had to be apportioned to this. Responsible Authorities were experts in their field. Furthermore, several agreed conditions which address the licensing objectives, specifically the prevention of public nuisance and the prevention of crime and disorder had been agreed between the Applicant, Police and Environmental Health.
4. The Panel found that the Applicant was an affable, experienced, responsible and reactive person. He appeared to be a responsible Designated Premises Supervisor with previous experience, that took his responsibilities seriously.

5. The Panel noted the views of the residents, especially that the moving of the main entrance door to Chapel Brow from Fleetwood Street was welcomed. Further, that the residents had also welcomed the conditions agreed between the applicant and the Environmental Health and Police in respect of the restricting the use and congregation of patrons at the Fleetwood Street entrance. The Panel recalled that the applicant had also stipulated that the smoking area would now be at the front of Chapel Brow rather than on Fleetwood Street, and this should lessen any noise whilst patrons leave to smoke.
6. There was also discussion around capacity and the Panel noted that the parties had mentioned that they anticipated that there would be an increase in capacity. However, the application had not requested the panel to consider an increase in capacity and the condition in respect of capacity shall remain as is, i.e. this will still be limited to 120 patrons at any one time.
7. The Panel noted that the Applicant had originally requested an extension of time by one hour in respect of opening of the premises and supply of alcohol, but after discussions with the Police and Licensing Authority he had agreed to reduce the times for the supply of alcohol by 15 minutes to allow for a drink up time and safe dispersal of customers from the premises.
8. There was some discussion of bringing the hours in line with other businesses in the area. There are other venues in close proximity to Indigo with longer hours allowed for trading, however, the Panel's view was that each application had to be dealt with on its own merits. It was a balancing exercise for the Panel in considering the application and the concerns of the residents. The Panel did not want to stifle business especially when there had been no complaints lodged with the Applicant or any Responsible Authority in the last 2 years. The Panel noted that if there were any issues which undermined the licensing objectives in the future, the residents did have the option to review the premises. Furthermore, the Panel wished to remind the residents that if there were any issues these should be lodged with the relevant authorities.
9. In the circumstances, the Panel decided by majority, to grant the amended variation application in respect of the premises. This is as follows: -
  - a) To allow the change of planned licensable area to incorporate the premises below formally licensed as the Curious Café, creating a two-level premise.
  - b) Permitted Licensable hours for the supply of alcohol
 

Sunday to Thursday: - 11am until 23:45 pm  
Friday and Saturday 11am until 00:45 am
  - c) Hours premises open to the public
 

Sunday to Thursday: - 11am until 00:00  
Friday and Saturday: - 11am until 01:00 am
  - d) Change the main public access to the premises from Fleetwood Street to Chapel Brow, subject to the following conditions: -
    - i) *The entrance door onto Fleetwood Street may only be used for access and egress into the premises in the following circumstances:*

- a) *for private functions hiring the entirety of the upper floor. When in use the door onto Fleetwood Street must only be used for access and egress and must not be used after 19.30 (even if a function is in progress) except for emergency use only*
  - b) *for public customers access and egress to the upstairs area Monday to Thursday until 10.30.pm, providing that the downstairs bar is closed throughout the whole period. After 10:30 pm, the Chapel Brow entrance will have to be used for access or egress. Should the downstairs area be open the side door cannot be used unless for purposes set out in clause 1.(a) above.*
    - ii) *The door onto Fleetwood Street shall be kept closed at all times during opening hours except for emergency use or for access and egress during the permitted hours in Para. 1.*
    - iii) *Patrons and staff of the premises shall not be allowed to congregate outside the doorway onto Fleetwood Street at any time. Any patrons or staff wishing to smoke will have to do so outside the Chapel Brow entrance.*
    - iv) *There shall be no public access through the back door or yard except in an emergency.*
  - e) The written dispersal policy to be amended to ensure there are no discrepancies with the above conditions and is adhered to.
10. The Panel were of the view that the agreed and imposed conditions would address the issues raised and promote the licensing objectives. The Panel felt that after careful consideration of the case before them, an appropriate and proportionate decision had been reached.
11. All parties to the hearing, have a right to appeal the decision to the Magistrates Court within 21 days.

Chair

Date