

MINUTES OF LICENSING PANEL

MEETING DATE Tuesday, 3 December 2019

MEMBERS PRESENT: Councillors Ken Jones (Chair), Renee Blow and Jacqui Mort

OFFICERS: Mark Marshall (Head of Licensing), Tasneem Safdar (Senior Solicitor), Coral Astbury (Democratic and Member Services Officer) and Justin Abbotts (Licensing Officer)

7 Apologies for absence

None.

8 Declarations of Interests

None.

9 Fat Sam's Bar & Grill Ltd

The Panel met to consider a new application for a Premises Licence in respect of (*Fat Sam's Bar & Grill, 165 Towngate, Leyland, PR25 2TE*) pursuant to the provisions of Section 18 of the Licensing Act 2003.

The applicant Mr Sam Howarth and Directors Kay and Lindsay Howarth were in attendance. The applicant's Legal Representative, Malcolm Ireland was also in attendance and made representations on his behalf.

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

The Head of Licensing advised that the applicant sought a licence to offer late night refreshments together with the supply of alcohol and recorded music. It was explained that the times requested were as follows:

Late Night refreshments between the hours of
23:00 – 00:00 Fridays & Saturdays

Supply of alcohol between the hours of;
With proposed opening hours of;
11:00am – 23:00pm Mondays – Thursdays
11:00am – 00:00am on Fridays & Saturdays
11:00am – 22:00pm on Sundays

Members were advised that the applicant wished for the venue to be a predominantly food establishment, the sale of alcohol would be ancillary. It was also clarified that the licensable activity would only take place inside the premises.

The Head of Licensing explained that no representations had been provided by any of the responsible authorities. However, two members of the public, Mr Bernard Yates and Mrs Tracey Bassett had submitted representations.

The applicant's legal representative explained to Members that the business was family owned and had been in existence for the last five years, and is currently situated on an industrial site as a restaurant and takeaway. As the business is currently growing, the family decided that there was need to move to a more prominent location. The legal representative advised members that the applicant had not expected any objections so had made the application himself. When the applicant had received notification of a hearing, he was instructed and found several parts of the application needed amending.

The legal representative confirmed that the application should not include the playing of recorded music and having considered the application, the conditions offered were badly drafted and therefore the applicant's legal representative had amended these so that they would be enforceable. Members were advised that the amendments were included within the supplementary documents. The amendments had been communicated to the objectors, but they did not wish to withdraw their objections.

Members were advised by the applicant's Legal Representative of the legal framework in respect of the matter before them and referred to the case of Daniel Thwaites v Wirral Borough Magistrates Court.

The legal representative challenged both objections and provided that most of the issues raised were mere speculation or irrelevant in the circumstances. It was accepted that the trading times was a relevant consideration but that proposed times were reasonable when considering the other two licensed premises in proximity.

It was also submitted that the Applicant would accept a further condition; whereby there would be at least 50% fixed seating provision of the available floor space, so that the emphasis would be for the premises to be predominately a food establishment and does not become a high volume vertical drinking establishment.

Members expressed concern over the number of cars attending the venue and asked the applicant if parking was available. In response, the applicant explained that he had reached an agreement with a local shop situated adjacent to the premises for six car spaces after 4:30pm each day. It was suggested by the applicant's legal representative that although an explanation had been provided, this was an irrelevant consideration. The legal advisor to the Panel provided that it was a matter to consider as it had been raised in one of the objections and advised that the Council's Licensing Policy stipulates the:

"Licensing authority would consider the adequacy of measures proposed to deal with the potential for nuisance and disorder, having regard to all of the circumstances of the application and whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would demonstrate adverse impact on the amenity of residents."

Mr Yates was given an opportunity to make representations and explained to Members that although the licences for Asda and The Gables were for longer hours, they stayed open for shorter periods and The Gables closed at midnight. Mr Yates stated that the late night opening was his main concern, although Towngate was a

main road during the evenings it was quieter, and the venue would attract public nuisance. The Gables was close by, but it was anticipated that the applicant's business would attract a larger amount of customers, which Mr Yates suggested would lead to taxis and delivery drivers parking at the front of the premises.

The panel asked Mr Yates if he had any evidence of similar activity in the area, given that The Gables was situated opposite the road to the application premises. Mr Yates stated that he had no evidence but that The Gables has some parking available on their premises. Mr Yates raised further issues about storage and waste, however, as this was not raised in his objection he was advised that he was unable to raise these issues at the hearing.

Mrs Basset provided that her objections were similar to Mr Yates and suggested that the venue would have an impact on her husband who was alcohol dependant. However, the Panel were informed that this was not a relevant consideration. During summing up, Mrs Bassett also stipulated that there had been no information available in respect of the application, however, it was noted that the relevant notices and appropriate procedure had been followed by the applicant.

In summing up, the applicant's legal representative provided that the lack of objections from Responsible Authorities was significant and would indicate that they had no concerns. The legal representative advised the panel that the overall objections raised were on the basis of fear and speculation rather than evidence.

The Council's legal advisor stated that the case of Daniel Thwaites v Wirral Borough Magistrates Court was relevant in this case and appropriate weight had to be given to the fact that no Responsible Authorities had objected. The panel were reminded of the level of evidence required and that if the panel were minded to grant with conditions, those conditions had to be appropriate and proportionate in promoting the licensing objectives.

In reaching its decision the panel took into account the following:

1. Both written and oral evidence presented in connection with the hearing
2. The Licensing Act 2003
3. S182 Revised Guidance of the Licensing Act 2003
4. South Ribble Borough Council – Licensing Policy

RESOLVED: (Unanimously)

1. The panel considered all the evidence carefully (written and oral representations) together with the S182 guidance, the Council's Licensing Policy and the High Court case of Daniel Thwaites v Wirral Borough Magistrates Court during their deliberations.
2. The panel followed the guidance given in the Thwaites case and were of the view that significant weight had to be apportioned to the fact that neither the Police nor Environmental Health (Responsible Authorities) had made any representations or raised any concerns in respect of the application. It was noted that the objections in respect of public nuisance, specifically regarding the regulated activity (recorded music) is now irrelevant, as the Applicant had accepted this was no longer required as part of the application. Furthermore, the panel found that elements of the objections referring to outdoor activity is

also irrelevant as the application for licensable activities was for indoors only. The objectors did refer to the possibility of noise nuisance and anti-social behaviour as a result of the establishment being granted a licence, but it was noted that the evidence was not to the standards required by the Thwaites Case. The panel considered that the increase of vehicles attending the venue may result in an issue in respect of car parking, however, the Applicant had provided a reasonable response addressing this. It was noted by the panel that there is ample parking on Hough Lane and there other car parks near to the premises.

3. The Applicant has offered several volunteered conditions which address the licensing objectives, specifically the prevention of public nuisance and the prevention of crime and disorder. The panel also felt that the additional condition offered during the hearing in respect of the premises not turning into a drinking establishment was also useful in dealing with some of the fears that the objectors had in respect of public nuisance. The only change that the panel wished to make to the volunteered conditions was in respect of the number of days that CCTV recordings should be retained. In line with the Council's Licensing Policy this will be increased from 14 days to 28 days, in order to promote the prevention of crime and disorder objective.
4. In the circumstances, the panel decided to grant the premises licence subject to the mandatory conditions, but also with the following provisions: -

Permitted Licensable hours for the supply of alcohol

11:00am – 22:45pm on Monday – Thursday

11:00am – 23:45pm on Friday & Saturday

11:00am – 21:45pm on Sunday

Late night refreshments

23:00am – 00:00am on Friday & Saturday

Hours premises open to the public

11:00am – 23:00pm Monday – Thursday

11:00am – 00:00am on Friday & Saturday

11:00am – 22:00pm on Sunday

The following volunteered conditions would also be added to the licence: -

- i) Upon commencement of their employment, all staff who are involved in the sale of alcohol will be trained in relation to the licensing objectives so as to reduce crime and disorder, promote public safety, prevent public nuisance and promote the protection of children from harm. Refresher training will be provided at least once every twelve months and all training will be documented and made available to an authorised officer upon request.

The prevention of crime and disorder

- ii) A comprehensive CCTV system shall be installed at the premises and will meet the following criteria:
 - a) The system will display on any recording the time and date of said

recording;

b) The system will be recording whenever the premises is open to the Public;

c) Any recordings will be retained for a minimum of 28 days after they are made and will be produced to an authorised officer upon request, so long as said request is in accordance with the principles of the Data Protection Act or any subsequent or alternative legislation;

d) The CCTV will capture all public areas of the premises, with the exception of the toilets.

e) appropriate signage alerting customers to the use of CCTV shall be displayed in a conspicuous position at the premises.

f) A competent person trained in the use of and operation of the CCTV will be in attendance at the premise at all times that licensable activities are taking place. Said person will be able to fully operate the CCTV system and be able to download data in a recognised format when requested.

iii) An incident register will be maintained at the premises and any details of public order offences will be recorded. Said register will be made available upon request to an authorised officer.

iv) There will be fixed seating provision for at least 50% of the available floor space overall.

v) The premises shall contain sufficient furniture and seating in order that the premises does not become a High Volume Vertical Drinking establishment.

The prevention of public nuisance

vi) The management of the premises will ensure that the area immediately outside the entrance to the premises is kept clean, tidy and free from litter.

vii) Notices will be displayed in a prominent position at the public exit requesting that patrons respect the needs of local residents and leave the premises and the area quickly and quietly.

The protection of children from harm

viii) There shall be no persons under the age of sixteen permitted on the premises after 21:00 each evening.

ix) There shall be no persons under the age of sixteen permitted on the premises at any time unless they are accompanied by an adult.

x) A "Challenge 25" Policy shall be adopted and enforced at the premises whereby any person who appears to be under the age of 25 shall be required to provide identification to prove that they are over the age of 18 before they are permitted to purchase alcohol. The only forms of

acceptable identification will be:

- a) A Passport;
 - b) A UK Photocard Driving Licence
 - c) Official ID card issued by HM Forces or EU bearing a photograph and date of birth of the holder;
 - d) Any other form of identification agreed with a representative of the Police Licensing Unit.
- xi) All staff who are involved in the sale of alcohol will be trained in relation to the "Challenge 25" policy upon the commencement of their employment, following which they will undertake refresher training at least once every twelve months. Said training will be documented and will be made available to an authorised office upon request.
5. The panel were of the view that the volunteered 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.
6. All parties to the hearing, have a right to appeal the decision to the Magistrates Court within 21 days.

10 Tenpin Capitol Centre

The panel considered an application for a new licence in respect of Georgica Limited, trading as Tenpin Preston (*Unit 7B, Capitol Retail Park, London Way, Walton-le-Dale, PR5 4AW*).

The Head of Licensing advised members that objections had been received from one Responsible Authority, namely the Council's Environmental Health section under the prevention of public nuisance objective.

Members were advised that the applicant had accepted these concerns and had employed a sound consultant to run some acoustic testing, with the report being submitted to the Licensing section within 48 hours of receipt.

Although the applicant was not present at the hearing, the Head of Licensing provided that they had requested the application be deferred in order to allow time to consider the sound consultant's report and to try resolve the objection raised.

RESOLVED: (Unanimously)

That the application be deferred by virtue of Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, until January 2020.

Chair

Date