

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 17 July 2024

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and D Quinn

M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
C. Riley (Legal Services)

Also in attendance: Mr A Cummins (Applicant)
Mr M Yoffey
Mr & Mrs Taylor
Mr & Mrs Dempsey
Councillor L. Ryder

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No other members of the public or press were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillors E. Moss, I. Rizvi and C. Smith (Head of Public Protection).

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING(S)

The minutes of the last Licensing Hearing Sub Committee meetings held at 1.00pm on the 25th June and 1.00pm on the 2nd July 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 1.00pm on the 25th June and 1.00pm on the 2nd July 2024 be approved as a correct record.

4 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF MOONBEAM COFFEE HOUSE, 82 BURY OLD ROAD, WHITEFIELD, PRESTWICH, M45 6TQ

The Licensing Authority received an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Moonbeam Coffee House, 82 Bury Old Road, Whitefield, Prestwich, M45 6TQ.

The applicant for the licence is Whitefield Brunch Club Limited, 239 Bury New Road, Whitefield, M45 8QP and the proposed Designated Premises Supervisor (DPS), in respect of the above premises, is Mr Aaron Cummins, 41 Ringley Drive, Whitefield, M45 7LA. The application was attached at Appendix 1 in the agenda pack.

The Applicant had complied with all the necessary procedural requirements laid down by the Act.

The Licensing Unit Manager presented the report and as part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the grant of a licence. Where representations are made and not withdrawn Members are required to determine them

Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- the prevention of crime and disorder
- public safety
- prevention of public nuisance and
- protection of children from harm

The application is for the grant of a Premises Licence under Part 3 of the Licensing Act 2003 which was attached at Appendix 1 in the agenda packs.

Opening Times:

Monday to Sunday – 08:00 till 00:00

Supply of Alcohol (On and off the premises):

Monday to Sunday– 09:00 till 23:30

Recorded Music (On and off the premises)

Monday to Sunday– 08:00 till 23:30

Members were reminded to note the Live Music Act 2012, recorded music and live music is permitted at licensed premises between the hours of 08.00 to 23.00 with an audience of up to 500 people without it having to be permitted on the premises licence. Therefore, if members were minded to grant the premise licence the hours for recorded music will be 23.00 to 23.30.

The conditions contained in the operating schedule submitted by the applicant were contained at Appendix 2 in the agenda packs.

Six relevant representations from interested parties had been made against this application and some of the representors were in attendance.

The representations were attached at Appendix 3 in the agenda packs. Members were informed to ignore page 61 as this had been included twice by mistake.

After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is

therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

In making its decision with regard to this application hearing, the steps the Sub-Committee can take are:

- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions
- To refuse the application

All licensing determinations should be considered on the individual merits of the application.

The Sub-Committee'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. Findings on any issues of fact should be on the balance of probability.

It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

The Sub-Committee was asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

The Licensing Unit Manager reminded Members that there was still a process for a review if the licensing objectives were not promoted.

Mr A Cummins addressed the sub committee and told Members he was unaware of the time limit process required to transfer a licence and offered his apologies for that error. The intention was that customers could enjoy a breakfast and if they desired then an alcoholic drink such as a bloody Mary could be served with their food. The hours of operation would be between 9.00am and 3.00pm and there was not the demand of staff time to open for all the other extra hours. The application was made in such a manner to cater for small pop-up events for around 25 people such as the working mums networking group or birthday parties for 40th or 50th celebrations.

Mr Cummins stated he had spoken with a local ward Councillor and the business wanted to be a good neighbour. He had a restaurant further up the road for 6 years and had never needed a licence review. Residents had his details for any issues and traffic would be managed to keep vehicles to a minimum. He was happy to close the outside area at 9.00pm although this would probably not be used between September to March. He regretted not speaking to residents before the application was submitted but the business case was to provide an alcoholic drink with a breakfast which was priced around £14 so the clientele was professional people and a good standard of society.

Mr Cummins stressed that there was no intention to run a nighttime business as he had 2 young children and the general manager had a young child. They would come back in the evening to cover an event if the venue had been hired.

The local nursery across the road had been approached in relation to using their car park when the nursery had closed for the day. Although most people who want a drink would arrive in a taxi.

Two bins were emptied once a week but if there was a build-up of waste, this would be increased to twice weekly. Overgrown trees would be cut back as they didn't want the surrounding area to reflect badly on their business. Discussions would be held about storing their bins in a nearby courtyard which had shutter access.

A number of representors had gathered in a room with access to one laptop which belonged to Mr Yoffey.

Mr Taylor spoke and enquired could verbal agreements on reduced opening times be wrote down. Mr Cummins stated that a certain number of TEN (Temporary Event Notices) could also be applied for if required but these were a time consuming administration task. The Licensing Unit Manager provided an overview of the TEN process to those in virtual attendance.

Mr Taylor's main concern was noise levels with young families in the area and what assurances had been provided by the nursery for using their car park. He asked the committee how they would feel being in the same position and having this on their own doorstep.

Mr Cummins said the previous licence holder had an agreement with the nursery and they also wanted coffee morning events with parents so it would work for both parties and be mutually beneficial. He also suggested that a Council run street parking permit scheme could also be introduced to help.

Mr Yoffey questioned how noise would be stopped for the houses nearby and another resident in attendance stated her back garden was only 8 feet away from the property.

Ward Councillor L. Ryder who was representing residents felt if the venue was not going to open late, then why not reduce the hours and apply for TEN if and when required. Noise will impact on the nearby house on Walker Avenue and an earlier closing time would be a good compromise.

Mr Cummins was willing to limit the hours on the outdoor space to close earlier and TEN mean additional work and staff costs.

Mr Yoffey said the beer garden was metres from people's bedrooms and other residents in virtual attendance commented it was not fair that they cants enjoy their garden whilst another requested that the trees are not cut back as this adds screening to the side of her house.

Councillor L. Ryder felt there would be a noise issue and it would upset the lifestyle of residents. Whilst not in objection to a bar element, there was an issue with timings and a compromise should be sought between the needs of the business and residents.

Mr Cummins reported that his business opened in November and it already had a licence. He would do everything he could to help and support residents and the application was in line with other businesses that trade as brunch venues. Customers would exit the venue via the front door away from residential properties to limit any noise levels.

The legal advisor and Licensing Unit Manager stated that property values being decreased and car parking issues was not a consideration of the committee.

The Sub-Committee then duly retired to consider the application.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to the relevant provisions of the national guidance and the Council's licensing policy statement.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives together with relevant representations presented by all parties.

Delegated decision

All of the evidence was considered with care, and it was established that having understood the application and equally noting and understanding the representations, the Sub-Committee found there were no causes for concern so far as the promotion of the licensing objectives were concerned.

It was therefore agreed unanimously that the Sub- Committee **grant the application for a Premises Licence in the terms requested, with an additional condition that in the interest of public nuisance, the outdoor space was closed at 20.00 hours Monday to Sunday** and subject to the following conditions:-

Operating Schedule

General – All four Licensing Objectives

- The staff will undertake training which will focus on the 4 objectives - prevention of crime & disorder, public safety, prevention of public nuisance, and protection of children from harm.
- Challenge 25 will be used in the venue, CCTV is in use both indoors and outside the venue. Management will be trained to be licensed staff.
- All staff shall be trained in:
 - Relevant age restrictions in respected products
 - Recognising signs of drunkenness and vulnerability
 - How to refuse service
 - The premises; duty of care policy
 - Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services
 - The conditions in force under this licence
- The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.

- An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to GMP or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:
 - Seizures of drugs, offensive weapons, fraudulent I.D. or other items
- The premises licence holder must ensure that:
 - CCTV cameras are located within the premises to cover all public areas including all entrances and exits [The location of cameras could also be specified on the plan attached to the premises licence].
 - The system records clear images permitting the identification of individuals.
 - The CCTV system is able to capture a minimum of 24 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
 - The CCTV system operates at all times while the premises are open for licensable activities.
 - All equipment must have a constant and accurate time and date generation.
 - The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
 - There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation).
- The dispersal of customers from the premises must be managed in accordance with the following:
 - Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.
- All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.
- Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect the needs of local residents and use the area quietly.

The prevention of crime and disorder

- Any incidents of a criminal nature that may occur on the premises will be reported to the police. CCTV is in place operated and maintained at the premises. CCTV will conform to several points that will help and assist the police identify what is needed. Such as sufficient lighting, footage will be kept for at least 31 days, overlooking floor areas, wide angles, premises overview, full frame shots of heads and shoulders, in colour during the day, view of tills.

Public safety

- Appropriate fire safety procedures are in place, including fire extinguishers, foam, H2 and CO2. Fire blankets, internally illuminated fire exit signs. Numerous smoke detectors and emergency lighting. All appliances inspected annually, all emergency exits kept free from obstructions at all times.

The prevention of public nuisance

- All customers will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours.

The protection of children from harm

- The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as:
 - Proof of Age card, Connexions card and Citizens Card, Photographic Driving Licence or Passport.

An official identity card issued by HM forces or by an EU country bearing the photograph and date of birth of the bearer. All staff will be regularly trained for underage sales prevention. A register of refused sales shall be kept.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 1.30pm and ended at 3.00pm)

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