

Minutes of Licensing Sub-Committee

Meeting Date: Monday, 25 September 2017, starting at 2pm
Present: Councillor J Alcock (Chairman)

Councillors:

J Holgate
S Hore

In attendance: Solicitor (RVBC), Electoral and Licensing Officer (RVBC), Committee Clerk (RVBC), Malcolm Ireland (Solicitor for the Applicant), Lesley Clark (Joint Applicant), Charlene Clark (Assistant Manager of Applicants' premises), Albert Eastham (Partner of Joint Applicant), Gill Sherratt (Representative for the Objector), Kevin Smith (Objector).

APOLOGIES

Mr Ireland presented the apologies of Stuart Bernard Clark, the Joint Applicant.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST

There were no declarations of pecuniary and non-pecuniary interest.

THE SPREAD EAGLE, MELLOR LANE, MELLOR, BB2 7EG

The Sub-Committee considered a report submitted by the Head of Legal and Democratic Services on the determination of an application required under Section 35 of the Licensing Act 2003. Copies of the existing licence, the application, current details of licensable activities, the Police Challenge 25 conditions, the representations from objectors and a location plan of the premises were included in the report.

The Applicants' Solicitor had submitted a bundle of documents including photographs of the premises, the menu for the premises, photographs of and from the beer garden/terrace, copy letters of support and a copy of the judgment in the case of Daniel Thwaites plc -v- Wirral Borough Magistrates Court and others.

The objector had submitted a bundle of documents, containing extracts of email correspondence with the licensing authority by way of complaint.

The application was for variation of a premises licence by way of updating the plans of the premises, removal of two conditions, and replacement of those conditions with alternative conditions. The conditions which the Applicants sought to remove related to hours of use of outdoor areas and supervision of those areas, and times when lights in the beer garden should be turned off.

Responsible authorities had made no representations, apart from a request by the Police for the inclusion of "Challenge 25" conditions.

The Applicants' Solicitor made verbal representations to the Sub-Committee, setting out the Applicants' experience in the licenced trade, the roles of certain key staff and the history of the premises prior to and since acquisition by the Applicants. He then identified reasons for the current application, acknowledging that there had been breach of the condition with regard to lighting since 2015 and explaining that the applicants had misconstrued security advice from the Police regarding theft as justifying illumination after the terminal time provided by the condition.

The Applicants' Solicitor addressed the points raised in the letters of objection and reviewed the complaints recorded in the objector's emails in their bundle of documents, setting out the Applicants' representations in respect of the issues where complaint had been made.

He expanded on the content of the application, and drew attention to judicial authority and the approach to be taken in determining an application of this nature and concluded by explaining that his client had been advised to seek to re-open lines of communication with the objectors.

Questions on behalf of the objectors were answered by the Applicants' Solicitor, the Applicants and the Assistant Manager of the premises.

The objector's representative accepted that the narrow issue for determination was that of variation of the conditions. No issue was taken with regard to the amended plans. She outlined the history of the relationship between her client and the licence holders of the premises over the years, and highlighted the issues since 2014 when the Applicants had taken over the premises. She emphasised the reasonableness of the approach that had been taken by her client, and analysed the emails relating to issues since 2014. It was argued that there was evidence before the Sub-Committee which, taken with the admitted breach of the external lighting condition, amounted on balance to a reason to refuse the application for a variation of condition.

The objector and his representative responded to questions brought by the Applicants' representative.

Members of the Sub-Committee raised questions with regard to staffing, training, the balance between dining and drinking customers, demographics of the customers and the difficulties in the relationship between the licensees and the objector. The representatives for both parties accepted a need to try to reinstate communications after 3 years of difficulty.

The Sub-Committee gave careful consideration to the representations made by all parties, both written and verbal. They also considered the requirements of the Licensing Act 2003, the licensing objectives, the relevant regulations and the Council's Licensing Policy.

RESOLVED: That

1. the application to update the plans be granted;

2. the application for variation of conditions be granted with the addition of the Challenge 25 conditions requested by the Police; and
3. a further condition be added stipulating “all lighting on the terrace shall be turned off at 2300 hours each night, save for any motion sensitive security lighting”.

The Sub-Committee decision is available at:

https://www.ribblevalley.gov.uk/download/downloads/id/11269/spread_eagle_mellor.pdf

EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That by virtue of the next items of business being exempt information under Category 3 of Schedule 12A of the Local Government Act 1972 the press and public be now excluded from the meeting.

LICENSING HEARING TAXIS

Private Hire Driver's Licence

The Sub-Committee received a report from the Chief Executive which included details of an application for a private hire driver's licence by an individual, together with information relating to a previous application and imposition of penalty points on the applicant's driving licence.

The applicant attended and gave his explanation with regard to the circumstances which had led to the imposition of penalty points, and his failure to include information with regard to those points on his application for the issue of a licence. The Sub-Committee considered all the circumstances of the case, including the applicant's explanation, and determined that he was a fit and proper person to hold a private hire driver's licence.

RESOLVED: That the application be granted.

The meeting closed at 3.50pm

If you have any queries on these minutes please contact Diane Rice (414418).