



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE

Held: WEDNESDAY, 3 JULY 2024 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Bonham

Councillor Cank

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1. APPOINTMENT OF CHAIR

Councillor Pickering was appointed as Chair.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made.

**4. APPLICATION FOR A VARIATION TO AN EXISTING PREMISES LICENCE
FOR BEST ONE, 77 HINCKLEY ROAD, LEICESTER**

Councillor Pickering, as Chair led on introductions and outlined the procedure the hearing would follow.

The Director of Neighbourhood and Environmental Services submitted a report on an application for a variation to an existing premises licence for Best One, 77 Hinckley Road, Leicester.

The Applicant Mr Kanjibhai Patel, Mr Vimesh Gandhi (DPS), and their representative Mr Anil Bhawsar (Licensing Agent) were in attendance. Also in attendance was PC Jefferson Pritchard, Leicestershire Police, and Vandana Lad, Noise and Pollution team. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report

and outlined details of the application.

A representation was received on 10 June 2024 from the Police. The representation related to the prevention of crime and disorder, the prevention of public nuisance and public safety. The representee was concerned about the application but believed the inclusion of some additional conditions would reduce the likelihood of crime, disorder and anti-social behaviour in the future and help promote and uphold the licensing objectives. They had reached agreement with the applicant.

A second representation was received on 10 June 2024 from the Noise team. The representation related to the prevention of public nuisance. The Noise team were concerned regarding noise implications for local residents with the later hours and proposed serving hatch.

Mr Pritchard, Police Constable for Leicestershire Police, was given the opportunity to outline the details of the Police's representation and answered questions from Members.

Ms Lad, Noise and Pollution Control Officer was given the opportunity to outline the details of their representation and answered questions from Members.

Mr Bhawsar and Mr Gandhi were given the opportunity to address the Sub-Committee and answered questions from the Members.

Mr Gandhi invited the Sub-Committee to consider a written submission but this had not been provided in advance of the hearing so the Police and Noise Team had not been able to consider the document. Mr Gandhi was invited to read those submissions to the Sub-Committee, which he did, following which with the consent of all parties the written document was submitted to the Sub-Committee.

Mr Gandhi invited the Sub-Committee to consider a petition in support of the application signed by approximately 100 of his customers. The Sub-Committee declined to accept the petition as it had not been produced to the Council or to the Police for verification prior to the hearing. However, Mr Gandhi was informed that he was entitled to explain the content of the petition in his oral submissions which he did.

With the consent of all parties Mr Gandhi submitted to the Sub-Committee examples of Notices to be displayed at the premises asking customers not to loiter after purchases, to keep noise to a minimum and to respect neighbours.

All parties present were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making their decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken

into account when making their decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the application for a variation to an existing premises licence be GRANTED subject to the following additional conditions.

1. The conditions detailed in Appendix D of the Licensing Officer's Report (those being the conditions consistent with the Operating Schedule and the conditions consistent with the representation from Leicestershire Police)
2. All sales between midnight and 6am must be conducted through a hatch constructed at the premises.
3. A canopy for customers must be constructed at the hatch before any sale takes place.
4. The canopy must be soundproofed to a specification approved by the Council's Noise and Pollution Control Team.

REASONS

In considering the application by Kanjibhai Patel for variation of the Premises Licence held by him for Best One Store at 77 Hinckley Road, Leicester, the Sub-Committee has considered the Licensing Officer's Report and all the relevant representations, both written and oral. The Sub-Committee has taken account of all relevant legislation, the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy. The Sub-Committee has had regard in its deliberations to the steps appropriate to promote the licensing objectives, and has decided the matter on its merits on the evidence presented to it. The Sub-Committee has taken a risk based approach to its decision which has been made on the balance of probability. The Sub-Committee has, as it is required to do, limited its deliberation to the promotion of the licensing objectives (with each licensing objective being of equal importance) and nothing outside of those parameters.

Best One Store is a grocery / convenience store on Hinckley Road. The area has a mix of residential and retail properties including other licensed premises. Commercial properties are found either side of the store and there is a residential flat above the premises. The Premises Licence was first issued on 25 July 2005. It was varied in February 2022 to increase by 3 hours the hours for the supply of alcohol. The premises has unrestricted opening hours and the Licence prior to this variation application authorised the supply alcohol for consumption off the premises seven days a week from 6am to midnight.

Leicestershire Police had originally made representations opposing the application based on the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance but they had visited the premises on 03 May 2024 and met with Mr Gandhi (the premises leaseholder and DPS) and his Licensing Agent Mr Bhawsar to discuss the application. Mr Gandhi had explained that a minimum of two staff members would be employed at the premises at all times and that no customers would be permitted on the premises between midnight and 6am. During those hours, and subject to any necessary planning consent, customers would be served through a hatch at the front of the store. The view now taken by the Police is that although any 24 hour licensed premises gives concern as regards possible incidents, conditions agreed with the Applicant and now imposed by Members are appropriate and proportionate so as to negate their original objection.

The Noise and Pollution Control Team also made an objection opposing the application on the basis of the licensing objective of the prevention of public nuisance. They too had spoken with Mr Gandhi prior to the hearing but their objection remained live. They felt there was nothing in the written application to explain how staff inside the store would prevent people outside causing public nuisance. They indicate that experience with other licensed premises shows that public nuisance is likely to occur if the variation is granted. They are concerned with the noise implications for local residents during core sleeping hours arising from the early morning operating hours and the proposed serving hatch at the front of the premises. They envisage noise from customers potentially congregating outside the premises and an increase in noise from vehicular traffic as people are attracted to the premises from outside the area. They suggest these new noise sources centred around the premises could lead to sleep deprivation for the residents nearby. The Noise Team have visited the area on at least two occasions and have found it very quiet during the hours for which the variation has been sought. In their discussion Mr Gandhi had suggested to the Noise Team that the installation of a bulletproof canopy could provide cover for up to 15 people and that, together with a micro audio system at the serving hatch would help to reduce customer noise. The Noise Team disagreed with Mr Gandhi, hence their continued objection to the application.

Mr Gandhi informed Members that he has been active at the premises for some 10 years and has a long history in retail. He currently employs 8 staff members and the store stocks approximately 25,000 products with alcohol representing a small part of the sales. There are approximately 1,000 customers per day and customers had asked for 24 hour sale of all products. Mr Gandhi indicated approximately 100 customers had signed a petition in

support of the application (the petition itself was not accepted at the hearing as evidence as it had not been produced to the Council or to the Police for verification prior to the hearing). Mr Gandhi indicated that staff at a local care home also supported 24 hour opening for the purchase of items and the tenant above the store was in support of the application as he worked nightshifts and felt it would provide extra security for his family to know staff remained in the store below. Mr Gandhi indicated that the store currently opens from 6am through to midnight and although he was able to remain open 24 hours a day, he does not do so as he is concerned that it might be problematic to have to refuse the sale of alcohol to customers during the hours of midnight through to 6am. His intention is to refurbish the front of the premises to create a hatch for service. No customers will be admitted to the premises between midnight and 6am and there will always be two members of staff inside the premises so one will remain with the customer while the other gathers the purchases. Customers with vehicles will be asked to switch off engines and staff will speak to customers to moderate any inappropriate behaviour. Where appropriate customers will be reminded that their actions are being recorded on CCTV and if necessary the Police will be called. A canopy for customers is to be built around the service hatch and this may assist to reduce noise as too will an intercom system for customers to use. Mr Gandhi explained that in referring to a bulletproof canopy in his earlier discussion with the Noise Team he had really had in mind soundproofing. Mr Gandhi indicated there are 16 CCTV cameras at the premises which record vision and audio both internally and externally. These had been shown to the Police. Notices will be displayed at the premises, examples of which, similar to those used at other premises, were shown to Members. The Notices will ask customers not to loiter after purchases, to keep noise to a minimum and to respect neighbours. Mr Gandhi also referenced two other businesses in the area, one being a garage, with similar licensed hours.

Having heard from Mr Gandhi at the hearing, while the Noise Team remained opposed to the application, they indicated that had they been provided with further information and specification regarding a soundproofed canopy then their view of the application might potentially have been different. However, the Noise Team did indicate that even if people have not objected to an application, they can still experience sleep deprivation from noise nuisance and occupants of residences are likely to change over time.

Members have noted the Premises Licence was first issued in 2005 and no adverse licensing history has been brought to their attention. The Police confirmed that some nine incidents of shoplifting and associated matters have been reported by Mr Gandhi and his staff which evidences a willingness to engage the Police where required. Members have noted that no representations have been received from residents or local businesses.

In granting the application subject to the conditions set out, Members expect that Mr Gandhi will work with the Noise Team. If problems do arise Members would expect the Premises Licence to be returned to Committee for review.

The Sub-Committee's decision was made in the interests of promoting the licensing objectives.

Any appeal against the decision must be made within 21 days to the Magistrates Court.

5. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to an individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

B1) – Application for a Review of an Existing Premises Licence

6. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE FOR NATTERJACKS, 52A BRAUNSTONE GATE

After receiving the late notification of an application to transfer the premises license, the hearing was adjourned.

7. ANY OTHER URGENT BUSINESS

With there being no further business, the meeting closed at 11.56am.