



Leicester
City Council

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

Held: TUESDAY, 26 JANUARY 2021 at 10:00 am

P R E S E N T:

Councillor Pickering (Vice-Chair in the Chair)

Councillor Fonseca

Councillor Gee

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46. APPOINTMENT OF CHAIR

Councillor Pickering was appointed as Chair for the meeting.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales)(Regulations) 2020 (the 2020 Regulations) and in accordance with the Council's own Remote Procedure Rules.

47. APOLOGIES FOR ABSENCE

There were no apologies for absence.

48. DECLARATIONS OF INTEREST

There were no declarations of interest.

49. APPLICATION FOR A NEW PREMISES LICENCE: FAIRFAX STORE, 46 FAIRFAX ROAD, LEICESTER, LE4 9EH

Introductions were made and the procedure for the meeting was outlined.

The Chair confirmed with the Sub-Committee Members that reports for the meeting had been read.

The Director of Neighbourhood and Environmental Services submitted a report on an application for a new premises licence for Fairfax Store, 46 Fairfax Road, Leicester, LE4 9EH.

Members noted that representations had been received, which necessitated the application had to be considered by the Sub-Committee.

Mr Bharat Khunti (applicant) and representative Mr Anil Bhawsar (Licensing Agent), Ms Jackie Copeland, Ms Rosie Budd and Mr Mukesh Patel (persons who had made representations) were present. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

It was noted that a person who had made a representation had not been successful in joining the meeting but continued attempts to do so would be made. The Legal Adviser to the Sub-Committee advised those present that the objector could join at any point in the meeting, as he was a person who had submitted a written representation which would be taken into consideration.

The Licensing Team Manager (Policy and Applications) confirmed with residents that a petition had been received the previous day in support of the application, but it had not been circulated to Members or objectors to the application. Residents in objection to the application confirmed the petition could be circulated to the Panel Members.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that five representations were received between 26th December 2020 and 3rd January 2021 from local residents which related to all four licensing objectives.

The Chair asked what times a nearby convenience store opened. The Licensing Team Manager (Policy and Applications) indicated that she would obtain the details from Licensing's records.

Mr Bhawsar on behalf of the applicant was given the opportunity to outline the reasons for the application and answered questions from Sub-Committee Members and those who had made representations.

Ms Copeland asked for clarification as to why the petition had been submitted so late, as objectors to the application had not had opportunity to view it. The Chair noted those present who had made representations had agreed at the beginning of the meeting that the petition would be received. Mr Bhawsar responded to questions asked by Mrs Copeland.

Mrs Copeland was then given the opportunity to outline the reasons for the objection.

Mrs Budd was then given the opportunity to outline the reasons for the objection and answered questions from Members. Mrs Budd asked that the information on the petition be read out for clarification. The Licensing Team Manager (Policy and Applications) read out the paragraph text included with the petition.

The Legal Adviser to the Sub-Committee advised Members that objectors to the application had now reconsidered their agreement to receive the petition as they had not been fully informed of the content of the petition at the beginning of the meeting. It was noted that the objectors could reconsider agreement to receiving the petition.

The Licensing Team Manager (Policy and Applications) confirmed that Mr Patel had submitted a representation. Mr Patel was then given the opportunity to outline the reasons for the objection. Mr Patel also stated the petition should not be taken.

For point of clarification, the Licensing Team Manager (Policy and Applications) confirmed the applicant had followed due process in advertising the premises licence application, such as, the display of a blue notice which was checked by an enforcement officer.

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

The Licensing Team Manager informed the meeting that the petition was received on 25th January at 3.30pm, and there had been no opportunity to circulate the redacted document to all parties present.

The Legal Adviser to the Sub-Committee read out to those present wording of Regulation 18 of the Licensing Act (Hearing) Regulations. It was acknowledged that the petition was submitted in accordance with the Regulations, but not in good time so as to allow it to be circulated to those making representations against the grant of the application. It was noted that they were entitled to ask to view the petition in more detail, and that they could ask the Committee to adjourn the meeting to allow them to do so. In the event such an adjournment was requested, subject to hearing from the applicant, the Legal Adviser indicated that his advice would be that the meeting should be adjourned.

Persons present who had submitted representations asked for the meeting to be adjourned to enable them to look at the petition on which they had not been consulted. Mr Bhawsar on behalf of the applicant agreed to the adjournment.

50. ADJOURNMENT OF MEETING

The Chair adjourned the meeting at 10.36am. The meeting was adjourned to the 9th February 2021, 10.00am, to allow those who had made objections to view the submitted petition.

51. APPLICATION FOR A NEW PREMISES LICENCE: FAIRFAX STORE, 46 FAIRFAX ROAD, LEICESTER, LE4 9EH

The meeting reconvened at 10.00am on the 9th February 2021.

Mr Bharat Khunti (applicant) and representative Mr Anil Bhawsar (Licensing Agent), Ms Jackie Copeland, Ms Rosie Budd and Mr Mukesh Patel (persons

who had made representations) were present. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Chair outlined the procedure for the meeting again to those present.

The Licensing Team Manager (Policy and Applications) presented the petition in support of the application submitted previously by Mr Khunti and Mr Bhawsar which had been circulated to other parties to give them chance to consider the information.

The Licensing Team Manager (Policy and Applications) also presented information received on the 4th February 2021 in the form of a petition signed by members of the public opposed to the application and an email from Mr Patel, which provided further information in support of Mr Patel's representation. The information had been circulated to all other parties prior to the reconvened meeting. All parties confirmed they had received the information.

Mr Khunti explained that for his own petition, he had knocked on doors to gather information from residents and he had written down the details of those residents in support of his petition for Covid-19 and social distancing reasons. He raised concern that Mr Patel was able to have his petition in his shop and there were signatures from customers not in the immediate vicinity of the shop.

Mrs Budd was given the opportunity to make further comments with regards to the application having viewed the applicants petition.

Mrs Copeland was given the opportunity to make further comments with regards to the application having viewed the applicants petition.

Mr Patel was given the opportunity to make further comments with regards to the application having viewed the applicants petition and following further submission of information in support of his own objection.

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

The applicant informed the meeting that he was now requesting reduced hours for the sale of alcohol. He had originally requested authorisation for off-sales from 6am to 11pm daily. He was now requesting authorisation from 6am to 10pm daily.

The Licensing Team Manager (Policy and Applications) confirmed the existing licensed hours for the sale of alcohol at Mr Patel's premises on Fairfax Road.

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 a 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, the Sub-Committee 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 decisions and reasons would be publicly announced and confirmed 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 Chair then asked all but the Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Legal Adviser to the Sub-Committee was called back to the meeting to give advice on the wording of the decision.

RESOLVED:

That the application for a new premises licence for Fairfax Store, 46 Fairfax Road, Leicester, LE4 9EH be GRANTED.

The Sub-Committee Members had considered all the representations and had taken account of the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy.

During representations, it was noted the premises were currently being renovated for use as a convenience store which would provide payment services, the sale of groceries, lottery and newspapers. The applicant sought authorisation for off-sales of alcohol at the premises seven days a week from 6 am to 10 pm daily.

The Sub-Committee Members had heard the premises were part of a family run business and located in a residential area. The applicant had held a Personal Licence for 12 years and had run the family's existing convenience store for 15 years. It was noted the family resided at number 44 Fairfax Road. A petition had been submitted with approximately 58 addresses of residents who supported the application.

Representations against the application were received from four residents who lived in the immediate vicinity of the premises and one from the owner of a convenience store at 51 Fairfax Road.

The representations were based on all four of the licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

In summary, the four residents who lived in the immediate vicinity of the

premises believed the grant of the application would have an adverse impact on the quality of their lives because of noise nuisance, lighting nuisance and littering.

The residents believed there would be crime and disorder and anti-social behaviour issues associated with groups congregating near the premises and that the premises would become a spot for local youths to congregate after school and through into the late evening, which in turn could lead to alcohol misuse with an attendant rise in youth crime.

Residents further believed they would face increased parking issues in an area where there was currently limited parking for them. In addition, the junction at which the premises stood had been the scene of road traffic accidents in the past, and an increased flow of customer traffic to the area would increase the risk.

The Sub-Committee heard from the owner of the convenience store at 51 Fairfax Road who supported the representations made by the local residents. The owner for the store had a Premises Licence authorising the sale of alcohol from Monday to Saturday between the hours of 8 am and 11 pm and on a Sunday between the hours of 8 am and 10.30 pm. However, the owner explained that he closed his premises at 6 pm out of consideration for the residents so as not to impact on their quality of life through attracted anti-social behaviour or unwarranted noise. The owner had submitted a petition prior to the meeting detailing the names of residents in the surrounding area at approximately 84 addresses who are against the granting of the application.

REASONS FOR THE DECISION

The Sub-Committee noted reference had been made in the representations to the lack of need for another licensed premises in the area. The Legal Adviser to the Sub-Committee had advised during the meeting that in itself was not a relevant representation, as it did not relate to the likely effect of the grant of the licence on the promotion of the licensing objectives. However, it was a relevant representation to the extent it suggested that granting the application would add to issues in the area regarding, for example, public nuisance or crime and disorder.

Members took note that the police had made no representations in relation to the prevention of crime and disorder and that no supporting evidence had been presented regarding such issues. No representations had been received from any Responsible Authorities.

Members took account of the applicant's history of involvement in the running of his family's existing convenience store and noted that no evidence had been presented regarding any problem issues in relation to the running of those premises.

Members also took note that the applicant's family resided next door to the premises and Members had no reason to believe that the premises would not be

run responsibly.

The Sub-Committee felt that it was appropriate for the promotion of the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm, to authorise off-sales of alcohol at the premises seven days a week from 8 am to 10 pm daily.

In deciding on those hours, Members appreciated that the Statutory Guidance detailed that stores should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet was open for shopping unless there were good reasons, based on the licensing objectives, for restricting those hours. Members when considering the application had taken account of the particular residential nature of the area and had had regard to the representations regarding public nuisance as regards noise and lighting disturbance.

The Sub-Committee's decision was to grant the Premises Licence, authorising off-sales of alcohol at the premises seven days a week from 8 am to 10 pm daily, subject to the conditions detailed in Appendix C of the Officer's Report.

52. CLOSE OF MEETING

There being no further items of urgent business, the meeting closed at 11.05am.