



Leicester
City Council

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

Held: WEDNESDAY, 14 APRIL 2021 at 5:30 pm

P R E S E N T:

Councillor Singh Johal (Chair)

Councillor Dr Moore Councillor Dr Sangster

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85. APPOINTMENT OF CHAIR

Councillor Singh Johal 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.

86. APOLOGIES FOR ABSENCE

There were no apologies for absence.

87. DECLARATIONS OF INTEREST

There were no declarations of interest.

**88. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE -
VITAZ SUPERSTORE, 66 CANON STREET, LEICESTER, LE4 6NG**

The Director of Neighbourhood and Environmental Services submitted a report, which outlined an application for a variation to an existing premises licence for the Vitaz Superstore and summarised the representations received.

The existing Licence authorised off-sales of alcohol, seven days a week from 7.00 am to 11.00 pm, those hours also being the opening hours of the premises. The variation sought was to authorise off-sales of alcohol seven days a week from 6.00 am daily to midnight on Sunday through to Thursday and to 2.00 am on a Friday and Saturday. Those hours, if granted, would then become the premises' opening hours.

The report also highlighted the licensing objectives, the relevant parts of the guidance and regulations, and the pertinent sections of the Licensing Authority's Licensing Policy.

Members noted that representations had been received, and that it was necessary that the application be considered by the Sub-Committee.

Mr Vijaykumar Hingu (Premises Licence Holder (PLH)) was present with a representative Mr Anil Bhawsar.

PC Dave Braithwaite was present as Leicestershire Police had made representations.

Mr Andrew Sansome was present as the Council's Noise Team had made a representation.

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.

It was noted that a representation was received on 6 March 2021 from Councillor Solanki, as a Ward Councillor. The representation related to the prevention of public nuisance the protection of children from harm, the prevention of crime and disorder and public safety. Councillor Solanki was concerned that if the application was granted it would cause disruption to nearby residences and the increase to hours would exacerbate the existing issues of street drinking, noise, litter and general anti-social behaviour in the area. In addition, there were concerns about elderly and young residents in the area as this was a main route for residents walking to schools and places of worship. A copy of the representation was submitted.

Representations had also been received from a local resident and a local temple who submitted photographs.

In response to questions from Members, it was clarified that the photographs were taken at a time when the PLH was present at the premises, and that they were taken by objectors and not the Licensing Officers concerned with the application.

The representations related to the prevention of public nuisance, public safety, the prevention of harm to children and crime and disorder. They were jointly

concerned that customers leaving late at night and the early hours would increase the already unacceptable noise levels and disruption, and the anti-social behaviour witnessed in the vicinity of the premises. There were also concerns about urinating in the street. The existing litter problems, street drinking and gatherings were also likely to increase into the early hours if the application was granted. Copies of the representations were submitted, together with the photographs referenced.

It was further reported that a representation was received on 22 March 2021 from the Council's Noise Team. The representation related to the prevention of public nuisance. The Noise team were concerned that if the hours were increased in line with the application there would be an increase in noise and disturbance from vehicles, stereos, car doors slamming and talking into the early hours and that this would impact on the lives of local residents and likely increase noise complaints in the area. A copy of the representation was submitted.

A representation was also received on 22 March 2021 from Leicestershire Police. The representation related to the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The police were concerned that if the application was granted there would be an increase in noise levels, litter, street drinkers and anti-social behaviour. A copy of the representation was submitted.

It was reported that on 24 March 2021 additional information was received from Leicestershire Police whereby they submitted information on other local premises in the area and reported incidences. This representation was also submitted. A further statement was received from Leicestershire police on 25 March 2021 as indicated on the original representation. This was also submitted. It was noted that discussions had taken place between the PLH's representative, the PLH and the Local Beat Officer about the potential to amend the hours of application to Midnight every night. A verbal agreement was made at a recent meeting however no formal written agreement had been made and therefore the application to be determined was at that time in the terms as originally applied for.

The PLH's representative had submitted a signed petition in support of the application, which was also submitted.

PC Dave Braithwaite was given the opportunity to outline the details of the Police representations concerning the application. He confirmed the Police objection to the application in its original form but indicated that the Police did not oppose the amended form of variation subsequently discussed with the PLH where off-sales of alcohol would be authorised until midnight seven days a week. He answered questions from Members and the representative for the PLH.

Mr Andrew Sansome was given the opportunity to outline the details of the Noise Team's representations concerning the application. He indicated that the change in hours in the amended form of variation indicated by the Police did

not alter the Noise Team's view of the matter. He answered questions from Members and the representative for the PLH.

The PLH and his representative Mr Anil Bhawsar, were given the opportunity to present their case. Mr Bhawsar confirmed that the variation now sought was to authorise off-sales of alcohol from 6.00 am to midnight seven days a week. The PLH and Mr Bhawsar answered questions from Members, the Police, and the Noise Team.

All parties were 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, 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 variation of an existing premises licence for Vitaz Superstore, 66 Canon Street, Leicester, LE4 6NG be REFUSED.

In reaching their decision the Sub-Committee Members had carefully considered the Committee report presented by the Licensing Team Manager (Policy and Applications), all written representations and the representations made at the meeting by Leicestershire Police and the Noise Team.

The members had also considered the representations made by Mr Vijaykumar Hingu (Premises Licence Holder (PLH)) and his representative Mr Anil Bhawsar at the meeting, and the legal advice given to them during the hearing.

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

Sub-Committee Members had been asked to consider an application by the PLH for a variation of the Premises Licence for Vitaz Superstore on Canon Street, a mainly residential area in Leicester.

The PLH had held the existing Licence for six months. It authorised off-sales of alcohol, seven days a week from 7.00am to 11.00pm, those hours also being the current opening hours of the premises.

Members heard that, originally, the variation sought by the PLH was to authorise off-sales of alcohol seven days a week from 6.00am to midnight on Sunday through to Thursday and from 6.00am to 2.00am on a Friday and Saturday. However, the PLH amended his application before the Sub-Committee, to seek variation to authorise off-sales of alcohol seven days a week from 6.00am to midnight. Those hours, if granted, would then become the premises' opening hours.

The Sub-Committee was informed that representations against the grant of the variation had been received regarding all of the licensing objectives.

Councillor Solanki, Ward Councillor, had submitted a written representation, in which she believed that an increase in licensed hours would cause disruption to nearby residences and would exacerbate the existing issues in the area regarding street drinking, noise, littering and general anti-social behaviour. In addition, Councillor Solanki had concerns for elderly and young residents in the area as Canon Street was a main route for residents walking to schools and places of worship. A local resident and a local Temple had submitted written representations, which shared the concerns of the Ward Councillor. They also believed that customers using the premises late at night and in the early hours of the morning would increase noise levels and the disruption to residents that currently existed. In addition, they believed there would be an increase in anti-social behaviour in the area and in this respect, they referred to existing littering problems and street drinking with people urinating in the street. They believed that gatherings of street drinkers would extend into the early hours of the morning if the variation was granted.

The Sub-Committee also heard from the Council's Noise Team that an increase in hours would result in an increase in noise and disturbance from vehicles, stereos, car doors slamming and talking into the early hours of the morning, which would adversely impact on the lives of local residents, especially, but not limited to, those in the residential premises adjoining the Store. Members were advised that it would be impossible to effectively control the street noise.

The meeting heard that the Police had opposed the application in its original form, believing that an extension of licensed hours in that form would lead to an unacceptable increase in noise levels, littering, street drinkers and anti-social

behaviour. However, the meeting heard from the Police that they did not oppose the application in its amended form.

The Police provided details of approximately 45 incidents of crime and disorder, anti-social behaviour and public safety issues which had occurred within 500 metres of the Store in the 12-month period from 22 February 2020 to 21 February 2021. The Police had also provided details of the opening hours of five similar premises in the area, none of which opened earlier than 7.00am and they had closing times ranging between 10.30pm and midnight. The PLH informed the meeting that in addition to the premises there was a local garage which was licensed for off-sales of alcohol beyond midnight.

In making his application, the PLH indicated that he was responding to requests by his customers for him to operate longer hours. He referred to a culture in the area, of families being out late of an evening seeking to buy items such as desserts and he wanted to be able to sell alcohol to them. He also indicated that he wanted to capture passing trade from people who were employed at nearby businesses when they finished work and who would purchase alcohol to take it home to drink.

The PLH submitted a petition with 37 signatories in support of his application. Although, not determinative of the decision, Members noted that the signatories in the petition were limited in number and did not include those of people residing in the properties immediately adjoining the Store.

The meeting heard that the PLH had proposed an additional condition to the Licence in the event the variation was granted: 'The licence holder will ensure that there will be two members of staff each day on the premises from 8.00pm.'

Members considered the application on its individual merits and 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 refuse the application to vary the Licence.

Members stated that although there were commercial premises in the area, it was in the main a residential area, and any extension of the licensed hours had the potential to adversely impact on the lives of residents. They considered that an extension of the licensed hours would clearly lead to increased levels of noise as detailed by the Council's Noise Team.

Members were further concerned at the level of incidents of crime and disorder, anti-social behaviour and public safety issues in the area which had been reported to the Police in the 12-month period from 22 February 2020 to 21 February 2021. Members believed that there was clearly a problem in the area with street drinking and the associated problems it brought as regards noise, littering and anti-social behaviour and that to extend the licensed hours would add to those problems and as such would not promote the licensing objectives.

The PLH referred to a culture in the area of people going home after work but then coming back out late in the evening with their families, a practice which he

had not sought to discourage. Members were concerned regarding public safety and the need to protect children from harm where there was encouragement of families into a late-night environment where alcohol was promoted and available for sale.

Members announced that, in the circumstances, their decision was that it was appropriate for the promotion of the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm to refuse the variation of the premises licence.

The Premises Licence Holder would be informed that any appeal against the decision must be made within 21 days to the Magistrates Court.

89. CLOSE OF MEETING

The meeting closed at 7.30pm.