

Licensing & Regulatory Panel B

Minutes of the Licensing & Regulatory Panel B meeting held on Monday 8 September 2014, at the Town Hall, Royal Leamington Spa at 10.00 am.

Present: Councillors Guest, Mrs Higgins and MacKay.

Also Present: Amy Carnall (Committee Services Officer), Emma Dudgeon (Licensing Enforcement Officer) and Max Howarth (Council's Solicitor).

1. **Substitutes**

Councillor Guest substituted for Councillor Mrs Goode.

2. **Appointment of Chair**

Resolved that Councillor Mrs Higgins be appointed as Chair for the hearing.

3. **Declarations of Interest**

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Councillor Mrs Higgins declared an interest because the premise was located close to where she lived. However, she stated that she could approach the application with an open mind.

4. **Application for the variation of a premises licence under the Licensing Act 2003 for Castle Kebabs, 46b Saltisford, Warwick**

The Panel considered a report from Community Protection which sought a decision on an application from Castle Kebabs, 46b Saltisford, Warwick for a variation to their premises licence.

The Chair, members of the Panel and officers introduced themselves. The other parties then introduced themselves as Mr Guner (the applicant), Mr Hothi (the applicant's father and spokesperson), two further members of staff from Castle Kebabs (observing only) and Sergeants Calver and Kettle (Warwickshire Police).

The Council's Solicitor explained the procedure that the hearing would follow.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it, and the representations made to the meeting, and to determine if the application for a variation to the premises licence should be approved.

The application before the Panel was for the licence to be varied to permit the sale of alcohol for consumption off the premises for Sunday to Thursday from 15:00 to 23:00 and Friday and Saturday from 15:00 to 01:00

Mr Guner had applied for the original premises licence on 18 February 2014 and the licence was subsequently granted following a Licensing Panel Hearing which took place on 22 April 2014. Mr Guner then submitted a variation application on 14 July 2014 requesting the above.

An operating schedule was in place at the premises along with a number of conditions which formed part of the current licence. No amendments or additions to the operating schedule had been submitted by the applicant in relation to the variation of the licence. The operating schedule and existing conditions were detailed in section 3.3 of the report.

The report advised that objections had been received from Warwickshire Police and Warwickshire County Council (WCC) Children's Services and these were attached as appendices 1 and 2 of the report. The Licensing Enforcement Officer informed the Panel that WCC Children's Services had subsequently provided a list of conditions that, should the licence be granted, they would like included in the licence. The applicant had seen these conditions and was happy to accept them. WCC Children's Services had therefore withdrawn their objection and the Panel had been provided with a copy of the agreed five conditions.

The applicant's representative, Mr Hothi, addressed the Panel and explained that the application had been submitted because the business needed to be more profitable. At the present time, the take-away did not serve alcohol and the applicant was hoping to be able to include this as a way to boost home delivery sales.

Councillor Guest asked the applicant why they had not applied for an alcohol licence when they originally submitted their new premise licence application in February 2014. Mr Hothi advised that they had run the business smoothly for 18 months and a lot of money had been invested in the shop so far, however, it was not viable to continue as they were.

Councillor MacKay enquired as to who the business' target market was and was advised that after 11.00pm their main business came from home deliveries and not from passing trade. Mr Hothi advised that it was a very quiet area but they hoped that alcohol sales would increase turnover.

The Police asked the applicant what procedures would be put in place for the sale of alcohol and whether they could put forward any proposals to promote the Licensing Objectives.

Mr Hothi assured Members that all necessary policies and procedures would be followed and that staff knew not to sell alcohol to under 18's. He also added that signage would be displayed in the window to advise that disorderly behaviour would not be tolerated. The applicant also confirmed that their CCTV system retained the images for 31 days.

Sergeant Kettle then addressed the Panel and outlined the Police objection. This was based mainly on the potential increase in people congregating, under the influence of alcohol in a mixed residential and business area which was not covered by on street CCTV and was close to public open spaces. In addition, the Police had concerns that the licence would provide an opportunity for individuals to carry on drinking in an area currently covered by a Designated Public Places Order, which prohibited the consumption of alcohol in public areas. Sergeant Kettle also highlighted that the applicant had made no provision in the

application of meeting the licensing objectives. The Police felt this would set a dangerous precedent and no conditions could be added to the licence to make it workable.

Councillor Guest asked Sergeant Kettle why the views of Warwickshire Police regarding off licence sales did not apply to Sainsbury's and queried the similarity between this quiet area and the Market Square in Warwick. Sergeant Kettle explained that a takeaway outlet selling alcohol was very different to someone buying alcohol with their weekly shop. He also reiterated that there were no assurances in the operating schedule, nor policies or procedures detailed that satisfied the Police that the applicant would be able to control anti-social behaviour or underage drinking.

Mr Hothi summed up the application and advised that a lot of money had been spent on the business in the past 18 months but it was not profitable. He stated that they had been unable to sell the business so had to introduce a new form of business instead. He explained that other takeaway outlets in Birmingham sold alcohol with their home deliveries and it worked for them. He reiterated that he did not feel this would increase their walk in trade but would boost their home delivery turnover.

At 10.41 am the Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the application to vary the Premises Licence for Castle Kebabs, 46b Saltisford, Warwick be refused for the reasons listed below:

Having considered the representations from the applicant and the Police, it is the view of the Panel that, if granted, the licence would impact upon the licensing objectives of Crime & Disorder and Public Nuisance.

The Panel believe that, if granted, the licence would result in an increase in footfall to the area from people leaving the nearby public houses to purchase alcohol from the licensed premises in order to continue drinking. The Panel are concerned that this additional footfall will result in an increase in noise from people who purchase alcohol and congregate on the street to consume the same. This would, in the Panel's view, result in an increase in noise and disturbance to local residents.

The Panel are also concerned that persons who are already under the influence of alcohol will congregate on the street whilst drinking alcohol they have purchased and that this is likely to result in an increase of anti-social behaviour. The Panel note that the applicant has stated that they will not serve customers who are visibly intoxicated, however, the Panel are concerned that there is nothing in the applicant's operating schedule stating how they will deal with intoxicated customers or what steps they would take to remove such customers from the premises.

The Panel also noted the Police's comments that the licensed premises are located in a quiet, residential area which does not have the benefit of on street CCTV which you would find in a town centre area.

The Panel understand that the premise is located in an area which is subject to a Designated Public Places Order (DPPO) which prohibits the consumption of alcohol in a public place. It is the Panel's view that, if granted, the licence would result in persons drinking alcohol in the street in breach of the DPPO.

Finally, the Panel are concerned that there is very little within the applicant's operating schedule which states how the applicant will ensure that there is no impact on the licensing objectives. Further, the Panel are not satisfied that the applicant has demonstrated during the hearing that he will take sufficient steps to prevent any impact on the licensing objectives of Crime & Disorder and Public Nuisance if the licence is granted.

At 11.20 am all parties were invited back into the room, at which time the Council's solicitor read out the Panel's decision.

All parties were advised that they had the right to appeal the decision within 21 days of the formal decision being published.

(The meeting ended at 11.25 am)