

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Wednesday 21 August 2013, at the Town Hall, Royal Leamington Spa at 2.00 pm.

PANEL MEMBERS: Councillors De-Lara-Bond, Heath and Wreford-Bush

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

1. APPOINTMENT OF CHAIR

RESOLVED that Councillor De-Lara-Bond be appointed as Chair for the hearing.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. APPLICATION FOR THE GRANT OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR VENICE PIZZA, 8 SPENCER STREET, ROYAL LEAMINGTON SPA

A report from Health and Community Protection was submitted which sought a decision on an application for a new premises licence from Mr Shaeraz Makhmoor for Venice Pizza, 8 Spencer Street, Royal Leamington Spa.

The Chair introduced herself, other members of the Panel and officers, and asked the other parties to introduce themselves.

Mr Makhmoor, the applicant was in attendance, accompanied by a friend, Mr Singh. Sergeant Paul Calver was in attendance on behalf of the Police, along with his colleague Sergeant Dave Kittle (observing), Peter Lawson attended on behalf of Environmental Health and Suzanne Johnson on behalf of the Council's Food Safety Team.

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 premises licence should be approved.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The report from Community Protection advised that the applicant had applied for permission to authorise the following:

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Late Night Refreshment (outdoors only)
Everyday from 23:00 to 04:00
The premises will be used as a fast food takeaway

Opening Hours
Everyday from 11:00 to 04:00

An operating schedule had been submitted with the variation application, which would form part of any premises licence issued:

General

To serve the local community.

The prevention of crime and disorder

On a Friday and Saturday night I will have door staff on duty from midnight to 4am.

Public safety

CCTV

Will have regular contact with the local safer neighbourhood team.

The prevention of public nuisance

We will pick up any litter outside the shop dropped by our customers.

The protection of children from harm

Ensure that they are where appropriate arrangement by an adult.
The Council's Licensing Policy Statement provided that the Authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

Mr Makhmoor addressed the Panel and explained that he needed later opening hours to bring in more business because it was hard to survive on the profits made from the present limited hours. He explained that the premises was currently open until 11.00pm but many of the nearby eating establishments had much later opening hours.

Mr Makhmoor outlined his operating schedule and added that he had applied to become a member of the radio link scheme. He also advised that he would employ door staff from 11.30 pm until the premises closed.

Following a question from the Panel, the applicant agreed that he would be willing to accept an earlier closing time than 4am and he handed out paperwork detailing nearby premises, along with their opening hours.

Sergeant Calver addressed the Panel on behalf of the Police, and outlined their objection. He stated that any extension in hours would add to the demands on Police time and explained the problems experienced with anti-social behaviour in the Cumulative Impact Zone. Sergeant Calver highlighted the maps included within the report which showed the hot spots for anti social behaviour, as per the Police reporting systems.

LICENSING PANEL HEARING MINUTES (Continued)

In addition to the above, Sergeant Calver did not feel that the applicant had sufficiently demonstrated how his extended opening hours would not impact on the licensing objectives.

Senior Environmental Health Officer, Peter Lawson, addressed the Panel with their objection on the grounds of public nuisance. He stated that there would be an increase in noise on the streets which would disrupt local residents. He requested that if the Panel were minded to grant, it would limit the opening hours to midnight, Monday to Saturday.

Suzanne Johnson from the Council's food safety team addressed the Panel with their objection on the grounds of food safety. She advised that Mr Makhmoor had previously been prosecuted for non-compliance of food hygiene regulations, whilst trading at a previous premises, Sicilian Pizza. The food safety team did not feel that the applicant would adhere to any conditions placed upon any licence granted.

The Legal officer advised that food safety was relevant to the licensing objective of public safety, however, the officers confirmed that no issues had been raised with regards to the new premises. Ms Johnson advised that pre-arranged visits had been undertaken at Venice Pizza and all food hygiene issues appeared to be in order at present.

In response to a question from the Panel, Mr Makhmoor advised that he and his staff had undertaken food hygiene certificates at either Warwickshire or Henley colleges.

Mr Makhmoor was then asked to sum up his application and he explained that he would just ask the Panel to make the best decision they could.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room at 2.50 pm to enable the Panel to deliberate and reach its decision.

All parties were invited back into the room and advised of the Panel's decision as follows:

The Panel had listened to the representations from the applicant, the Police and Environmental Health.

The Panel noted that the premises were located within the cumulative impact zone and that therefore the burden of proof was on the applicant to demonstrate that the grant of the licence would not impact upon the four licensing objectives.

The Panel had considered the evidence provided by the Police regarding the hotspots for anti social behaviour within the town centre and noted that the vicinity within which the licensed premises was located fell within one of the main hotspots for anti social behaviour.

The Panel had also heard evidence from Environmental Health that the granting of the licence was likely to result in an increase in noise nuisance within the area.

LICENSING PANEL HEARING MINUTES (Continued)

The Panel did not however believe that the licence, if granted, would result in additional people being attracted to the area and result in additional footfall.

The Panel heard from the applicant that he was willing to provide CCTV and employ door staff from 11.30pm until close. The Panel also heard from the applicant that he was willing to join the radio link scheme.

Whilst the Panel was not satisfied that the applicant had demonstrated that the grant of the licence to 4am would not impact upon the licensing objectives, it noted that the applicant had offered to reduce the hours to 12 midnight, Sunday to Thursday and to 2am Friday to Saturday. The Panel felt that the grant of the licence to these times would not add significantly to the Cumulative Impact in light of the licensing objectives.

In coming to this decision, the Panel had considered that the likely time that there would be a high concentration of people in the vicinity was between the hours of 2am and 4am when people left nearby licensed premises. By restricting the opening hours until 2am this would avoid any additional impact in respect of crime and disorder or public nuisance during these times.

The Panel had heard concerns from the food safety team in relation to the applicant's ability to adhere to the required hygiene standards whilst managing the premises. The Panel however noted that pre-arranged inspections had taken place, which did not identify any problems. The Panel were also aware of the powers available to the food safety team should any problems arise.

Therefore, the Panel

RESOLVED to GRANT the premises licence for the following hours and subject to the following conditions:

Sunday to Thursday – 11.00pm to 12.00pm
(midnight)

Friday and Saturday – 11.00pm to 2.00am

The conditions are:

- the applicant will install and maintain CCTV to the satisfaction of Warwickshire Police
- the applicant will employ SIA registered door staff from 11.30pm until close on Friday and Saturday
- the applicant will join and will remain a member of the retail radio link scheme.
- the applicant will display a sign within the premises requesting that patrons leave the premises quietly.

All parties were reminded of their right to appeal the Panel's decision to the Magistrates Court within 21 days of formal notice of the decision.

LICENSING PANEL HEARING MINUTES (Continued)

(The meeting finished at 3.55 pm)