

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Monday 20 August 2012, at the Town Hall, Royal Leamington Spa at 10.00 am.

PANEL MEMBERS: Councillors Mrs Bunker, Illingworth and Mrs Mellor.

ALSO PRESENT: David Davies (Licensing Services Manager), Amy Carnall (Committee Services Officer) and Max Howarth (Council's Solicitor).

1. APPOINTMENT OF CHAIR

RESOLVED that Councillor Mrs Bunker be appointed as Chair for the hearing.

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

Mr Yourdkhan introduced himself as the applicant for the licence, Sergeant Calver attended as a representative of Warwickshire Police and Mr Lawson, Environmental Health Officer for the District Council.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. APPLICATION FOR A PREMISES LICENCE ISSUED UNDER THE LICENSING ACT 2003 TUSCANOS, 25 BATH STREET, ROYAL LEAMINGTON SPA

The Council's Solicitor ran through the procedure which the hearing would follow.

A report from Community Protection was submitted which sought a decision on an application for Tuscanos, 25 Bath Street, Royal Leamington Spa.

The Licensing Services Manager 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 the Panel that an application had been received from Mr Yourdkhan in July 2012 requesting the following:

Late Night Refreshment

Monday to Thursday 23:00 to 02:00

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Friday to Sunday 23:00 to 05:00

Opening Hours

Monday to Thursday 12:00 to 02:00

Friday to Sunday 12:00 to 05:00

Mr Davies advised that there was an operating schedule attached to the report which would form part of any licence issued. In addition, he advised the Panel that the premise was located in the Cumulative Impact Zone.

The premises currently held a licence which permitted late night refreshment to midnight, Sunday to Thursday and until 2.00am on Fridays and Saturdays.

Following receipt of the application, two objections had been received from the Police and Environmental Health.

The Police had concerns that the premises were located in the Cumulative Impact Zone and granting the licence would cause further saturation of the area.

The Environmental Health Officer supported the Police's concerns with regard to the location of the premises and felt that the extended hours could give rise to local residents experiencing disturbance from noise on the street.

The Chairman asked Mr Yourdkhan to outline his application and explain the reasons for requesting the extended hours. Mr Yourdkhan stated that he needed to extend the opening hours of the restaurant due to competition from surrounding businesses. He felt that many nearby take-aways were open until 5am or 6am, especially at the weekend. He advised that his businesses had suffered from a drop in profits over recent years.

In response, Mr Davies advised that the only premise with a late licence in Royal Leamington Spa was Vialli's, whose opening hours were until 4am and 4.30am.

The Council's Solicitor asked Mr Yourdkhan if he would like to make any comments about the objections that had been received. Mr Yourdkhan stated that he had not had any problems with the Police over the past two years and advised that the flat above the restaurant was usually empty. He assured the Panel that if his customers were noisy, he would ask them to leave. He had had no complaints from his neighbours and would do his best to ensure that noise was kept to a minimum.

In response to questions from the Panel, Mr Yourdkhan felt that his regular customers would still come to him and hoped the extension of hours would make a difference to his profits.

Sergeant Calver addressed the Panel on behalf of Warwickshire Police and reiterated the issues relating to this property being located in the Cumulative Impact Zone. He felt that this area of Royal Leamington Spa was already saturated with five premises open late in Bath Street and

LICENSING PANEL HEARING MINUTES (Continued)

surrounding streets. He advised that if a licence was permitted to 5am, it would theoretically make this premise open 24 hours a day. The Police were also concerned that the applicant had failed to address how he planned to tackle Crime and Disorder in his application.

There was some discussion between the Panel about the busier nights of the week and the high level of student accommodation in the area of south town. Queries were raised regarding other nearby premises but Members were mindful that it was the applicant's responsibility to prove that this application would not have a detrimental impact on the area.

The Senior Environmental Services Officer, Peter Lawson, addressed the Panel and outlined his objection. He reiterated the location of the premises in the Cumulative Impact Zone and the number of residential properties nearby and along people's route home.

He felt that an increase in the operating hours would result in an increase of noise on the street as people congregated or made their way home. He admitted that there were no reported incidences of noise problems from within the premises, but reminded Members that there could be an incremental increase of street noise if businesses were continually allowed to extend their hours and as development grew in the area.

In response, Mr Yourdkhan advised that there was no facility for parking around his shop and felt that Mr Lawson's comments applied to an existing volume of people who would not be affected by his licence being extended.

Officers advised that the Statement of Licensing Policy, attached to the report, was incomplete. Therefore, having taken legal advice, the Chairman agreed to take a short break to allow the applicant to read the complete set of papers.

Mr Yourdkhan made reference to the existence of two CCTV cameras nearby and was prepared to add an extra camera behind his door, if the Panel wished. He also reminded Members that this was a through road so individuals were unlikely to congregate outside his restaurant.

Sergeant Calver explained that the Council did operate CCTV cameras in the area but these had a 360 degree rotation and covered four roads each. These cameras would be directed to specific areas of disorder if and when instructed by the Police.

The applicant was then given the opportunity to summarise his application. He thanked the Panel for considering his request and advised that he would be happy to reduce the proposed hours to 04.00am. He stated that this was a matter of survival for his business, which had existed for eight years but was now struggling due to the state of the economy. He finished by confirming that he would be happy to install a CCTV camera inside the restaurant and felt that he had the experience to keep noise and trouble to a minimum.

The applicant, interested parties and the Licensing Services Manager were asked to leave the room whilst the Panel deliberated its decision.

LICENSING PANEL HEARING MINUTES (Continued)

At 11:25 all parties were invited back in and advised of the Panel's decision.

The Panel had considered the application and the representations made by the applicant and the representations made by the responsible authorities.

Members were not satisfied that the applicant had demonstrated that the extension of the licensable hours beyond 2am, Friday to Saturday, would not impact on the licensing objectives of Crime and Disorder and Public Nuisance.

The Panel had listened to the representations made by the Police and Environmental Health regarding the impact of the variation in an area where there were already a number of licensed premises open between 2am and 4.30 am in the morning, and had also taken into account the impact upon residents of Bath Street.

It was the Panel's view that an extension of the licensable hours to 2am Monday to Sunday would not add significantly to the Cumulative Impact Zone because it believed that a variation would not result in an increase of people to the area, and that the premise was likely to attract people who would be passing through Bath Street on their route home, in any event.

It was on this basis that the Panel,

RESOLVED to

- (1) extend the licensable hours to 2am Monday to Sunday subject to the conditions contained in the applicant's Operating Schedule; and
- (2) an additional condition be added ensuring the applicant displays signage inside the premises asking customers to leave quietly.

(The meeting finished at 11.30 am)