

Minutes of the Licensing Sub-Committee 3

Tuesday 2nd May, 2017 at 11.30 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor M Evans (Chair)
Councillors K Finch and E Taylor

Officers:-

R Clark (Principal Solicitor – Chief Executive’s Directorate), B Hughes (Assistant Team Manager - Licensing and Enforcement – Place Directorate) and K Griffiths (Democratic Services Officer – Chief Executive’s Directorate)

29 **Apologies for Absence**

Apologies for absence from the meeting were received on behalf of Councillors J Cowell and S Mughal.

30 **Appointment of Substitute Members**

It was reported that Councillors K Finch and E Taylor had been appointed as substitute Members for Councillors J Cowell and S Mughal, respectively, for this meeting of the Sub-Committee only.

31 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members’ Code of Conduct.

32 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 1st November, 2016, be approved as a correct record and signed.

Application to Vary a Premises Licence – Tesco Express, Dudley Road, Halesowen

A report of the Strategic Director Place was submitted on an application to vary a premises licence in respect of Tesco Express, Dudley Road, Halesowen.

The following persons attended the meeting in respect of the application:-

Mr J Bark - Berwin Leighton Paisner LLP
Ms H Purewal – Licensing Manager
Mr P Kishore – Store Manager

The Assistant Team Manager – Licensing and Enforcement, presented the report on behalf of the Council. It was noted that an objection had been received from a Ward Councillor, which had been circulated to all parties prior to the hearing.

Mr Bark then presented the case on behalf of Tesco Stores Ltd, and in doing so indicated that the purpose for requesting the removal of Good Friday and Christmas Day restrictions on the current licence was to allow flexibility in terms of operating hours on those particular days which would prevent Tesco Stores Ltd having to apply for temporary event notices. In referring to the request to extend the licensing hours for the sale of alcohol, Mr Bark indicated that this was to coincide with their current opening hours.

Mr Bark provided statistical information in relation to the sale of all products that were available at the premises, indicating that alcohol sales only represented a minor percentage of overall sales and he did not anticipate that the sale of alcohol would be significant between the extended hours applied for. In referring to the representations received from a local councillor, Mr Bark emphasised that Tesco Stores Ltd had attempted to engage with the Councillor with a view to discussing and resolving the issues raised, however, the attempts had proved unsuccessful. He stated that the Company had a “good neighbour” policy which ensured that the premises played an active part in the local community and encouraged customers to approach the management team in the first instance should they have any concerns.

Mr Bark indicated that the store had a very good reputation and was currently being operated successfully and in line with the licensing objectives, which was evident by the fact that objections had not been received from any responsible authority and that no history of complaints or concerns had been raised or received.

Mr Bark referred to a number of facilities the store operated to promote the four licensing objectives, particularly the operation of a sophisticated Think 25 policy, which was linked and programmed to all till systems and which produced an on-screen identification alert when any age restricted product was scanned. This would automatically freeze the checkout operation and require the sales assistant to either request proof of age identification if the customer appeared to look under the age of 25 or press an onscreen button accepting that the customer appeared over the age of 25 prior to finalising the sale. Tesco policy was always to refuse where any concerns were highlighted and that staff were reassured that the management team would always support a member of staff on refusal. He further indicated that comprehensive training was provided to all staff in relation to the underlying law, Tesco policy and all systems and procedures, which were documented and repeated as often as Tesco believed appropriate.

In concluding, Mr Bark referred to particular sections of the Licensing Policy and emphasised that no objections had been received from any other authorities.

In responding to a question from a Member of the Committee, Mr Bark confirmed that the request to remove restrictions on Good Friday and Christmas Day was primarily in connection with operating hours on Good Friday, however, Tesco wished to obtain the flexibility of allowing the store to open on Christmas Day. It was confirmed that although the store was currently entitled to operate on Christmas Day, with the exception of selling alcohol, the store remained closed.

The parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee, having made their decision, invited the parties to return and the Chair outlined the decision together with the reasons for the decision.

Resolved

That the application to vary a premises licence in respect of Tesco Express, Dudley Road, Halesowen, be approved, as follows:-

Supply of Alcohol

Monday to Sunday 06.00 – 23.00

The nature of the application is to extend the permitted hours of the store and to remove the embedded restrictions inherited from the Licensing Act 1964 relating to permitted hours i.e. Good Friday and Christmas Day.

Reasons for the Decision

This is an application by Tesco, Halesowen, who seek to extend the hours for the sale of alcohol to coincide with their opening hours, from 6.00am and 11.00pm seven days a week. Previous licensing hours commenced at 8am or 10am on a Sunday.

The application was made on 9th March 2017 and there has been one representation objecting to this from a local elected member.

The applicant is represented today by Mr. Bark BLP with the store manager and a licensing manager.

The application was presented as a “tidying up” exercise in terms of old licensing conditions and hours. There are about 80 alcohol products in store and these represent about 9% of sales, mainly sales related to other products also. The applicant did not anticipate that sales of alcohol between 6.00am and 8.00am would be very significant at all. The store has a Think 25 policy and a till prompt system, and they have an identification production policy. This is backed up by a comprehensive training policy for all staff.

A Ward Councillor made a representation that the proposed hours were excessive and that there were other stores selling alcohol in the area. However, “need” is not an issue for the Sub-Committee, and the Sub-Committee notes that the Police and Trading Standards have not made any representations in relation to the application.

The Sub-Committee was satisfied that the alcohol licence was being, and would be, run in accordance with the licensing objectives and according to the hours sought in the application. The Sub-Committee therefore grants the application.

34

Application for the Grant of a New Premises Licence – Bar Diva, Lower Ground Floor, Plaza Mall, King Street, Dudley

A report of the Strategic Director Place was submitted on an application for the grant of a New Premises Licence in respect of Bar Diva, Lower Ground Floor, Plaza Mall, King Street, Dudley.

The following persons attended the meeting in respect of the application:-

Ms K Turley – West Midlands Police
Representative of West Midlands Police
Mr N Aston-Baugh – West Midlands Fire Service
Mr C Marson – Applicant

The Assistant Team Manager – Licensing and Enforcement, presented the report on behalf of the Council.

Ms Turley confirmed that following mediation, the applicant had agreed to additional conditions and the reduction of hours, as set out in the report submitted.

Mr Aston-Baugh referred to recent works carried out at the premises following submissions from the West Midlands Fire Service based on advice given by a fire consultation during the original fire and health and safety assessment of the premises. He indicated that he had visited the establishment on the morning prior the hearing and confirmed that all required works had been carried out to the specification of the West Midlands Fire Service and stated that the Fire Service was now satisfied that the premises were safe and fit for purpose based on a maximum capacity of 260 persons.

Mr Marson referred to the deprived state of Dudley Town Centre, the number of shops being closed down and the lack of late night entertainment in the area. He acknowledged the historic issues associated with the premises, however, indicated that he had a positive working relationship with all responsible authorities and had carried out all necessary work and assessments to ensure the venue was safe and fit for purpose. He stated that in the interests of all parties, the positive working arrangements would continue and considered that the venue would be an asset to Dudley Town Centre.

Mr Marson indicated that there was no direct competition with other establishments in the town centre as all venues offered different facilities.

Concerns were raised in relation to the historical problems associated with the venue and Members queried what measures/controls Mr Marson had put in place to prevent reoccurrences. In responding, Mr Marson indicated that the safety and security of his staff and the general public was paramount and extensive training programmes, together with first aid and a number of other courses in hospitality trade were undertaken. He referred to a number of other safety controls that would be operated at the premises, including SIA registered door staff, who would all use body cameras and the use of optional breathalysers to prevent customers gaining entry if they appeared intoxicated.

Reference was also made to the operation of the latest Scannet ID technology, a facility that scanned customer faces on arrival and provided the opportunity to include information on customers following any incidents, removals or bans. All information included within the technology would be shared and viewed by all UK venues using the same facility. Confirmation of the location and number of CCTV cameras was provided during the meeting, together with the possibility of the re-instatement of Dudley Pub Watch.

Confirmation of the opening hours were given and it was also confirmed that the maximum capacity to ensure public safety and in line with fire regulations was 260 persons.

The parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee, having made their decision, invited the parties to return and the Chair then outlined the decision and the reasons for the decision.

Resolved

That the grant of a new premises licence in respect of Bar Diva, Lower Ground Floor, Plaza Mall, King Street, Dudley be approved in the following terms: -

Opening Hours

| | |
|--------------------------------|---------------|
| Thursday to Saturday inclusive | 21.00 – 03.00 |
| Monday | 21.00 – 03.00 |
| Sunday | 21.00 – 02.30 |

Live Music

| | |
|--------------------------------|---------------|
| Thursday to Saturday inclusive | 21.00 – 02.30 |
| Monday | 21.00 – 02.30 |
| Sunday | 21.00 – 02.00 |

Recorded Music

| | |
|--------------------------------|---------------|
| Thursday to Saturday inclusive | 21.00 – 03.00 |
| Monday | 21.00 – 03.00 |
| Sunday | 21.00 – 02.00 |

Sale of Alcohol

| | |
|--------------------------------|---------------|
| Thursday to Saturday inclusive | 21.00 – 02.00 |
| Monday | 21.00 – 02.00 |
| Sunday | 21.00 – 01.30 |

Additional Conditions

- (1) SIA registered door staff, including 1 female member of door staff shall be provided on those days when recorded or live music is being provided as entertainment, between opening and the end of licensed hours. All door staff must be clearly identifiable as door staff, with a Security Industry Authority (SIA) number visible.
- (2) The premises shall maintain a record of full details of all door staff on duty at the premises, including SIA number and the signature of door staff upon start and finish of duty, countersigned by the Designated Premises Supervisor.
- (3) All customers entering the premises when door staff are in place shall be subject to a bag and body search.
- (4) Strictly no entry to the premises at any time to anyone under the age of 18 years old.
- (5) Internal and external CCTV to be installed at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police. All images are to be recorded and retained for a minimum of 28 days and made available to any responsible authority upon request.
- (6) A last entry policy of 00.00hrs into the premises.
- (7) The use of breathalysers if a customer appears intoxicated.

The applicant has also agreed to the removal of the following statement from the Licensing Objective – The prevention of public nuisance “Working closely with a local taxi company who operate across the road (Triple 20)”

Reasons for the Decision

This is an application for the grant of a new premises license in respect of a premises known as Bar Diva Dudley. Mr. Chris Marson attended to make the application and he will be the DPS.

The application was made on 10th March 2017. The application, now modified through mediation, is for the sale of alcohol 9.00pm to 2.00am Thursday to Saturday, Monday 9.00pm to 2.00am and Sundays 9.00pm to 1.30am. Live music is sought to 2.30am and 2.00am on a Sunday, and recorded music to 3.00am and 2.00am on a Sunday. The Police were now satisfied with the hours and conditions which are set out within the Sub-Committee report and agreed by the applicant to form part of the premises license.

Mr Aston-Baugh attended on behalf of the Fire Service. He had submitted a representation, and subsequently visited the premises today, and inspected recent works carried out further to advice by a fire consultant. The Fire Service is now satisfied that the premises are safe and fit and the licensing objective of public safety is promoted. The maximum capacity for fire safety purposes would be 260 persons.

The premises opening hours are 9.00pm to 3.00am Thursday to Saturday and Monday, and 9.00pm to 2.30am on a Sunday.

On the basis that the representations from both Police and the Fire Service have now been withdrawn as a result of discussion, fire improvement work and agreed conditions, the Sub-Committee is satisfied that the licensing objectives will be upheld by the operating schedule for the premises, and grants the licence. The conditions set out in the Sub-Committee report will form part of the operating schedule.

The meeting ended at 12.20 pm

CHAIR