

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 7 May 2019

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 10.00 - 10.55 am

Members Present: R Morgan (Chairman), P Keska, L Mead and J M Whitehouse

Other Councillors: None.

Apologies: None.

Officers Present: L Cole (Legal Services Officer), D Houghton (Licensing Compliance Officer), H Ibrahim (Licensing Compliance Officer) and V Messenger (Democratic Services Officer)

55. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Member's Code of Conduct.

56. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business.

57. NEW PREMISES LICENCE APPLICATION - WOOD STOCK ORGANIC FOOD STORE, 229 HIGH ROAD, LOUGHTON, ESSEX IG10 1AD

The three Councillors that presided over this item were Councillors R Morgan (Chairman), P Keska and L Mead. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee.

In attendance on behalf of the application were Mr N Timur, the applicant, Mr K Timur, the Designated Premises Supervisor, Mr A Newman of Andy Newman Consultancy Ltd, and Mr A Dilegelen.

Mr A Kite, an objector to the premises licence, was also in attendance.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, H Ibrahim, introduced the application for a new premises licence for Wood Stock Organic Food Store at 229 High Road, Loughton IG10 1AD. The application had been made by Rossi Café Limited and was received on 8 March 2019.

The application for a new premises licence was to include the following:

- Sale of alcohol - Monday to Sunday 09:00 to 22:00, and
- Opening hours of the premises - Monday to Sunday 07:00 to 23:00.

The Operating Schedule, published in the agenda, set out the conditions that would be attached to the licence if this application was granted.

All responsible authorities had been notified. The application had been advertised at the premises and in a local newspaper. All residences and businesses within 150 metres radius of the premises had been individually consulted.

The authority had received one representation from Loughton Town Council and three representations from local residents. Responses had been received from the Police, Child Protection, Trading Standards and the Council's Environment and Neighbourhoods Team, who had no objections. However, the Police had agreed conditions with the applicant. The objections related to the prevention of public nuisance, crime and disorder, the protection of children from harm and public safety.

When considering an application for a licence the Licensing Authority must have regard to steps that were appropriate to promote of the licensing objectives. These were:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

In determining this application, the Sub-Committee could take any of the following steps as it considered necessary for the promotion of the licensing objectives, namely:

- (a) to grant the licence as applied for subject to:
 - the conditions mentioned in the Operating Schedule modified as the Sub-Committee considered necessary for the promotion of the licensing objectives; and
 - The mandatory conditions specified in the Licensing Act 2003, or
- (b) to exclude from the scope of the licence any licensable activities to which the application related, or
- (c) refuse to specify a person as the premises supervisor, or
- (d) reject the application.

(b) Presentation of the Applicant's Case

Mr A Newman advised that the new application was for on and off sales of alcohol between Monday to Sunday 09:00 to 22:00, and the opening hours of the premises were from Monday to Sunday 07:00 to 23:00. The applicant, Mr N Timur, had two other eating establishments in Loughton - Molens for about 16 years and more recently Zest Salad Bar. Health conscious customers from Zest had suggested the need for an organic food bar, hence this application. There had been no issue with the other premises.

Wood Stock Organic Food Store would be located at 229 High Road, which was next door to The Last Post. The public house, owned by J D Wetherspoon, had longer opening times and licensed hours. This new application was for a high end organic food and drinks establishment and therefore, different to The Last Post. It was an innovative initiative that promoted the aims of the Licensing Act 2003 under Section 182 Guidance.

The applicant's agent distributed images showing the previous shop, Halfords, and the proposed design and shopfront of the establishment.

(c) Questions for the Applicant from the Sub-Committee

Councillor P Keska asked if there would be a designated smoking area. The applicant replied that as the internal layout would only have the capacity for 12 seats, there would not be a smoking area, and smoking would be discouraged as this was for an organic food store.

Councillor P Keska asked if the establishment was open and trading already, to which the reply was, no.

Councillor L Mead asked if customers would have access to the outside garden space at the back of the premises. The applicant replied yes, as this would be the emergency access only. There would also be storage and a bin area at the rear.

The Chairman, Councillor R Morgan, asked when the applicant intended to open Wood Stock, to which the applicant replied in about six weeks.

(d) Questions for the Applicant from the Objector

Mr A Kite said that Wetherspoon's had planning restrictions to control the outside area. He would be concerned that if there was an outside area for the public, similar restrictions might need to be sought. Mr A Newman accepted this concern but The Last Post was well managed and the hours being applied for were very measured hours.

(e) Presentation of the Objector

Mr A Kite had lived in the road behind the premises for fifteen years. There were residents that also lived in the flats above the shops. Therefore, there were people living in close proximity to this premises. From previous experience, when residents had not objected to a licensing application a nice establishment had often become noisier. There had never been any noise or problems with Halfords as the retail outlet closed most days at 18.00, although Halfords staff had erected orange tents in the back area. He was not convinced of the need or demand for another café and outside eating area, although the customer base would be a healthy one. It was not proven what impact another eating establishment would have on neighbouring residents. His back garden surrounded the rear area behind the shop and could become noisy, and consumption of alcohol would be an aspect of that noise. Also what times would deliveries be made? There was already another organic food store / café further along the High Road on the corner with Brooklyn Avenue.

He was concerned that once a licence had been granted, the establishment might want to expand as had happened at Molens, where the restaurant had expanded and into the rear garden space. As a company, it seemed to make premises alterations first and then seek planning permission retrospectively. Therefore, his concern was related to trust and the need to build on this with the applicant and whether this licensing application also included the areas in front of the shop and to the rear.

(f) Questions for the Objector from the Sub-Committee

The Chairman said the Licensing Sub-Committee was only dealing with what was in this application for a new premises licence today. He was not sure if you could buy organic wine / alcohol elsewhere in the High Road shops.

Councillor L Mead asked how close the objector lived to the rear of Halfords, to which Mr A Kite replied that he backed straight onto the shop and surrounded the rear space on two sides.

(g) Questions for the Objector from the Applicant

Mr A Newman asked that when Mr Kite referred to 'we' in his representation, was he referring to other residents or himself? Mr A Kite replied that he had been in contact with the other neighbour objectors and that if the hours applied for were moderated, residents would be more happy, as they were concerned about late night drinking and associated noise.

Mr A Newman said that the hours the applicant was applying for were moderate. How could the applicant justify this further when there were three public houses and other food premises in the High Road that closed later, and how would this establishment cause any problems if it was closing earlier? Mr Kite replied that the premises used to be a shop before, but why did the applicant want all the hours applied for?

(h) Closing Statement from the Objector

Mr A Kite said that he appreciated this was a very positive venue but was concerned about the noise impact to neighbouring houses and residents.

(i) Closing Statement from the Applicant

Mr A Newman re-emphasised that this would be a unique venue with moderate hours compared to Wetherspoons and that there had been no objections from other statutory consultees.

(j) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would withdraw from the Council Chamber to consider the application in private.

During their deliberations the Sub-Committee received further advice from the Officer's present that the application excluded the garden area.

RESOLVED:

That the decision of the Sub-Committee was that the application for a premises licence in respect of Wood Stock Organic Food Store be granted, subject to the following conditions, which the Council considered were reasonable, proportionate and in the public interest for the promotion of the licensing objectives.

- (1) The mandatory conditions contained in Sections 19-21 of the Licensing Act 2003;
- (2) The sale of alcohol to be from Monday to Sunday 09:00 to 22:00;
- (3) The opening hours of the premises to be from Monday to Sunday 07:00 to 23:00; and
- (4) The conditions consistent with the Operating Schedule as modified by the conditions which had previously been agreed between the applicant and the conditions agreed between the applicant and the Police, as detailed below.

Prevention of Crime and Disorder

1. The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system which at all times complies with the below requirements:
 - i. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
 - ii. CCTV cameras shall cover all public areas including all entrances and exits and all areas where the sale of alcohol takes place;
 - iii. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of 31 days;
 - iv. At all times, whilst the premises is open for licensable activities, there are members of staff able to immediately provide viewable copies of recordings to the police or licensing authority staff upon reasonable request;
 - v. The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with;
 - vi. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant: in the event of any failure this will be recorded immediately.
2. Signs must be displayed at all entrances and exits advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities.
3. No alcohol may be supplied by an individual unless that individual has the written consent of the Designated Premises Supervisor or other employed Personal Licence Holder. A written record of this consent must be retained on the premises at all times when such an individual supplies or proposes to supply alcohol and be made available immediately upon reasonable request of the Police or Licensing Authority.

Prevention of Public Nuisance

4. In addition to water, other non-alcoholic beverages shall be available at all times whilst alcohol sale or supply takes place.
5. Customers will not be permitted to remove from the premises any drinks supplied by the premises in open containers.
6. The sale of alcohol for consumption ON the premises must only be to customers seated at a table; and ancillary to a substantial table meal.

Public Safety

7. The premises shall comply with the Portman Group's Retailer Alert Bulletins (RABs) as they relate to Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

Protection of Children from Harm

8. A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement **and** is either a:
 - Proof of age card bearing the PASS Hologram;
 - Photocard driving licence;

- Passport; or
 - Ministry of Defence Identity Card.
9. The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.
 10. A refusals record shall be maintained at the premises which details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request. The refusals record shall either be electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.
 11. All staff employed in licensed areas of the premises shall have received training in the recognition of child sexual exploitation and the steps to be taken when such activity is suspected. Refresher training shall be carried out at least annually. Written training records shall be kept on the premises for a minimum of 12 months and made immediately available to police or licensing authority staff upon request.

It was noted that if any party was aggrieved with the decision they could appeal to Magistrates Court. The appeal period was 21 days from notification of the decision.

58. VARIATION OF EXISTING PREMISES LICENCE - TURQUOISE KITCHEN, 280-282 HIGH ROAD, LOUGHTON, ESSEX IG10 1RB

The Sub-Committee noted that this application had been withdrawn after the publication of the agenda for the meeting and would not be determined.

CHAIRMAN