

LICENSING SUB COMMITTEE

Minutes of a meeting of the Licensing Sub Committee held in the Council Chamber, Russell House, Rhyl on Monday, 30 January 2017 at 10.30 am.

PRESENT

Councillors Bill Cowie, Barry Mellor and Cefyn Williams

ALSO PRESENT

Solicitor (AL), Licensing Officer (JT), Public Protection Business Manager (IM) and Committee Administrator (KEJ)

1 APPOINTMENT OF CHAIR

Councillor Cefyn Williams was appointed Chair for the meeting.

The Chair welcomed all parties to the meeting and all present were introduced. The hearing procedures had been circulated previously to all parties and copies of the Statement of Licensing Policy were made available at the meeting.

2 DECLARATION OF INTERESTS

No declarations of interest were raised.

3 LICENSING ACT 2003: YUMMY PERI PERI CHICKEN, 36 WELLINGTON ROAD, RHYL

A report by the Head of Planning and Public Protection was submitted (previously circulated) upon –

- (i) an application having been received from Mr. Nallaiah Mahendramoorthy for a new Premises Licence in respect of Yummy Peri Peri Chicken, 36 Wellington Road, Rhyl;
- (ii) the Applicant having requested authorisation to provide Late Night Refreshment as follows –

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIMES
Late Night Refreshment	Thursday – Sunday Bank Holidays & Christmas Eve	23.00 – 03:00 23.00 – 03:00
Hours Premises are open to the public	Thursday – Sunday Bank Holidays & Christmas Eve	23.00 – 03:00 23.00 – 03:00

(the provision of hot food and drink only became a licensable activity between 23.00 hrs and 05.00 hrs);

- (iii) the Council's Pollution Control Section having submitted representations (Appendix A to the report) raising concerns relating to both the premises close proximity to residential properties and an existing planning condition which did not permit use of the extraction equipment after 23.00 hrs (22.00 hrs on Sundays), and proposed a number of conditions to be imposed should the licence be granted to assist in the prevention of public nuisance;
- (iv) two written representations (Appendix B to the report) having been received from interested parties relating to possible disturbance from noise;
- (v) the Applicant had offered to modify the application to reduce late-night opening days and times to **Friday and Saturday only until 01.00 a.m.**; the Applicant having also mentioned that there were other late-night establishments in the vicinity which remained open up to 02.00 a.m., including a public house next door that remained open until 12 midnight;
- (vi) the proposed Operating Schedule (Appendix C to the report);
- (vii) planning officers having advised that whilst there were no restrictions on the general operating hours of the premises, there was an existing planning condition limiting the use of the extraction equipment to between 10.00 hrs and 23.00 hrs Monday to Saturday and 10.00 hrs and 22.00 hrs on Sundays;
- (viii) the Applicant having been made aware of the planning conditions and had taken steps to apply to amend the condition – in the interim planning officers recommended if members were minded to grant the application an advisory note should be issued;
- (ix) the need to consider the application taking due account of the Council's Statement of Licensing Policy; Guidance issued by the Secretary of State; other relevant legislation and relevant representations received, and
- (x) the options available to the committee when determining the application.

The Licensing Officer summarised the report and updated members on progress advising that –

- the proposed conditions put forward by the Council's Pollution Control Officer had since been agreed with the Applicant, and
- having been informed of the proposed conditions and reduction in operating hours one of the interested parties had advised that he was willing to withdraw his representations providing assurances were received from the applicant that all necessary steps would be taken to minimise noise from customers. Whilst the applicant had provided those assurances no further response had been received from the interested party confirming withdrawal of his representations.

APPLICANT'S SUBMISSION

Mr. Monir Uzzaman was present on behalf of the Applicant who had been unable to attend the meeting. Mr. Uzzaman advised that the premises had recently opened and was operating well but there was a demand from customers for later opening hours. In view of the representations received it was recognised that late night opening could cause problems to others and therefore the Applicant had proposed to reduce the hours as applied for until 1.00 a.m. to minimise any impact.

POLLUTION CONTROL SUBMISSION

Mr. Sean Awbery from the Council's Pollution Control Section referred to his written representations (Appendix A to the report) and confirmed that those conditions had since been agreed with the Applicant. However he raised his concerns regarding the operation of the extraction equipment which was restricted under existing planning consent and would need to be addressed. In response to a question from the Chair, Mr. Uzzaman advised that he was aware of the planning issue.

INTERESTED PARTIES SUBMISSION

In the absence of the two Interested Parties their written representations (Appendix B to the report) were taken as read. Members noted that one of the written representations had been effectively withdrawn following mediation.

APPLICANT'S FINAL STATEMENT

In making a final statement Mr. Uzzaman advised that the premises generated employment and allowing the business to operate for an additional two hours would help to ensure its future success.

ADJOURNMENT TO CONSIDER THE APPLICATION

At this juncture (10.45 a.m.) the Licensing Sub Committee adjourned to consider the application.

DECISION AND REASONS FOR THE DECISION

RESOLVED that, subject to the conditions as set out below and issuing of a planning advisory note, a Premises Licence be granted in line with amended hours as submitted for the following –

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIMES
<i>Late Night Refreshment</i>	<i>Friday & Saturday</i>	<i>23.00 – 01:00</i>
<i>Hours premises are open to the public</i>	<i>Friday & Saturday</i>	<i>23.00 – 01:00</i>

CONDITIONS

As put forward by the Pollution Control Officer and agreed by the Applicant –

Prevention of Public Nuisance

- 1. All windows and doors shall be secondary double glazed or better, to minimise break-out of noise*
- 2. All doors and windows shall be kept closed other than for access and egress to minimise the break-out of noise*
- 3. If additional ventilation is required, the premises shall be fitted with acoustically treated ventilation/air conditioning to avoid the need to open doors and windows*
- 4. The playing of live / recorded music externally is not permitted*
- 5. The placing of waste into receptacles outside the premises shall only be permitted to take place between the hours of 09.00 hrs and 21.00 hrs to minimise disturbance to nearby properties*
- 6. Prominent, clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly*
- 7. No flashing or bright lights shall be positioned on or outside the premise and any security or access lighting shall be installed and operated so as not to cause a nuisance to nearby properties*

Planning Advisory Note

“This Premises Licence relates solely to matters covered by the licensing regulations under the Licensing Act 2003. It does not override the need for compliance with separate legislation including the need for planning permission for the use where this does not exist, and it does not override any conditions imposed on an existing planning permission for the use, for example in relation to hours of trading. You are therefore strongly advised to ensure the premises are operated in accordance with any planning consent and to ensure such consents are in place before proceeding.”

The Chair conveyed the Sub Committee’s decision to all parties at the meeting and the Solicitor reported upon the reasons for the decision as follows –

Members had carefully considered the application and representations submitted in this case and considered that the application and conditions imposed satisfied all the licensing objectives.

The Sub Committee had taken into account that the application had been amended to reduce the late night opening times to Friday and Saturday until 01.00 a.m. and that the Applicant had agreed the conditions proposed by the Council’s Pollution Control Officer. Members also noted the fact that neither interested party had attended the meeting in support of their representations and that one of those written representations had effectively been withdrawn. The Sub Committee was satisfied that the amended hours of operation together with the conditions imposed were as such that they would promote the licensing objectives and deal with the concerns raised. With regard to the planning issue, the Sub Committee considered it prudent to issue an advisory note as recommended by the Planning Department and remind the applicant to ensure that the necessary planning permissions were

obtained to enable the operation of the business in accordance with planning requirements.

The meeting concluded at 10.50 a.m.