

Licensing and Regulatory Sub-Committee

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on **Monday 3 October 2022** at **10.08 am** in **Room GFR-14, West Suffolk House, Western Way, Bury St Edmunds IP33 3YU**

Present **Councillors**

Patrick Chung
Pat Hanlon
Don Waldron

11. **Election of Chair**

It was proposed, seconded and with the vote being unanimous

Resolved:

That Councillor Pat Hanlon be elected Chair for this sub-committee meeting.

12. **Apologies for absence**

Apologies for absence were received from Councillor Roger Dicker.

13. **Substitutes**

The following substitution was declared:

Councillor Patrick Chung for Councillor Roger Dicker.

14. **Declarations of interest**

Members' declarations of interest are recorded under the item to which the declaration relates.

15. **Application for the Grant of a Premises Licence - 94 High Street, Newmarket, CB8 8JX**

The Business Partner (Litigation/Licensing) welcomed all present to the Hearing, reported that no declarations of interest had been received and introductions to all parties were made. He also drew attention to the procedure for the conduct of the Hearing as attached to the agenda.

The following parties were present at the Hearing:

(a) Applicant

(i) Mr Azhar Ali (Applicant)

(ii) Mr Majid (Employee)

(b) Responsible Authorities

(i) Mr Malcolm McKessar (Licensing Officer), Suffolk Constabulary

The Licensing Officer presented the report which explained that an application for the grant of a premises licence was received on 11 August 2022 for USA Chicken, 94 High Street, Newmarket.

The licensable activities being proposed under the licence were as follows:

- **Late Nigh Refreshments**
Sunday to Thursday 11am to 2am; and
Friday to Saturday 11am to 4am.

It was highlighted that although the applicant had applied for the activity from 11am, under the Licensing Act, late night refreshment was the supply of hot food and drink from 11pm to 5am and should the licence be granted, the licensing authority could only authorise the activity from 11pm.

The reason for this hearing was that relevant representations had been received from two Responsible Authorities within the consultation period, being West Suffolk Council's Planning Development team and Suffolk Constabulary. Details of the representations were attached at Appendix C to the report.

In particular the written representation from West Suffolk Council's Planning Development team set out the following planning conditions for the premises as follows:

- Monday to Saturday: 8am to 11pm
- Sunday: 8am to 10.30pm
- Closed on Bank Holidays

Therefore, the proposed license application would be in breach of current planning conditions.

The premises was also located within Newmarket's Cumulative Impact Area (CIA) and details of the CIA was contained within the Council's Statement of Licensing Policy.

The Committee was therefore asked to determine the application, and in reaching a decision, Members were advised to consider the Licensing Act 2003, the Guidance on the Act and the Council's Statement of Licensing Policy in relation to the adopted CIA.

The Sub-Committee then heard the individual submissions from each of the parties present.

In presenting his case, the Applicant, Mr Azhar Ali (Applicant) explained that weekends, especially late nights on Saturdays were the busiest period for selling hot food, which was why he had applied for the extending licensing hours until 4am.

Mr Malcolm McKessar (Suffolk Constabulary) then addressed the hearing in respect of the reasons for objecting to the application under the “prevention of crime and disorder” and “public nuisance” objectives. He then set out the following three points:

- 1) A licence to 4am was beyond the applicants previous suspended licence, and the hour of 4am was out of line with other similar premises in the vicinity.
- 2) Under Section M of the application, there was insufficient detail provided that the licencing objectives would not be further compromised, and suggested the following 4 conditions be included:

i) **CCTV:**

The premises shall install and maintain a comprehensive CCTV system. CCTV will cover all public areas within and immediately outside the premises. The CCTV system shall continually record whilst the premises is operating and when customers remain on the premises. All recordings shall be stored for a minimum period of 30 days with date and time stamping. Recordings shall be made available immediately upon the request of the Police or an Authorised Officer. A staff member who is conversant with the operation of the CCTV system and shall be on the premises at all times when the premises are open to the public. This staff member will be able to show recordings to Police or an Authorised Officer with minimal delay when requested and be able to download relevant footage onto a disc or memory stick, which can be played back on a computer or other digital retrieval system, within 24 hours of a request for download. The CCTV system will be checked daily to ensure that it is functioning correctly.

ii) **Reporting of crime and serious disorder:**

Staff will report to police by 999 or 101 as appropriate, any crime or serious disorder within or immediately outside the premises. In the event of any injury deemed serious or likely to require immediate medical attention, staff will also call an ambulance.

iii) **Incident/Refusals Log:**

An incident log will be kept at the premises, recording all significant incidents at the premises, including any of crime and disorder. It will be made available to an authorised officer of the Police or Council on request. It must be completed within 24 hours of the occurrence and must report:

- The date and time of occurrence.
- Names of staff and persons involved (if known).
- Details of all incidents and any crimes reported.
- Any visits by relevant authorities or emergency services, and the purpose of the visit.

iv) **Monitoring to prevent overcrowding and public nuisance:**

Staff will monitor numbers of customers and take action to prevent any overcrowding within the store that might give rise to a risk of disorder. Staff will refuse service to any person who is drunk and disorderly.

- 3) Would like it taken into account that staff and the business had been operating beyond their licensable hours.

Mr McKessar went on to explain that the police were not aware of any other premises operating in the area beyond 2am. If the hours were granted to 4am the police felt it would attract more crime and disorder, such as intoxicated people to the premises. He then went through the number of incidents reported to the police from October 2021 to July 2022. The premises was already carrying out unlicensed trading as it should cease trading at 11pm under the planning conditions. Staff had also shown a wilful disregard under the licensing objectives. However, if the Sub-Committee was to approve the application the police suggested granting to 2am as this would be in line with other establishments.

The Sub-Committee posed specific questions to the applicant and the Responsible Authority present at the hearing, to which responses were provided.

Mr Azhar Ali summed up by stating that he always tried to provide CCTV footage to the police. There had been a couple of incidents inside the premises, to which the police had been called to attend.

Mr Malcolm McKessar summed up by stating the objections to the application, being:

- 1) That evidence provided showed that crime and disorder occurred in the early hours of the morning. The staff and management had been operating without a licence beyond 11pm and believed the application to operate to 4am was too late, and that 2am should be latest, if granted.
- 2) That the four conditions set out by the Suffolk Constabulary should be included in the licence, if granted.

The Sub-Committee then moved into a private meeting to have discussions to give further consideration to the matter.

Following all parties' returning to the meeting, the Business Partner (Litigation/Licensing) advised on the Sub-Committee's decision.

With the vote being unanimous, it was

RESOLVED:

That, having taken into account all representations received, both in writing and orally, and the Cumulative Impact Area, the Sub-

Committee was satisfied for the licence application to be **GRANTED** as follows:

- 1) **Provision of Late Night Refreshments:**
Thursday to Saturday: 8am to 2am.
- 2) **Provision of Late Night Refreshments:**
Sunday to Wednesday 8am to 12pm
- 3) Two SIA Registered door staff to be employed Thursday to Saturday from 11pm to 2am.
- 4) All conditions in Appendix C relating to the Responsible Authority - Suffolk Constabulary, are applied to the licence.

The Business Partner (Litigation/Licensing) advised the applicant to seek advice from West Suffolk Council's Planning Development team regarding the licensing hours which were contrary to the planning conditions for the premises.

He then concluded the Hearing by advising on the Right of Appeal against the determination of the Authority.

The meeting concluded at 11.06 am

Signed by:

Chair
