

Licensing Act Sub-Committee – Record of Hearing held on Wednesday, 11 October 2017 at 6.30 pm

Members: Councillor Tester (Chairman); Councillors Belsey and Holt

1 Apologies for absence.

None were reported.

2 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests under the Code of Conduct.

None were declared.

3 Variation to a Premises Licence - Pizza Hot 4 You, 2 Susans Road.

All parties present introduced themselves and the Chairman detailed the procedure to be followed at the meeting.

The Specialist Advisor for Licensing outlined the report detailing the application to vary a premises licence for Pizza Hot 4 You, 2 Susans Road. Details of the current premises licence and variation sought were appended to the report.

When submitting an application for a variation to a premises licence under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four licensing objectives, as defined by the Licensing Act 2003. These were appended to the report at Appendix 1.

The premises in question was located within the cumulative impact zone (CIZ) and where valid representations were received, the cumulative impact policy (CIP) creates a rebuttable presumption that the application be refused. It is up to the applicant to demonstrate that granting the application would not add to the cumulative impact caused by licensed premises and challenges already experienced in the area and would not undermine the promotion of the licensing objectives.

Following a consultation period of 28 days, two representations had been received from members of the public who owned and rented out premises adjacent to the applicant's premises and were included as part of the agenda pack circulated. The representations centred on the prevention of public nuisance (noise) and the prevention of crime and disorder licensing objectives.

An additional representation had been received from Hedleigh Emberson within the consultation period and was made available to all parties at the hearing.

Sussex Police, as a responsible authority had consulted with the applicant and agreed to a number of conditions and reduction of late night refreshment hours by 15 minutes. The email correspondence was appended to the report.

Ms Kate Barella addressed the Sub-Committee in objection to the application. The Sub-Committee were advised that Ms Barella owned the property above the premises and had rented it out to tenants for 5 years. The current tenant had indicated they would be leaving the property due to the application being submitted.

Ms Barella's concerns centred on the noise nuisance from the premises' extractor fan not switching off before midnight and people sitting on the table and chairs outside the premises. Other concerns included drug and alcohol issues in the area although that could not be attributed to the applicant, overflowing rubbish bins and litter on the street.

Ms Barella also stated that the application was contrary to the Council's CIP and the steps taken by the applicant to promote the four licensing objectives were not sufficient to address concerns. She believed that the issues in the area could be resolved by stopping late night licences being issued.

She concluded that the street was residential and that the residents deserved the right to live in peace without noise disturbance and anti-social behaviour.

In response to a question from the Sub-Committee, Ms Barella confirmed that the third representation from Hedleigh Emberson was the current tenant at the property above the premises.

The Sub-Committee asked Ms Barella if there were any steps the applicant could take to address concerns. Ms Barella confirmed that nothing could be done to alleviate the existing problems of noise and recommended that the Sub-Committee reject the application.

Mr Stewart Gibson, Licensing Agent on behalf of the applicant, Mr Khaled Khei addressed the Sub-Committee in response to the representations received. Mr Gibson referenced the correspondence with Sussex Police, appended to the report, detailing the agreed conditions and reduction of hours from the original application submitted. Mr Gibson stated that the added provision of CCTV would increase security of customers at the premises and nearby residents.

Mr Gibson added that no representations had been submitted from responsible authorities and no registered noise complaints had been received by Environmental Health, despite the premises being located within the CIZ.

Mr Gibson continued that the representation's concerns around anti-social behaviour could not be attributed to the premises and there was no factual evidence that an extension of hours at the premises would escalate existing problems in the area. If there was evidence to suggest extending hours

would undermine the licensing objectives, then Sussex Police would be present and making representation against the application.

Mr Gibson, in consultation with the applicant, offered to provide, to allay any concerns, an additional bin placed outside the premises to address the overflowing bin issues on the street, to remove tables and chairs outside the premises and to assess the extractor fan in consultation with Environmental Health. He also offered as a condition on the licence to provide SIA registered door staff at weekends.

In response to a question from the Sub-Committee, Mr Gibson stated that it would represent good practice for staff to be trained in conflict resolution, in an attempt to defuse any situations before they give rise to anti-social behaviour and noise disturbance.

Ms Barella responded that CCTV installed on the street had done nothing to reduce the issues in the area, therefore installing it at the premises would not resolve the existing problems. Mr Gibson stated that CCTV was a standard for licensed premises and enabled Police to link anti-social behaviour to specific premises and that it did act as a deterrent.

Ms Barella also stated that no official noise complaints had been submitted because that would need to be declared when selling a property.

Ms Barella concluded that under Article 8 of the Human Rights Act, everyone has a right to a private and family life. Mr Gibson responded that the applicant also had a right to run a business.

The Specialist Advisor for Licensing clarified that the condition that "the police will be called in the event of crime and disorder" was an existing condition when the licence was transferred to Mr Kheil. The Sub-Committee was also advised that East Sussex County Council issued licences for tables and chairs outside of premises, therefore fell out of the remit of the Sub-Committee.

Ms Barella concluded by stating that she had no problem with Mr Kheil running a business but the timings applied for were the issue and reiterated that granting the application would create noise and disturbance until 03:30 hours each day.

Mr Gibson concluded proceedings by stating that the applicant wants to make a success of the business and extending the hours would fulfil the demand from members of the public in the area. The applicant acknowledged the responsibility of promoting the four licensing objectives and that failure to adhere would result in a review process.

Following all the evidence presented, the Sub-Committee retired to consider and determine the application.

Having taken into account all the relevant considerations, the Sub-Committee reconvened and announced the decision as follows.

Resolved: That the application be rejected.

The meeting closed at 7.52 pm

Councillor Tester (Chairman)