

Decision of Licensing Sub Committee. Hearing 6 January 2022

Application for a premises licence at 16 Terminus Road, Eastbourne, BN21 4QS

The hearing concerned a premises licence at 16 Terminus Road, Eastbourne, BN21 4QS made by Anthonippillai Antonvijayarajah. The application was for the sale by retail of alcohol off the premises every day between the hours of 9.00 to 23.00hrs.

In discharging its functions, the Sub Committee considered the promotion of the relevant licensing objectives, the Council's own Licensing Policy, the Home Office Guidance and the rules of natural justice.

The Sub Committee noted that the premises were within the Cumulative Impact Zone.

It also took into account the information contained within the Specialist Advisors report presented by Dean Love.

The Sub Committee noted that conditions had been mediated with the Police, by the Applicant, since the application was made, and those agreed conditions were contained with Appendix 2 of the Report.

The Sub Committee considered the application and the oral representations made at the hearing by the Applicant's representative Frank Fender. Those were that these premises (which are currently unoccupied) would be a convenience store selling some alcohol but that the sale of the alcohol was limited to "sensible" times (not late at night). He pointed out that the Applicant, who would also be the Designated Premises Supervisor ("DPS") had held a personal licence since 2005. He pointed out that the Applicant already had knowledge and experience of running licensed premises in the local area.

Frank Fender stated that the Applicant was fully aware that the premises fell within the Cumulative Impact Zone and that he considered that with the conditions, agreed with the Police, this application would not undermine the licensing objectives and/or add to/exacerbate existing issues in the locality.

He pointed out that no representations had been received from any Responsible Authorities and most importantly that the Police, who are the key agency in relation to the licensing objective of crime and disorder had not objected to the application.

In addition, Frank Fender stated that he thought the conditions agreed by the Police were stringent and, in particular, he pointed to the three conditions on page 36 of the Report which in his view could not be considered to be standard conditions. In relation to the conditions on page 36, he highlighted that the condition, not to sell beer, lager and cider with an ABV of 6% or above, would deter any street drinkers in the area purchasing alcohol from these premises. Further, the condition that all alcohol would be stored behind the serving counter would mean that the staff would be better engaged with the purchasers and that this condition would reduce the potential for crime and disorder and any public nuisance.

Frank Fender pointed out that according to the relevant parts of the Council's own Licensing Policy, it was the responsibility for those objecting to the application to prove that the premises would undermine the licensing objectives or add to the cumulative

impact, and on the representations received they had not done so. He stated that no supporting evidence had been received in the representations.

Frank Fender stated that in relation to one of the representations, received from Mehrab Rahmani, that he considered that this was a vexatious representation as the objector had a business nearby, which sold alcohol, and was therefore in competition with the Applicant. Further, when Frank Fender questioned Mehrab Rahmani, he admitted that he was in the process of trying to negotiate a lease for 16 Terminus Road, which are the subject of this application, and that he did have a vested interest in the application. Frank Fender suggested that his representation was based upon a business rivalry.

In answer to a question, Frank Fender accepted that the plan which had been submitted would need to be amended by a variation application, if the application was granted, as it lacked detail and, in any case, needed to be amended following the mediated conditions agreed by the Police.

In answer to a question, Frank Fender stated that he considered the Applicant could be the DPS, both for these premises and his existing licensed premises as the DPS does not have to be present on the premises at all times alcohol is sold and, that in any case, the Applicant's existing premises were nearby. He further confirmed that the Applicant did not hold a premises licence in London.

Frank Fender, in his closing remarks, contended that the Sub Committee should only take account those relevant representations and not take account of any views of those who did not make representations. He pointed out that whilst he appreciated and understood some of the comments in the representations that there was much contained therein that was not evidenced or irrelevant.

Due regard by the Licensing Sub Committee was also given to the written representations of David Gordon, Peter Rolliston, Martin Jones and Mehrab Rahmani and the oral representations of Mehrab Rahmani (represented by Paul Tapsell) and Martin Jones who spoke at the hearing. Those were in connection with the licensing objectives of prevention of crime and disorder and the prevention of public nuisance. The representations raised concerns about these premises exacerbating the street drinking problem and the problems of anti-social behaviour in the area. Concerns were also raised that the Applicant's existing premises, at 34 Terminus Road, were a congregating point for anti-social behaviour and badly managed.

Paul Tapsell pointed out that this application had provoked opposition from a large number of local residents which he said was demonstrated by those attending in the public gallery at the hearing.

He stated that Mehrab Rahmani had been a key member of the local community since 2003 and contended that he had provided examples of anti-social behaviour in the area in his representation. Further, he stated that the Applicant has not done enough to rebut the presumption that this application should be refused. He pointed out that the area in which the premises would be situated already attracted large numbers of people and that this application would increase and attract those who were likely to commit anti-social behaviour. He stated that the conditions, as mediated by the Police, did not address the Cumulative Impact Assessment but rather that they were standard conditions.

Paul Tapsell stated that the plan provided by the Applicant was not sufficiently clear because there was no measurements or scale on it and this could mean that a substantial part of the premises would be taken up by a counter, so that alcohol could in effect be a major part of the business.

In his closing remarks, Paul Tapsell stated that he did not consider Mehrab Rahmani's representation to be vexatious.

When asked a question about his written representation which suggested that the Applicant should not be granted a licence because he was breaching his premises licence at 34 Terminus Road, Mehrab Rahmani confirmed that he had not formally contacted the Council or the Police to complain about the activities of the Applicant's premises at Kenitos. However, he said he had mentioned to Officers (casual conversations) incidents he considered to be breaches of those licence conditions e.g. selling alcohol to those who were intoxicated and selling alcohol outside of his licensing hours. Dean Love, representing the Council, confirmed that he was unaware of any complaints made to the Council about licensing breaches in relation to 34 Terminus Road.

Martin Jones, in making his representation, stated that he was concerned that there were already enough alcohol venders in the area and that walking through that area late at night was already unpleasant and made him feel unsafe. As a local person with local knowledge, he was worried by the number of street drinkers in the area and was concerned that agreeing another premises that could sell alcohol would exacerbate the situation.

In its deliberations the Sub Committee considered what decision would be appropriate and proportionate from the options outlined in para. 8.1 of the Report.

Decision

The Sub Committee resolved to grant the premises licence application with the mediated conditions as agreed between the Applicant and the Police.

Reasons for decision

The Sub Committee in making this decision considered that the premises licence, as amended, would neither add to the cumulative impact caused by licensed premises and challenges already experienced in the area, nor undermine the licensing objectives.

The Members took into account and carefully considered the relevant representations received in relation to the prevention of crime and disorder and the prevention of public nuisance. The Sub Committee noted that within the four representations received some matters were not relevant to its decision and some had not been proven to their satisfaction. The Sub Committee did not take into account the views of anyone who had not made a relevant representation within the timescales.

The Sub Committee gave weight in making its decision to the fact that the Police had made no representation against the application. Further, it considered that the mediated

conditions would, on balance, address the concerns raised by those making relevant representations.

The Licensing Act provides a right of appeal to the Magistrates' Court in respect of an application for a premises licence. An appeal must be commenced by notice of appeal being given by the appellant to the Magistrates' Court within a period of 21 days beginning on the date the appellant is notified in writing of the decision of the Licensing Sub Committee.

The decision will be provided in writing to all parties within five working days of the decision being made.