

Licensing Act 2003 Sub-Committee

Monday, 14 January 2013

Present: Councillor Marion Lowe (Chair) and Councillors Keith Iddon and Pauline Phipps

Also in attendance

Officers: Alex Jackson (Senior Lawyer), Matthew Swift (Public Protection Officer) and Dianne Scambler

12.LAS.22 APOLOGIES FOR ABSENCE

There were no apologies for absence.

12.LAS.23 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

12.LAS.24 PROCEDURE

The Chair outlined the procedure for the hearing.

12.LAS.25 APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF LICENSING ACT 2003 - PANSHI, 24 TOWN ROAD, CROSTON PR26 9RB

The Licensing Sub Committee considered an application for the granting of a premises licence made by Mr Alawar Rahman in respect of Panshi, 24 Town Road, Croston, in light of representations made towards the application.

Mr Rahman attended the meeting with his representative Mr Anikur Rahman and Mr Dhar who would be the designated premises supervisor should the licence be granted.

The premises currently operated as a 56 cover restaurant that operated on a "Bring your own bottle" basis to allow the consumption of alcohol with table meals. The applicant wished to extend the provisions of business to offer the sale of alcohol as a way of making the business financially stable.

Should the application be granted as applied for there would be no difference in the current operating hours of the premises and the applicant felt that the licence would in reality allow greater management controls to be placed on the consumption of alcohol by patrons.

Representations were received from the owners of the apartment above and concerns raised by the current tenant. The representations focused around the licensing objective of the Prevention of public nuisance, mainly associated with noise and odours emanating from the business, other management issues were also discussed relating to waste management and public health.

The Sub Committee carefully considered the officer's report outlining the application, the applicant's written and verbal representations and the written and verbal representations from the interested parties. The Sub Committee also gave regard to the Council's Statement of Licensing Policy; in particular those paragraphs referred to within the report and gave consideration to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Sub Committee also

considered Human Rights implications, in particular Article 6, Article 8 and Article 1 of the First Protocol.

Members **RESOLVED** to grant the application as set out in the report subject to the following amendment:

The permitted hours for the supply of alcohol in Panel M of the application shall be 30 minutes earlier than applied for. The reason for this is to enable better management of dispersal of customers on closure and prevent public nuisance.

Therefore the hours for the supply of alcohol would be:

Mon	12.00 - 21.00
Tues	12.00 - 21.00
Wed	12.00 - 21.00
Thu	12.00 - 21.00
Fri	12.00 - 22.00
Sat	12.00 - 22.00
Sun	12.00 - 21.00

The reasons for the decision were as follows:

1. Member's attention was drawn to the leading case law on public nuisance in which it has been held that it must be sufficiently widespread and indiscriminate to amount to something more than a private nuisance.
2. Members noted that no responsible authorities had made representations about the application, including the Environmental Health Department of the Council in respect of noise nuisance.
3. The problems identified by the interested parties relate to only one premises.
4. Members noted that paragraph 2.19 of the statutory Guidance describes public nuisance at the lower end of the scale as affecting a few people living locally whereas no other residents had made representations apart from those connected with the apartment above.
5. Members noted that some of the activities complained of by the interested parties such as noise from kitchens and conversations of customers would occur in any food premises and are not a consequence of licensable activities.
6. Members noted that the problems identified by the interested parties had made it more difficult to tenant their apartment. This further reinforced member's views that a public nuisance had not occurred as opposed to a potential private nuisance.

Members noted the comments of the interested parties about outstanding obligations required following a building or fire inspection regarding sound proofing. Whilst recognising that such obligations (if any remain to be performed) fall outside the licensing authority's remit Members expressed concern and requested that Public Protection Officers contact the bodies concerned and encourage them to ensure that any such legally enforceable obligations are fully complied with.

Chair