

## Licensing Sub-Committee

Tuesday, 18th August, 2015

**PRESENT:** Councillor A Khan in the Chair

Councillors M Harland and G Wilkinson

**36 Election of the Chair**

**RESOLVED** – Councillor A Khan was elected Chair of the meeting

**37 Appeals Against Refusal of Inspection of Documents**

There were no appeals against the refusal of inspection of documents.

**38 Exempt Information - Possible Exclusion of the Press and Public**

**RESOLVED** – That, in accordance with Regulation 4 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during consideration of that part of the agenda (agenda item 7 “Livera” Application for grant of premises licence) designated as exempt from publication in accordance with paragraph 10.4 (1 & 2) of Schedule 12A(3) of the Local Government Act 1972 on the grounds that the information contained within the documents relate to an individual and include information which is likely to reveal the identity of an individual which that person would not ordinarily expect to be in the public domain. It is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, due to the impact that the disclosure of the information would have on the individual. (minute 42 refers)

**39 Late Items**

No formal late items of business were added to the agenda. Members were however in receipt of additional documents in respect of the following items Minute 42 – “Livera” – additional documents submitted by West Yorkshire Police in support of the representation included within the agenda. Please note that these documents were regarded as exempt from publication under the provisions of Access to Information Procedure Rule 10.4 (1 & 2) (minute 42 refers)

**40 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interest

**41 "La Petite" - Application for the grant of a Premises Licence for La Petite, 39 Street Lane, Roundhay, Leeds LS8 1AP**

The Sub Committee considered the report of the Head of Elections, Licensing and Registration on an application for the grant of a Premises Licence for the premises known as La Petite, 39 Street Lane, Roundhay Leeds LS8 1AP

The application had attracted representations from West Yorkshire Police (WYP); local ward Councillor B Urry; and three members of the public. Prior to the hearing, the applicant had agreed measures suggested by West Yorkshire Police to address the crime and disorder licensing objective. WYP

had subsequently withdrawn their representation on the basis that these measures would be included in the Premises Licence, should this application be granted.

The following attended the hearing:

Mr A Kanberoglu – the applicant	Mr R Ward – on behalf of Mr J Ward
Dr I Tarsugil} regular customers of the	Councillor C Macniven – on behalf of
Mr B Norton} premises in support of	Councillor B Urry
the application	
Mr S Simon - representative of the	
landlord of the building	

Not all the members of the public who had submitted representations attended the hearing. The Sub Committee resolved to take their written representations into account and proceed in their absence

In presenting the report on the application, the Licensing Officer confirmed that the application had been amended so that the hours requested for sale of alcohol reflected the current planning application submitted for the premises (08:00 until 20:00 hours). Additionally, it was noted that the land registry documents submitted by the applicant did not refer to the La Petite premises and Members agreed to disregard these documents.

The Sub Committee heard from Mr Kanberoglu, the applicant and Designated Premises Supervisor, who explained the application was submitted to encourage lunchtime trade which in turn would allow him to continue to meet the running costs of the premises. Mr Kanberoglu expressed his intention to serve alcohol from 11:00 until 18:00 hours and confirmed that alcohol would only be available with a meal purchased at La Petite. The premises had an internal capacity of approximately 20 patrons, with up to four tables in an area designated outside.

In response to comments contained in the written representations relating to noise; Mr Kanberoglu confirmed that no music would be played inside or emanate from the premises. He estimated the nearest residents lived 300m away. He had operated the premises for three years and received no complaints about noise.

Dr I Tarsugil addressed the hearing in support of the application. He stated he was a local resident and regular customer of La Petite. He confirmed the capacity of the premises as being around 20 patrons and he questioned the relevance of the concerns over noise after 20:00 hours expressed in the written representations as he stated the premises usually closed at 18:00 hours.

Mr B Norton also spoke in support of the application, he stated he was a local resident and had been a patron of La Petite for two years. He commented on the usual clientele of La Petite as being over 30 and suggested that the offer of alcohol to accompany a meal would improve trade. Mr Norton stated La Petite did not generate noise or litter, unlike another local business. Mr Norton

confirmed the premises had soundproofed windows and he also provided Members with an example of Mr Kanberoglu's management style through his dealings with the waste contractor to resolve a litter issue

The Sub Committee also heard from Mr S Simon, who represented the buildings' landlord. Mr Simon confirmed that Mr Kanberoglu had complied with his obligations as tenant of the building, ran a clean and tidy business and that the business had not attracted any trouble. Mr Simon acknowledged that the premises lay within a parade of commercial businesses in a residential area but added he did not think the granting of this application would create further problems for the area. Finally he highlighted the fact that sales of alcohol would only be for consumption on the premises, accompanying a meal.

In answer to queries from the Sub Committee Mr Kanberoglu expressed his intention to sell wine and bottled beer only, no spirits or draught beer would be available and alcohol would only be sold with a meal at the premises

The Sub Committee then heard from Mr R Ward, on behalf of his son, Mr J Ward – a resident of Shaftesbury Avenue who had made a representation. Mr Ward provided more detail on the comments made by Mr J Ward regarding noise and litter. He also clarified that La Petite frontage faced Street Lane although the side of the building lay on Shaftesbury Avenue and that the building had formerly been No.2 Shaftesbury Avenue.

Mr Ward cited some incidents which he believed threw some doubt on the suitability of the applicant to hold a Premises Licence, including his son's dealings with the applicant over the waste removal contract and the subsequent action taken by LCC Environmental Protection Team culminating in a Fixed Penalty Notice being issued to Mr Kanberoglu; submission of the wrong land registry documents and the apparent discrepancy between the applicants' statement that he had held a Personal Licence for 5 years but had submitted a copy of a licence issued in Bradford in July 2015.

(The Licensing Officer provided clarification on this matter to the meeting)

Mr Ward also explained that the premises currently traded under a temporary planning permission for A3 use which would expire on 30<sup>th</sup> September 2015. He suggested that once a formal planning application for change of use was submitted, objections would be submitted and he urged the Sub Committee to defer consideration of this application until after the planning application had been determined.

Councillor Macniven then addressed the meeting on behalf of her ward colleague, Councillor B Urry who had submitted a representation. Councillor Macniven advised Members that several Shaftesbury Avenue residents had approached her about the application and their concerns regarding noise from patrons and from the ventilation system. She also queried whether there had been previous owner/manager of the premises as she had been involved with

the change of use from greengrocers to A3 use, but had not met Mr Kanberoglu before

In response, Mr Kanberoglu provided the following:

- additional information on the background to the waste contract issue
- that his immediate neighbours were other business, some with later opening hours and the nearest residents being 300 metres away
- that he had not met Mr J Ward and discussed the waste issue with him
- any external seating was minimal and remained under the awning
- that there was no external ventilation system/extractor fan owing to its menu consisting of sandwiches, salads and tapas food.

The Sub Committee carefully considered the application, the report and the representations made at the hearing by the applicant, members of the public and the local ward Councillor. Members also noted the agreements reached between the applicant and West Yorkshire Police prior to the hearing.

**RESOLVED** – To grant the application as applied for and subject to the additional conditions agreed by the Applicant with the responsible authority.

**42 "Livera" - Application for the grant of a Premises Licence for "Livera", 17 Merrion Street, Leeds LS2 8JE**

The Head of Elections, Licensing and Registration submitted a report on an application for the grant of a Premises Licence for the premises known as Livera, 17 Merrion Street, Leeds LS2 8JE. The application had attracted representations from responsible authorities as the premises lay within the Cumulative Impact City Centre (amber) Area.

The applicant and Designated Premises Supervisor, Mr M Makrinakis, attended the hearing. He was represented by his solicitor, Mr C Connor. PC C Arkle attended on behalf of West Yorkshire Police (WYP). Ms N Raper attended on behalf of the Local Authority

The Sub Committee noted receipt of additional documents submitted by WYP in support of their representation. All parties received the documentation prior to the hearing.

The Sub Committee heard firstly from Mr Connors; seeking an adjournment of the matter on behalf of the applicant. Mr Connors referred to the information supplied by WYP and indicated that the applicant needed additional time to demonstrate that he was in a position to respond to the information and provide evidence in respect of the ownership of the business/lease of the building

PC Arkle and Ms Raper confirmed that the Responsible Authorities would be content if consideration of the matter was adjourned

Members considered the application to adjourn the matter and

**RESOLVED** – That consideration of the application be adjourned to a hearing on 29<sup>th</sup> September 2015

**43 "Pita Pit" - Application for the grant of a Premises Licence for "Pita Pit", 40 Woodhouse Lane, Leeds LS2 8LX**

The Sub Committee considered the report of the Head of Elections, Licensing and Registration on an application for the grant of a Premises Licence for the premises known as Pita Pit, 40 Woodhouse Lane, Leeds LS2 8LX. The submitted report highlighted that the premises lay within the Cumulative Impact City Centre area (red zone).

The application had attracted representations from the following responsible authorities: West Yorkshire Police; LCC Environmental Protection Team and LCC Entertainment Licensing.

Prior to the hearing, the applicant had agreed measures with LCC Environmental Protection Team in respect of measures to address the public nuisance licensing objective. Subsequently LCC EPT had withdrawn the representation on the understanding that these measures would be included within the premises licence, should it be granted.

Arising from the correspondence between LCC EPT and the applicant, it was made clear that the opening times on the application contained within the report were incorrect. The hours of closing should read "Sunday to Thursday 23:00 hours and Friday and Saturday 04:00 hours".

The applicant (Vita Bite Ltd) was represented at the hearing by Mr S Patel who had submitted a completed pro-forma risk assessment in support of the application.

In presenting his application to the Sub-Committee, Mr Patel explained that the Pita Pit company provided quick fresh, hot, healthy food, to eat in the restaurant or take away from the fast food counter. Mr Patel explained that the healthy options offered by Pita Pit were in contrast with other late night fast food providers. He went on to confirm that although Pita Pit had operated without a licence for a year, the premises had not attracted any complaints or been associated with any incidents. Mr Patel also confirmed that the application included a request to open until 04:00am Monday night/Tuesday and Wednesday night/Thursday mornings to benefit from Leeds' "student nights".

PC Arkle attended the hearing on behalf of WYP and confirmed that Pita Pit was situated in an area heavily populated by other licensed premises offering alcohol and late night refreshment. This area was known for alcohol-related crime and disorder which occurs mainly after midnight on Fridays and Saturdays.

Ms N Raper attended the hearing on behalf of the Licensing Authority and explained that following a review of the city, a new red zone of the Cumulative Impact Area had been implemented in January 2015. She referred to the area being saturated with other licenced venues and that the area could not support any more licensed premises. She acknowledged that whilst the applicant had offered conditions, the Local Authority Entertainment Licensing

Section did not view these as sufficient and felt the premises would add to the problems in the area.

The Committee carefully considered the application, written representations and those made at the hearing, including additional information provided by the Licensing Officer in respect of other late night refreshment venues in the locality. The Sub Committee also had regard to the licensing objectives and the representations made by the responsible authorities.

The Sub Committee noted that the applicant had said that Pita Pit had operated for a year without issue; but also had regard to the fact that this premises lay within the Red Zone of a Cumulative Impact Area. Members noted that the Cumulative Impact Policy created a rebuttable presumption of refusal for an application of this type.

The Sub Committee was not satisfied that the applicant had proved that this was an exceptional case and warranted setting aside the Policy.

**RESOLVED** – That the application be refused