

## **Licensing Sub-Committee**

**Tuesday, 29th November, 2016**

**PRESENT:** Councillor G Hyde in the Chair

Councillors M Coulson and G Wilkinson

**1 Election of the Chair**

Cllr. Hyde was elected as Chair for the duration of the meeting.

**2 Appeals Against Refusal of Inspection of Documents**

There were no appeals against refusal of inspection of documents.

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

There were no exempt items.

**4 Late Items**

There were no late items.

**5 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interests. However, Cllr. Coulson did declare that in relation to Item 9 Application for the grant of a premises licence for former Elinor Lupton Centre JD Wetherspoon PLC, Headingley Lane, Headingley, Leeds, LS6 1BX he had sat on the South and West Plans Panel when the former Elinor Lupton Centre had been heard at the Panel. He said that he would approach the application with an open mind.

**6 Application for the grant of a premises licence for Chickanos 166 Roundhay Road, Leeds, LS8 5PL**

The Head of Elections, Licensing and Registration submitted a report for the application for the grant of a premises licence for Chickanos, 166 Roundhay Road, Leeds, LS8 5PL.

The application was for a late night refreshment licence Thursday, Friday and Saturday between 23:00 – 02:00.

Representations had been received from Environmental Protection Team in their capacity as a responsible authority. A Copy of the representation was attached at Appendix C of the submitted report.

The licensing authority was also in receipt of one individual letter of objection, which was opposed to this application on the grounds of public nuisance.

In attendance at the hearing were Mr Sajad Hussain and Mr Mohammed L'Aker of Platnam Foods Ltd.

The applicant presented letters and emails from people supporting the application which were accepted by all parties at the hearing.

Mr Hussain informed the Members that he had a number of businesses around Yorkshire including Batley, Bradford and Dewsbury, however this was to be his first franchise in Leeds.

He went on to say that Adam Fast Food Supplies employed around 250 people with 12 members of staff employed at Chickanos on Roundhay Road. Where possible they employed people from the local area.

He said that Chickanos provided a range of foods including a range of healthy options for those who wanted the choice.

Mr Hussain informed the Members that many of the businesses around the area traded late including the business next door Shahjahan until 04:00am.

Mr Hussain went on to inform the Licensing Sub Committee that the pharmacy next door and the restaurant nearby were in support of Chickanos as since they had started trading the anti-social behaviour in the area had decreased and they had put investment into the area. He said that Chickanos were working with the local authority to keep the area clean by putting up signs and providing bins which had seen a reduction in the litter around the area. He also said that regular audits were conducted to ensure that both inside and outside of the premises were kept clean and tidy.

Mr Hussain said that he was hoping to become a national outlet. He explained that the outlet worked within the guidelines set out by the British Franchise Association (BFA). He said that a policy had been drawn up with BFA to check the area around the premises and that on the first visit they had received a 4 star rating.

He informed Members that the premises had been working till 02:00am on a Thursday, Friday and Saturday using the Temporary Event Notice (TEN's).

Mr Hussain informed Members that the ventilation unit was of a high specification and that they had received no complaints about the noise of the ventilation unit.

In response to a question from Members on the premises opening beyond the time specified in the licence, Mr Hussain said that some managers had invested their own money in the franchise operation and wanted to make the business a success. However, he said that this issue had been addressed and lessons had been learnt and would not happen again.

An Officer from the Environmental Health Team was in attendance at the hearing and informed the Sub-Committee that on checking he had discovered that the flat above the takeaway was now empty but that there were still residential properties close by.

The Officer informed Members that the operation seemed like a friendly fast food restaurant with limited numbers for seating inside the premises. He explained that the main concerns were for the residents living nearby that could be disturbed due to cars and taxis parking up and noise from customers.

The officer said that he was unable to comment on the extraction fan as he had not seen it working.

The Officer from the Environmental Health Team was of the view that if this licence was permitted other premises within the area would also apply for later hours.

The management team of the Shahjahan, 164 Roundhay Road, Leeds, LS8 5PL and also a resident from the area were in attendance at the hearing. They informed the Sub-Committee of the follow concerns:

- No parking spaces available for customers
- Noise of car engines
- Customers eating outside house
- Rats on the street
- Opened without a licence till 02:00am

Members of the Licensing Sub-Committee heard that Shahjahan had been operating on a late night refreshment licence but that they did not yet having planning permission.

Mr Hussain informed Members that Chickanos did not provide delivery service and he was of the view that 85% of people would walk to the premises to order and pick up food.

**RESOLVED** – That the Licensing Sub-Committee grant the premises licence as applied for.

Members reminded the applicant that this licence would also be subject to planning permission and that the premises should not open without obtaining all necessary planning permissions.

#### **7 Application to Vary a Premises Licence held by Editor's Draught, 88 Wellington Street, Leeds, LS1 4LT**

This application had been withdrawn prior to the meeting as agreement had been reached with all parties.

#### **8 Application for the grant of a premises licence for Papa Johns 2 The Becketts, 605 Meanwood Road, Meanwood, Leeds, LS6 4AY**

The Head of Elections, Licensing and Registration submitted a report for an application for the grant of a premises licence for Papa Johns, 2 The Becketts, 605 Meanwood Road, Meanwood, Leeds, LS6 4AY.

The application was made by Mr Gurnek Singh for a late night refreshment licence between 23:00 and 01:00 Sunday to Thursday and 23:00 and 03:00 Friday and Saturday.

The application had received a representation from Environmental Health Team as a responsible authority and the Licensing Authority were also in receipt of letters from Ward Councillors and residents.

Mr Singh was in attendance at the hearing along with Mr Dhawan of the Papa John Management Team.

Mr Singh informed Members that Papa John's had a number of takeaways some of which opened until 04:30am or 05:30am.

He told the Sub-Committee that he employed full and part-time staff from the area. He said that staff did litter pick around the premises and that it was the policy of Papa John's to have a notice in the customer area asking customers to leave the premises quietly.

Mr Singh informed Members that there had been planning issues with the previous owner. However, he had only taken over the premises three months previously.

Members heard from the Environmental Health Officer in attendance at the hearing that there were residential flats nearby and above the premises known as The Becketts.

The Officer informed the Sub-Committee that there were other licensed premises in the area namely Zucco and East of Arcadia who had licences until midnight Monday to Saturday and to 10:30pm (midnight in the case of East of Arcadia) on Sunday.

The Officer listed the issues for concern should the premises be given a late night refreshment licence as:

- Noise from customers arriving by car or taxi
- Eating outside the premises as there was no seating
- Noise of car stereos
- Lack of parking
- Noise of people from outside the area

The Officer explained that there was no enforcement action could be taken for noise on the surrounding streets action could only be taken in respect of the curtilage of the premises.

He said that the noise of the extraction fan would be heightened in the early hours of the morning and would be exacerbated still more during warm periods of weather in the summertime when residents would need to open windows. He also was of the view that should the late refreshment licence be given then more requests would be received from other premises in the area.

Cllr. Susan Bentley a ward councillor for the area attended the hearing and informed the Members that the Ward Councillors could not give their support to the application for the following reasons:

- The site of the premises is located on a particularly difficult junction where there are shunts on a regular basis
- There is limited parking in the area
- Double yellow lines have been painted outside the premises to prevent parking on the junction
- The area is made up of mixed uses with houses in multiple occupation, flats, restaurants which close at a reasonable time, café bars and short let shops.

- There are a number of outlets in the area which sell alcohol
- Papa John's will attract people from outside the area
- Litter bins are already overflowing with the Locality Teams having to be called out on a regular basis this would increase with more litter if open longer.
- Planning application had been restricted to 11:00am to 11:00pm Monday to Sunday including Bank Holidays.
- More young families were moving into the area taking over some of the houses previously used as houses in multiple occupation

Mr Bond a resident at The Becketts was also at the hearing and informed Members of issues already occurring due to the premises being used as a takeaway. He said that he had spoken to the manager as staff often used his driveway to park or parked across the driveway. He also said that staff used a smoking area that was underneath his bedroom window leaving cigarette butts and keeping him awake with their conversations.

Mr Bond also had concerns about the amount of litter informing Members that residents had to pick up takeaway boxes and wrappers.

In response Mr Singh said that they had received no complaints from Environmental Health with regards to noise or litter. He said that bikes were used for deliveries as they were much quieter than cars and his managers had not reported any complaints to him.

Mr Dhawan informed Members that staff now had a designated area at the front of the premises for smoking breaks.

**RESOLVED** – That the Licensing Sub-Committee considered all the information from all parties and in light of the information provided refused the application for late night refreshment.

## **9 Application for the grant of a premises licence for Former Elinor Lupton Centre JD Wetherspoon Plc, Headingley Lane, Headingley, Leeds, LS6 1BX**

The Head of Elections, Licensing and Registration submitted a report for the application for the grant of a premises licence for Former Elinor Lupton Centre JD Wetherspoon Plc, Headingley Lane, Headingley, Leeds. LS6 1BX.

This was the first application for a premises licence for these premises and the application was for the sale of alcohol for consumption both on and off the premises between 09:00 to 22:30 Sunday to Thursday and 09:00 to 23:00 Friday and Saturday. No non-standard timings had been requested for bank holidays or special occasions.

The application had attracted representations from Leeds City Council's Health and Safety Department in their capacity as a responsible authority as attached at appendix C of the submitted report.

Representation had also been received from Leeds City Council's Environmental Protection Team in their capacity as a responsible authority which was attached at appendix D of the submitted report.

Members noted that both representations from the responsible authorities had been withdrawn prior to the hearing having agreed measures with JD Wetherspoons Plc. These had been emailed to objectors and copies were available at the hearing.

The Licensing Authority was in receipt of 29 individual letters of objection and a letter from the three ward councillors, all of which opposed this application on the grounds of crime and disorder, public nuisance, public safety and the protection of children from harm.

Members were advised that the premises were located within the cumulative impact area for Area 2. Members were directed to paragraphs 7.51 to 7.54 of the Statement of Licensing Policy which provides examples of how an application may be considered exceptional and the matters that the council would not normally take into consideration. Details of the cumulative impact policy specific to Area 2 and an outline of the evidence behind the reason for setting this policy was attached at appendix F of the submitted report.

Nigel Connor, Graham McCafferty and Alistair Broom of JD Wetherspoons Plc were at the hearing. Mr Connor informed the Sub-Committee that they had spoken with West Yorkshire Police (WYP) with regards to crime and disorder and the suggested measures would be incorporated in to the licence. Mr Connor said that he had also spoken with Ward Councillor Pryor.

Members were informed that it was the intention for the premises to open at 08:00am to serve breakfasts they were not asking for late licence only till 23:00 with 30 minutes drinking up time.

The Sub-Committee were informed that JD Wetherspoons had 932 premises in the UK with five premises located within Leeds City Centre and also a number of premises in the suburbs including Pudsey, Bramley and Chapel Allerton. Mr Connor explained that JD Wetherspoons had a broad range of customers with no specific customer base specialising in real ales.

Members noted that the site is on the former Leeds Girls High School site and had been the music centre. The site was on a main thoroughfare into the city. It had fallen into disrepair and would require a significant amount of investment to regenerate the building.

The Sub-Committee was told that the main customer area would be located on the ground floor with a bar to the left hand side there would be additional customer areas on the first floor and an outside terrace fronting on to Otley Road which would be used as a smoking area. In response to Member's questions they were informed that this was not a vertical drinking establishment - with main areas set out with seating able to provide 270 covers in main area, 52 outside on the terrace, and 50 on the first floor. It was anticipated that the venue would be limited to 550 people for health and safety reasons .

The emphasis would be on food which would be served from 08:00 to 22:00 with specialities offered on different days for example Curry club on a Wednesday which

would include a complimentary drink. It was anticipated that food would be 50% of the sales and that it would be the same as other JD Wetherspoons establishments having no entertainment or music. Members were assured that tables and chairs would not be removed at weekends.

Members were informed that tea, coffee and soft drinks would be available at all times when the premises were open. Mr Connor said that JD Wetherspoons were popular with pensioners and those on fixed allowances offering a large menu of reasonably priced food and drink.

Mr Connor advised Members of the following:

- JD Wetherspoons had met with the Community and heard their concerns
- The team in attendance at the hearing knew the area well as they had lived or lived close to the area
- JD Wetherspoons had strong control measures in place which had been tried and tested at other establishments
- CCTV would be positioned around the site
- JD Wetherspoons had 37 years operational experience
- Policy measures were adhered to with Challenge 21 and zero tolerance for language and were members of Pubwatch
- JD Wetherspoons had noted concerns of public nuisance but these were not in relation to the premises but to the area and in particular with the 'Otley Run'
- They had met with WYP and had agreed that when advised of an event at the Headingley Stadium they would undertake a risk assessment to employ door staff as necessary. This had been incorporated into the licence as condition 3.
- JD Wetherspoon offered a residents meeting with manager to discuss and address any issues prior to and 4 weeks after opening
- Any customers under 16 years of age must be accompanied by an adult
- There would be car parking for 13 cars with 2 disabled spaces and this would be accessed from Richmond Road
- There would be seating for 364 customers this would be a mix of fixed and moveable seating.
- Vertical drinking would not be encouraged.

One objector raised the question of an incident involving trading standards where illegal tobacco had been seized at JD Wetherspoon in Basildon, Essex. Mr Connor said that this had now been addressed with no further action being taken.

Paddy Whurr of Woods Whurr Solicitors represented Arc Inspirations, he set out the main issue for concern that the premises were in a Cumulative Impact Policy (CIP) area and he informed Members that he was disappointed that Planning had given permission for a premises in this area.

He stated that although JD Wetherspoon said that they would only allow 550 people into the premises in order to address Health and Safety there was capacity to hold up to 1000 people this would make the premises one of the largest licensed

premises in the city. This would make the CIP redundant and therefore the presumption of refusal rebuttable.

Mr Whurr said that there was nothing to force the establishment to be a food lead premises and he had noted that a poster outside one of the city centre Wetherspoon establishments focused on pricing for drinks.

He was of the view that the location of the premises on a main thoroughfare between the Original Oak, Headingley and the Hyde Park would provide those on the 'Otley Run' with a stop off point in a residential area. He highlighted issues of health and Safety along the main road with intoxicated drinkers walking along this stretch of road citing a recent incident where a rugby player had been hit by a bus.

A number of residents had attended the meeting with Mr Norton, Mr Blumler and Dr Tyler electing to speak to the Sub-Committee of their concerns which are as follows:

- The premises would be located in between the Original Oak and the Hyde park on the 'Otley Run'
- Health and safety concerns in relation to drinkers walking along a busy main road towards the town centre
- Large hen, stag and student groups doing the 'Otley Run'
- Contrary to CIP
- These premises would be a super pub with planning permission quoting 1000 customers and how the effect that multiple voices had on decibel levels would have on the residential area.
- Noise disturbance at closing time with cars, taxis, loud voices.
- Premises would be in close proximity of schools
- Drunken participants who become abusive, damage property, vomit and urinate in public spaces
- Increased footfall and parking when Headingley stadium has events such as Leeds Rhino matches and district and test cricket matches
- Lack of parking for such a large premises with only two disabled parking bays
- Noise from air conditioning units and extraction fan
- Smells from kitchens
- The menu of alcoholic and energy drinks that would be available
- Routes to the premises would be through residential areas making the 'Buckingham's' a 'rat run'

Ward Councillor Walshaw addressed the Sub-Committee thanking all the speakers saying that they had all made very good points and asked Members to note that this issue had brought the community of this quiet residential area together to raise their concerns over anti-social behaviour and the harm that would be caused by siting a premises as large as the one proposed within this a residential and CIP area.

Cllr. Walshaw also asked that Members should note that this area had a number of cyclists and that the increase in taxis and cars would pose a danger to cyclists.

He also said that this would be the second largest premises in Leeds and that there was plenty of capacity for vertical drinking within the establishment. Cllr. Walshaw



was also of the view that the menu offering cost effective food and drink would appeal to students on low budgets.

Mr Connor in summarizing for JD Wetherspoon informed the Sub-Committee of the following:

- He referred to the Secretary of State in regard to CIP that each application should be decided on an individual basis and that the policy could not be used as an exhaustive list to rebut presumption.
- He said that JD Wetherspoon had 37 years of experience in this type of operation and had provided evidence on how the licensing objectives would be upheld
- The premises would be food lead and with low cost food and drink students would be attracted to the establishment as they need to eat also
- JD Wetherspoon would not serve customers who were intoxicated
- They were socially inclusive offering low cost menus of both food and drink
- JD Wetherspoon had an excellent track record in Leeds working with all responsible authorities and had received no representation from West Yorkshire Police
- JD Wetherspoon wanted to be part of the Community and hoped that the premises would be used by families and community groups
- He said that it would be a shame if this application was tainted by the 'Otley Run' as they did not want the premises to be known as a disorderly or rowdy establishment.

Members were of the view that the application was contentious and in view of this they wished to adjourn the hearing to consider all the evidence that had been presented from all parties and that they would reconvene when all the evidence had been considered.

The Licensing Sub-Committee reconvened at 10.30am on Friday 2nd December 2016, however it should be noted that Councillor Coulson was not able to attend the re-convened hearing due to illness.

Members Cllr. Hyde and Cllr Wilkinson, determined that they would proceed, as the three members had intimated their decision already during their deliberations on the Tuesday, had decided to reconvene to finalise their reasoning and the draft decision would be sent to Cllr. Coulson for his approval.

The Sub Committee took into account all of the evidence and representations before them, including the contents of the report of the Head of Elections, Licensing and Registration; the four licensing objectives – but in particular the prevention of crime and disorder, the promotion of public safety and the prevention of public nuisance. Members also paid close regard to the representations made at the hearing on behalf of the applicant and local residents.

The Committee also considered the Local Authority's Statement of Licensing policy 2014 – 2018 ("the Policy"), having particular regard to the Cumulative Impact Policy ("CIP"). While the CIP creates a rebuttable presumption that applications that are likely to add to the existing cumulative impact will normally be refused, it does not

create a blanket ban and this was not a case in which the application had to be an exceptional case.

While having in mind the CIP, the Sub Committee considered the application on its individual merits in accordance with the principles within the statutory guidance under section 182 of the Licensing Act 2003.

The Sub Committee considered whether the application would be likely to add to the cumulative impact on the crime and disorder and public nuisance objectives. The premises would have a large capacity and, on the applicant's own case, would be attractive to a broad customer base. As the applicant accepted, its client base would include students. It would offer reasonably-priced food and drinks in a venue that would undoubtedly appeal to many customers. There was absolutely no criticism from the Sub Committee in this or in respect of the business aims or strategy of the enterprise.

The Sub Committee considered that a premises the size of this proposed Wetherspoons, even at the likely anticipated capacity of 550 persons rather than 1000, would be likely to have a significant impact on an area which already experiences some level of public nuisance and public disorder as a result of licensed premises in the area. Members noted that the Applicant had referred to the Otley Run as being a pre-existing problem. Additionally that crime and disorder and public nuisance within the Headingley and Hyde Park CIP area remain a major concern to members of the public. The safety of members of the public in crossing and re-crossing the road to attend the premises was also a matter that Members considered.

Irrespective of the steps proposed to be taken by the operator in their standard operating schedule to control or moderate the behaviour of customers, the Sub Committee considered that there would be an increased impact on public nuisance and crime and disorder as a consequence of the numbers of people who would be attracted to this area – whether taking part in the Otley Run or otherwise – and subsequently dispersed, including via the surrounding residential areas, at least some of whom would in all probability be intoxicated.

Members were concerned over the arrangements for doorstaff provision as, under the applicant's standard operating schedule, it was proposed to allocate resources dependant on an unspecified risk assessment to be determined in conjunction with WYP when the applicant was notified of specific events in the area. However Members noted that no doorstaff were proposed to deal with the anticipated volume of patrons which could be attracted on a regular basis.

Whilst the Otley Run was an existing problem, Members felt it was not one they could ignore as it was a source of real problems for the members of the public who had made representations and as raised by the local Ward Councillor.

The Sub Committee had heard that whilst the premises would attract a wide range of clientele, and although located in an area which students frequent, the premises themselves were reportedly in an area which is predominantly family orientated rather than primarily comprising houses in multiple occupation.

The Sub Committee had regard to the Cumulative Impact Policy, but was also mindful that each case must be considered on its particular circumstances and with an open mind. However, despite the good intentions of this well-established operator, the Sub Committee were sympathetic to the concerns of the local residents about such a large premises obtaining a licence and the impact it would have on this residential area.

In their view, there was an absence of measures that it considered specifically addressed the Headingley and Hyde Park CIP or demonstrated that there would be no additional impact.

Having further deliberated the decision, a copy of the drafted decision letter was shared with Councillor Coulson who confirmed in writing his agreement.

**RESOLVED** – That the Licensing Sub Committee considered all the evidence and representations presented to them.

The Sub-Committee were not persuaded that the licensing objectives in respect of public nuisance and crime and disorder could be promoted by this premises in an area which already had cause to be subject to a CIP. Therefore, on this basis the Sub-Committee decided to refuse the application.