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21 August 2008

APPLICATION FOR THE GRANT OF A PREMISES LICENCE: "GREGGS" UNIT 1B, THE BOURSE, BOAR LANE, LEEDS, LS1 5EQ

On the 18th August 2008 the Licensing Sub-Committee heard an application brought by Greggs Plc, Fernwood House, Clayton Road, Jesmond, Newcastle-Upon-Tyne, NE2 1TL for the grant of a premises licence in respect of the premises known as "Greggs" Unit 1B, The Bourse, Boar Lane, Leeds, LS1 5EQ.

As presented in the Licensing Officer's report, the applicant sought the following:

Proposed Licensable Activities

L Late Night Refreshment

Proposed Hours of Licensable Activities

Late Night Refreshment

Everyday 23:00 hours to 04:30 hours

Proposed times the Premises will be Open to the Public

Monday to Sunday 08:00 hours to 17:00 hours

21:00 hours to 04:30 hours

Sunday

21:00 hours to 04:30 hours

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Following clarification from the solicitor of the applicant the Sub-Committee noted that the applicant actually sought the following premises licence:

Proposed Licensable Activities

L Late Night Refreshment

Proposed Hours of Licensable Activities

Late Night Refreshment

Tuesday to Saturday 23:00 hours to 04:30 hours

In addition to the above hours the applicant proposed that the premises will open:

During December everyday between 23:00 hours to 04:30 hours

Sunday and Monday of a Bank Holiday weekend 23:00 hours to 04:30 hours

Proposed times the Premises will be Open to the Public

Monday to Sunday 08:00 hours to 17:00 hours

21:00 hours to 04:30 hours

Sunday

21:00 hours to 04:30 hours

This letter represents the formal decision of the Sub-Committee in respect of the application.

Preliminary Procedural Issues

The Sub-Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub-Committee agreed that the procedure for the hearing would not be varied except that each party was allowed twenty minutes to present their case. The Sub-Committee then decided to exclude the public from that part of the meeting where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing that Sub-Committee had considered the Licensing Officers report which included a copy of the application as submitted. The report also included written representations received from West Yorkshire Police.

The Sub-Committee then went on to consider the application

The Hearing

The following interested parties attended the hearing:

- Mr. B. Patterson, West Yorkshire Police
- Mr. R. Arnot, solicitor for the applicant

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- Mr. P. Wright, Greggs Plc.
- Mr. Simon Smyth, Greggs Plc.
- Mr. J. Peachey-Pace, Greggs Plc.
- Ms. K Garney, GreggsPlc.

In determining the application the Sub-Committee took into account the written submissions from the responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the parties prior to the hearing.

After considering the evidence and submissions the Sub-Committee would need to satisfy itself that granting the variation would promote the licensing objectives.

In reaching its decision, the Sub-Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the council's own Licensing Policy.

In particular the Sub-Committee took into account Sections 17 & 18 of the Act because these were the most relevant to the application and Chapter 2 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub-Committee then went on to consider the following sections of the Licensing Policy as the Sub-Committee took the view that these paragraphs had a bearing on the applications:

- Section 6 General Principles
- Section 7 Cumulative Impact Policy
- Section 12 Promotion of the Licensing Objectives

Responsible Authorities

The Sub-Committee first considered the representations made by Mr. B. Patterson on behalf of West Yorkshire Police (WYP). Mr. Patterson informed Members that the objection made to the application was in line with Leeds City Council's Cumulative Impact Policy (CIP) contained in the Statement of Licensing Policy 2007/10. The premises, located on Boar Lane, was included in Area 1 of the CIP. The CIP for the area also covered the provision of hot takeaway food. In line with section 182 Guidance on the Licensing Act 2003 representations had been made by West Yorkshire Police in order for the application to be considered in conjunction with the CIP by the Sub-Committee. Pages 29 to 30 of the Licensing Officer's report contained WYP's case which was put together by Pc. C. Arkle and provided a background to the area and the relevant crime statistics. It was the wish of Pc. Arkle that the application should be refused outright. The section 182 Guidance states that the CIP was not a blanket refusal to all applications being refused and premises licences maybe granted if the applicant could demonstrate that to allow the premises to operate would not have an impact on the licensing objectives within the area. If the Sub-Committee were minded to grant the application, in full or in part, Members were asked to take into consideration the condition which had been proposed to have a minimum of 2 SIA registered door staff at the premises after 23:00 hours.

The statistics which were included in WYP's submissions had been included in the information brought to the Sub-Committee when it reviewed its Statement of Licensing Policy and more specifically when it considered the CIP for the area. The decision of the Licensing Authority had been to maintain the CIP for Area 1. The figures which were also provided for

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the review of the CIP went up to September 2007 and further statistics which focussed on the Boar Lane specifically as opposed to the City centre as a whole. On page 45 of the report Boar Lane, where the premises was located, featured highly in the anti-social behaviour statistics with the street accounting for 102 of 383 reports of anti-social behaviour in the area. The Divisional Analyst had noted that many of the incidents had taken place over the weekends but also noted that there were still higher levels of anti-social behaviour on the street during the week. Over half of the incidents reported were alcohol related and whilst Mr. Patterson acknowledged that the premises would not provide alcohol for sale it would still attract those who had consumed alcohol. Page 46 of the report indicated that the peak times for anti-social behaviour were between 23:00 hours to 03:00 hours when 43% of anti-social behaviour incidents took place, times when the premise proposed to be open.

In relation to violent crime 48 of 107 incidents of violent offences which took place in the city centre between January 2008 to July 2008 took place on Boar Lane. In July alone there were eleven reported instances of violent assaults which was the highest number for any month for any area within the city centre. Mr. Patterson reminded the Sub-Committee that whilst much of the information did not directly relate to the premises in question all the statistics related to incidents which occurred in the vicinity of the proposed premises. Boar Lane was also the area where there were a peak of offences in the city centre and 65% of offences took place between Friday and Saturday nights.

Pc. Arkle, who was currently on annual leave, was asked to put a statement together regarding the application, included as pages 53 to 55 in the report. In the statement Pc. Arkle explained her role as the Divisional Licensing Officer for City and Holbeck and a brief description of her role in that area. The statement went on to explain that there were above average levels of drunkenness reported in the area and the peak time for violent offences was 21:00 hours to 03:00 hours. Mr. Patterson brought the Sub-Committee's attention to two specific quotes from Pc. Arkle's statement:

- 'Whilst a late night refreshment house, such as Greggs, has certainly not supplied the alcohol which often causes and contributes to this behaviour, it often attracts heavily inebriated persons to remain in the city centre longer, with the increased chance of them either committing a crime or becoming the victims of crime.'
- Bearing in mind the history of Boar Lane and the continued problems from which it obviously suffers I am of the opinion that the granting of a new premises licence can only further add to crime and disorder in this area. There is nothing offered in the application which convinces me that this can be prevented.'

At this stage Mr. Patterson explained that he wished to add a further statement should the applicant's representative raise the issue of the other Greggs premises on Boar Lane which had late hours of opening. Following representations made by Mr. Arnot that he wished to be able to take advice on any new information which Mr. Patterson wished to present the Sub-Committee agreed to adjourn to allow both parties to discuss this matter. Following the brief adjournment Mr. Patterson added to his statement that the other Greggs store on Boar Lane had been granted a premises licence to open later under the previous Statement of Licensing Policy. However the new Policy's wording had been 'toughened up' which had enabled the police to object to it in this instance. There was nothing adverse to report about the other Greggs premises on Boar Lane.

In the questions which were asked by the Sub-Committee the following issues were addressed:

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- The Sub-Committee commented on the high quality of the statistics and other evidence put forward in WYP's case.
- McDonald's, located on the corner of Briggate and Boar Lane had been granted a premises licence to open late under 'grandfather rights'.
- Whilst door staff were usually associated with bars, pubs and clubs there were other late night takeaways such as McDonald's and Subway which had employed door staff. Door staff were there to protect staff and customers, to prevent crime and disorder at the premises and to prevent drunk people from entering the premises. Mr. Patterson noted that Nottinghamshire Police had recently put a condition on all applications for late night hot food takeaways in the city centre to employ door staff.
- Mr. Patterson explained, for the benefit of the Sub-Committee, the current situation of the review of the premises licence for 'The Birdcage' which was located near the premises. At this stage the review process had been going on for nearly two and a half years as the owners had attempted to have the decision judicially reviewed. This had since been withdrawn and a hearing at the magistrates had been set for October 2008.
- Mr Patterson confirmed that the objection to the premises licence centred around the fact that the premises was located within Area 1 of the CIP, that the premises attracted people to stay in the city centre longer where there was an increased chance that people will either commit a crime or become the victims of crime. Mr. Patterson explained that the objection was nothing to do with the company itself and the police would not have made an objection to the application if the premises was not located within the Cumulative Impact Area (CIA). In order for the CIP to be considered the police or another responsible authority were required to make an objection.
- The premises was located on the route to the taxi rank at the train station, a busy and problematic area of the city centre.

Applicant

As there were no further representations from the responsible authorities the Sub-Committee then considered the representations made on behalf of the applicant by Mr. R. Arnot, solicitor for the applicant. Mr. Arnot was aware that Members were familiar with the company and its product so did not intend on going into too much detail. The company was always looking for new business opportunities and the night time economy was a market they were beginning to enter into. Mr. Arnot went on to inform the Sub-Committee on how the premises intended to operate at during the night time period and how they would address the requirements of the CIP. Members' attention was brought to paragraph 7.9 of Leeds City Council's Statement of Licensing Policy which stated that a premises licence could be granted in an area where a CIP applied so long as the local authority was satisfied that granting the premises licence would not impact on the problems existing within the area. Mr. Arnot added that he was grateful for the statistics which Mr. Patterson had provided as he felt that they supported the applicant's case.

During the later opening hours the premises would not have the self service option which was available during the day and all shelves would be empty. A layout plan of the premises had been submitted as part of the application and the counter service area was located at the end of the shop. The number of lines provided at the store during the later hours would also decrease to approximately 12 lines to include crisps, sandwiches and pasties. All food would be prepared prior to the shift to ensure that staff were not distracted by the preparation of food. From the company's experience with other Greggs premises night time customers spent on average one minute in the shop. There would be no consumption of food on the premises

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and there would also be a minimum of two SIA registered door staff employed during the night shift to keep both staff and customers safe. The company which were employed at the premises to provide door staff were a local company who also provided door staff for the other Greggs premises on Boar Lane. There would be two members of SIA registered door staff on the premises during week nights, 3 on a Friday night and 4 on a Saturday night. CCTV was installed at the premises and was available on request to the police when necessary. Staff would also serve the produce and take payment through a letter box on a shutter which covered the main counter. Greggs also had a contract with a local taxi firm to collect staff at the end of their shift to prevent them from having to hang around the premises in the early hours of the morning.

Greggs also operated similar opening hours at premises in Newcastle and Chester without any problems. A premises also operated late opening hours in York in an area where a CIP was also in place. As previously mentioned Greggs already operated one premises with late night opening hours within the CIP Area 1 on Boar Lane and had done so for one year without any problems. Mr. Peachey-Pace, the store manager of the other premises of Boar Lane, was present to answer any questions the Sub-Committee had. It was anticipated that a Greggs store located in The Light shopping centre would soon open with later opening hours as a premises licence had recently been granted.

Mr. Arnot continued to inform that he felt that Greggs was different to the regular takeaways which operated within the area. For instance to the fast service there were no queues which were often the "flash points" for fights to start as customers, who may be drunk, become impatient. The nature of the food was different to what was offered at other takeaways as it was possible to eat food on the go with one hand as opposed to a pizza served in a box for instance which required two hands. As food could be eaten on the go it there was not a reason for the customers to loiter around as they could eat their food on their way home or to the nearest taxi rank. If the Sub-Committee were to accept the Police's argument that they wished to prevent people from staying in the city centre longer then Greggs could support this due to the nature of their product. Customers would receive their food quicker at a Greggs premises and leave the area quicker also. The statistics which were presented by Mr. Patterson mentioned places such as McDonald's and Subway but not the Greggs on Boar Lane which had operated with later hours for over a year. McDonald's and Subway also allow their customers to consume food on the premises.

Ms. Garney, regional operations manager for Greggs, provided further information on how other Greggs stores operated during late night hours. All staff were provided with specific training for working on the night shift and there were also other security measures which were introduced at the premises to protect staff. There was an alarm installed at the premises which was connected to a company which would contact the police if necessary and there are signs advising the customers of this. The staff are trained to deal with awkward customers and role play was used to assist this. The recruitment of staff was also important and the company employed robust staff to work the late shift. Staff were trained to deal with customer in a firm but polite manner without the additional selling and customer service which would be expected during the day shifts. The aim was to get the customer in and out as quickly as possible and for them to be dealt with in a firm but polite manner. Staff were usually a mixture of males and females. During the busy period of 01:30 to 04:00 hours the stores would serve between 40 to 60 people per half hour for which there was adequate staff to cope with this level of demand.

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The Sub-Committee then heard from Mr. Peachey-Pace who managed the Greggs store at 50 Boar Lane. The premises had operated with late opening hours for one year without any problems. Customers were dealt with quickly and were provided reduced selection of food so spent less time deciding what they wanted to eat. The premises was located near to the Birdcage which had caused problems in the area but Greggs had not experienced any problems in relation to the premises.

Mr. Arnot continued by reminding the Sub-Committee that whilst there had been instances of anti-social behaviour nearby the problems had not been exacerbated by the Greggs store being open. The granting of the premise licence would not increase the propensity for anti-social behaviour. Customers were served quickly and some customer may purchase food in between pubs which would mean that they would not require food later at night. Mr. Arnot was also of the opinion that the premises would not encourage people to stay in the area longer.

The Sub-Committee noted the following issues which were addressed in the question which were asked:

- SIA registered door staff would not have the power to prevent people from congregating outside the premises.
- Mr. Arnot was not of the opinion that the grant of the premises licence would work against the CIP but would support it and that the CIP was not a blanket ban on any premises opening within the area. It was anticipated that customers would leave the premises and eat the food as they walked home or to one of the taxi ranks in the area.
- On average Mr. Peachey Pace would make 48 sandwiches for the late night shift along with 100 of each type of pasty and approximately 200 sausage rolls. The premises was allowed 10% wastage.
- Mr. Patterson informed the Sub-Committee that the Greggs located on 50 Boar Lane had recently had a variation to the premises licence to allow it to operate everyday to 04:30 and previous to this the premises had only operated during the night time between Wednesdays and Saturdays.
- There were other hot food takeaways nearby the premises including another Greggs Store. Ms. Garney informed the Sub-Committee that the nearby Subway opened until the early hours of the morning and the company hoped that they could attract some of the same customers.
- The company would employ a litter picker through a national company who would collect litter around the premises from 00:00 hours until the premises closed. There was also a bin outside the premises which customer often used to put the wrapping of their food in before walking away from the store to eat it.

The Decision

The Sub-Committee discussed the application in a closed session. Members noted the written submissions objecting to the grant of the Premises Licence from Pc. Arkle on behalf of West Yorkshire Police. The Sub-Committee also took into consideration the verbal representations made by Mr. B. Patterson on behalf of West Yorkshire Police and Mr. R. Arnot, Ms. K. Garney and Mr. J. Peachey-Pace on behalf of Greggs Plc. The Sub-Committee took into consideration, with particular seriousness the Council's Own Statement of Licensing Policy 2007-2010 and in particular section 7 in relation to Cumulative Impact Policies.

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Members received advice from the Legal adviser present who referred Members to paragraph 7.9 of the Statement of Licensing Policy:

‘An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas detailed above must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.’

The Legal Adviser reiterated to the Members that they should consider whether granting the premises licence in that area would add to the impact in that area.

After careful consideration the decision of the Sub-Committee was to grant the application as they did not feel that the premises would add to the impact experienced. The premises licence was granted in the following terms:

Licensable Activities

L Late Night Refreshment

Hours of Licensable Activities

Late Night Refreshment

Tuesday to Saturday 23:00 hours to 04:30 hours

In addition to the above hours the will open for Late Night Refreshment:

During December everyday between 23:00 hours to 04:30 hours

Sunday and Monday of a Bank Holiday weekend 23:00 hours to 04:30 hours

Times the Premises will be Open to the Public

Monday to Sunday 08:00 hours to 17:00 hours

21:00 hours to 04:30 hours

Sunday 21:00 hours to 04:30 hours

The grant of the premises licence was subject to the following condition being incorporated into the operating schedule.

1. A minimum of 2 SIA registered shall be employed at the premises between 23:00 hours to the time the premises closes.

In making its decision the Sub-Committee was satisfied that the grant of the licence with the imposed conditions was in line with the Council’s own Licensing Policy and the provisions of the Licensing Act 2003.

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There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours sincerely

Laura Pilgrim
Governance Services Officer