

## **Licensing Sub-Committee**

**Tuesday, 23rd April, 2024**

**PRESENT:** Councillor I Wilson in the Chair

Councillors N Buckley and S Holroyd-Case

### **1 Election of the Chair**

**RESOLVED** – To elect Councillor I Wilson 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**

Agenda item 6 - Application for the Grant of a Premises Licence for Neils Superstore, 9 - 11 Reginald Row, Potternewton, Leeds, LS7 3HP- The Sub Committee had received supplementary information provided by West Yorkshire Police which had been designated as exempt from publication under the provisions of Access to Information Procedure Rule 10.4 (7).

**RESOLVED** – That the public be excluded under the provisions of Access to Information Procedure Rule 10.4 (7) from the part of the meeting where discussion was likely to involve the disclosure of exempt information, particularly information relating to action taken in connection with the prevention, investigation or prosecution of crime. (minute 6 refers)

### **4 Late Items**

There were no formal late items, however, supplementary information was submitted in relation to item 6 – Application for the Grant of a Premises Licence for Neils Superstore and item 7 - Application for the Grant of a Premises Licence for Rileys.

### **5 Declaration of Interests**

No declarations of interest were made.

### **6 Application for the Grant of a Premises Licence for Neils Superstore, 11 Reginald Row, Potternewton, Leeds, LS7 3HP**

The Chief Officer Elections and Regulatory submitted a report for Members consideration on an application for the grant of a premises licence made by Mr Malkit Singh, for Neils Superstore, 9 - 11 Reginald Row, Potternewton, Leeds, LS7 3HP.

Attending the meeting were:

- Duncan Craig, Barrister, St. Philips Chambers – Applicant’s Representative
- Malkit Singh – Applicant and Proposed Designated Premises Supervisor
- PC Neil Haywood, West Yorkshire Police (WYP) – Objector

The Legal officer explained the procedure for the hearing. The Applicant’s Representative tabled an additional document containing details of email correspondence sent to WYP on the 25<sup>th</sup> of January 2023. PC N Haywood, as the

other present party, noted he had not seen this document but agreed for its contents to be discussed.

The Licensing Officer presented the application informing Members of the following points:

- The application was for the grant of a premises licence made by Mr Malkit Singh, for Neils Superstore, 9 - 11 Reginald Row, Potternewton, Leeds, LS7 3HP.
- The premises was to trade as an off licence and had previously benefited from a premises licence which was revoked by the Licensing Sub Committee in August 2020 following a review sought by WYP.
- In summary the application was for: The sale by retail of alcohol (for consumption off the premises) Monday to Sunday 09:00 – 22:00. It was noted that the hours applied for were less than those authorised by the revoked licence and the Licensing Officer highlighted an error in the report in respect of the hours proposed.
- A history of the premises was available from point 2 of the report, detailing the review of the previous licence, submitted by WYP, with the Licensing Sub Committee resolving to revoke the licence on the 19 August 2020.
- A copy of the application form was available at appendix A of the report and proposed conditions were available at appendix B.
- The representation in objection to the application by WYP was available at appendix D, 15 comments in support of the application had been received, with redacted copies available at appendix E. A list of licenced premises within the locality was detailed at appendix F.
- The applicant team had submitted a supplementary document containing the personal licence obtained by the applicant and WYP had provided bodycam footage which was exempt from press and public viewership.

The applicant's representatives provided the Sub-Committee with the following information:

- The Legal Representative had been appointed after the unsuccessful appeal of the revoked licence and had liaised with the previous representative and the applicant. The licence had been revoked nearly 4 years prior and WYP had been contacted regarding the application on the 25<sup>th</sup> of January 2023; WYP had responded saying they were to object.
- The incident which led to the revocation was outlined as a youths going into the premises and using a stolen bank card and smartphone to make purchases. The majority of the sales were conducted by the applicant's son, who was noted to be less experienced and then around 4 sales were done by the applicant who then became suspicious and refused further service. The applicant outlined that suspicions should have been raised earlier and it was naïve of him to not act sooner.
- CCTV was provided to WYP and when Police Officers had visited the store prior to the expiration of the 21 day period to submit an appeal, the applicant had already removed alcohol products from the shop and then instructed a solicitor.
- The applicant had been dismayed during the WYP visit given the circumstances and the revocation of the licence but in the 32 years of

operation, the applicant had always been cooperative with WYP and had assisted in previous investigations within the locality.

- The applicant was in attendance to answer questions and provide clarity on issues for Members. He had not been interviewed under caution and was not under any prosecution or any criminal charges following the incident.
- As the incident leading to revocation had been 4 years ago, it was thought to be reasonable, fair and proportionate to reapply for a licence with the applicant acknowledging his mistake and subsequently learning and establishing better practises.
- The passage of time and sufficient remorse, alongside the context of the premises being operated by the applicant for 32 years with no further reviews or issues noted over this time, outlined it was an appropriate time to reapply and the revocation did not need to be a permanent measure.
- The support comments were significant, speaking of the applicant in a high manner, with some being handwritten and not being part of a wider petition. Representations noted the shop as a community asset and outlined the applicant to be well regarded; local residents sought to see the licence reinstated for their convenience with the premises being in a prime location and not many other similar shopping options nearby.
- The applicant also ran a Best One store at King Lane in Moortown, which possessed an alcohol licence, displaying his ability to be fit and proper in operating a licenced premises responsibly.
- It was outlined that Members were to determine the application against a balance of the seriousness of the incident leading to the previous licence revocation and the acknowledgment that the premises was well run prior to the incident and the applicant's commitment to better practices going forward. The appeal had been lost a number of years ago, but it was believed that the position held could not be the same alongside the context of positive comments submitted by local residents.
- Supporting evidence for approval was noted as, the applicant obtaining a personal licence since the revocation, had previously held a licence for the premises for a significant time and was refreshed on the understanding of his responsibilities, including challenge 25. When the Licensing Act 2003 superseded the 1964 act, licence holders were not required to possess the personal licence qualification; this outlined the applicant's commitment to good practice, in line with the licensing objectives.
- Licences were outlined to be a privilege and determination was based on a balance of potential nuisance and legitimate business interests. This premises was noted to be a positive contribution to the community, which was supported by representations and the applicant's help within the community including delivering groceries to people in need or less able to travel.
- The shop had historically been run responsibly with the applicant living within the locality and was well thought of within the community.
- Although WYP were thought of as experts in relation to crime and disorder measures, the 15 support comments from people who use the shop and understand community needs were not vetoed by the WYP objection.

Responding to questions from Members the Sub-Committee were informed of the following by the applicant team:

- In response to a query relating to the multiple transactions made using the stolen bank card and smartphone, the applicant outlined that he had been off work for 3 months for a medical operation and his son had been covering work at the premises, who was largely unexperienced running licensed premises. The majority of the transactions had been through his son and when the applicant attended the shop, he raised suspicions after the fourth purchase.
- The applicant's son did not communicate about the previous transactions until days after the incident and also when the applicant questioned the youths on the fourth purchase they had said one of their fathers had given permission to use the phone to make purchases on their birthday and had showed a picture of who the applicant believed to be one of the youth fathers from the stolen smart phone.
- As a point of clarity, the Legal Officer noted that for the original report for the review hearing, there had been 29 transactions at the premises using the stolen card and phone, the robbery and incident at the premises had taken place on the 31<sup>st</sup> of January 2020, the application for review had been submitted by WYP on the 24<sup>th</sup> of March 2020 and the hearing which led to the revocation was held on the 19<sup>th</sup> of August 2020.
- As one of the support comments seemed unclear on the reasons for the licence being revoked and alluded to different circumstances than that of the review, Members queried whether supporters of the new application were aware of the whole situation. In response the applicant outlined that the community were aware of the incident, which had been explained to some customers and that anyone associated to the robbery had been banned from the premises.
- The applicant had not contacted WYP after the incident as he believed the phone to be property of the individual's father but was not sure whether permission to use it had been granted.
- It was outlined that the applicant usually works at Neils Superstore during the daytime and then his son and sister usually cover the evening shift, with the applicant then working the evening shift at the other premises in his ownership, Best One on King Lane.
- On the day of the incident the applicant had arrived at the shop at approximately 7:30pm and his son had covered the afternoon to evening shift.
- The applicant acknowledged there had been multiple mistakes in operations on the day of the incident and had learnt from them.
- The blue notice displayed at the premises was seeking support for the grant of a new licence and had not gone into detail regarding the revocation of the previous licence. This had led to conversations with customers regarding the incident, but most local residents knew of the situation, and the applicant had not tried to influence the representations people submitted to Entertainment Licensing.
- As the applicant had been operating licensed premises for a significant number of years and regulations changing over this time, the personal licence course, along with lessons learnt from the incident, he was well versed in processes and procedures and had put up new signage including a notice covering the four licensing objectives and a challenge 25 notice.

- The premises had employed a process of questioning customers after further purchases were attempted to be made after two recent transactions and although the licence had been revoked, responsible sale of cigarettes, vapes, scratch cards, lottery and gas canisters had been conducted and he had been more proactive with checking ID.
- The applicant believed the individuals had used ginnels to get to the premises and that is why they had not stopped at other shops having not travelled directly down Chapeltown Road.
- It was outlined that the applicant's son was 24 years old and was 20 years old at the time of the incident. It had not been ideal to have his son running the shop as proper training on licensing objectives had not been conducted. They were both now better trained, and the son was also to acquire a personal licence qualification.

The objector from WYP addressed the Sub-Committee providing the Members with the following information:

- Although 4 years had passed since the incident, WYP were objecting as the robbery had caused significant public harm and security issues and the investigation was still ongoing.
- An overview of the robbery was explained as, in January 2020 8 masked men had approached a husband and wife in a graveyard where they were separated from each other, the husband was struck with a wooden object and had a sharp object held to him. They were both robbed of smartphones and bank cards then threatened to provide access codes and pins. From 6:55pm to 7:55pm the robbers had used the stolen items to make over 29 purchases totalling £698.78.
- The fact that the individuals returned to the shop on multiple occasions purchasing high cost items such as vodka, brandy and cigarettes over the course of an hour, it should have raised concerns much earlier and CCTV had identified one of the individuals who was 17 years old, the other man who had not been identified also looked young yet neither were requested to present ID at any stage.
- The purchases at the premises had been made 20 minutes after the robbery with 37 other licensed premises in the area, many of which were closer to the scene of the crime, it was suggested that the premises may be known to be easy to make purchases without being questioned. For this type of offence, it was noted that time is of the essence before bank cards were cancelled.
- WYP had applied for the review hearing where it was suggested that the applicant may be aware of the identity of the robbers, however, had not been forthcoming after the revocation.
- The victims of the robbery had attended the review hearing in support of revocation, and it was noted that as no charges, arrests or prosecutions had taken place for any of the robbers, it was an injustice against the victims.
- It was suggested that the irresponsible actions of the applicant led to suspicions of culpability in the crime given the vast number of sales of alcohol and cigarettes to underage people via illegal transactions.

Responding to questions from Members the following information was provided by the objectors:

- Members suggested the robbers may have used the premises instead of others closer to the scene of the crime as it was nearby their homes. In response it was noted that WYP suspected the premises was used as it was unlikely 29 transactions of this nature would go unquestioned at an alternative shop.
- At the other premises in the applicant's ownership there had been two warnings submitted by WYP for allegations of serving customers who were clearly intoxicated, one in 2019 and another following a complaint in February 2021.
- A specific appropriate timeframe for the applicant applying for a new licence was unable to be confirmed as after the revocation the applicant was noted to have not engaged with responsible authorities and it was thought that not enough time had elapsed to provide proof of improved operations.

In summing up the applicant's representative outlined the following:

- The suggestion the premises was a fencing operation by WYP was thought to be obtuse on balance with the one incident against the 32 years of operations and the applicant had accepted that mistakes were made.
- There had been no evidence provided for the allegation that one of the individuals served alcohol and cigarettes during the incident was 17 years old.
- The main issues for Members in determining the application was whether the applicant was fit and proper for a licence to be reinstated and given the significant time frame since the incident and the improved, structured operating schedule it was thought to be sufficient for a grant. The incident was one error in a long history of the premises being a community asset.

Following deliberations, the Sub-Committee posed further questions to the applicant team and objector:

- As the review hearing had taken place during the Covid-19 pandemic it had been conducted via Zoom and a recording of the webcast was available online.
- The previous stance of the applicant assisting with WYP queries, that had been outlined in the review hearing, was discussed.
- The applicant and his representative outlined that he understood his role in relation to public duty and would cooperate with future WYP investigations.

**RESOLVED** – To grant the application, subject to the additional conditions;

1. A duly authorised officer of the City Council, a Police Officer or a duly authorised officer of the Fire & Civil Defence authority shall, at all times, have the right of access to the premises for the purpose of ensuring compliance with the conditions of the licence.
2. There shall be a register for the recording of all alcohol sale refusals, including attempted under-age sales, proxy sales and refusals to those who appear intoxicated. Details to be recorded shall include the date, time, name if known, physical description of the person, the reasons, and staff involved and whether CCTV of the incident is available. Any identification document coming into the possession of a member of staff including security staff shall be recorded in the register, including the name of the person/name on the identification document. The register shall be available for immediate inspection by any authorised officer of the responsible authorities and shall be

securely retained by the licence holder for a for a period of 12 months from the date of the last entry. The licence holder shall provide secure storage for identification documents and a system for safe disposal, which may include returning to the originating organisation, e.g. DVLA/HM passport office. The records shall be available for inspection by any authorised officer of the responsible authorities and shall be securely retained by the licence holder for a period of 12 months after the last entry.

3. Incident and accident records shall be kept in a bound register with consecutively numbered pages.
4. A 'Check 25' scheme shall be used to prevent the sale of alcohol to people under 18 years of age. All staff deployed in the sale of alcohol shall be trained on the correct procedures for age verification, the prevention of proxy sales, the prevention of sales to those who appear intoxicated and for dealing with false and any surrendered identification documents.
5. Staff training shall take place on the Licensing Act and Licensing objectives upon commencement of employment and every six months thereafter, a written record of this training is to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
6. The Designated Premises Supervisor/personal licence holder will be available/contactable at all times that alcohol is on sale.
7. A suitable closed-circuit television (CCTV) system shall be in operation whilst members of the public are in attendance. The CCTV system shall record images to cover all areas of the licensed site to which the public have access (save for toilets/showers/changing areas). The CCTV system shall record images to cover external areas used by customers. At least one member of staff shall be on duty at the premises who can operate the system and download recorded images. These images will be downloaded and provided immediately, or where this is not possible as soon as practicable, on request to an officer of a Responsible Authority. The CCTV system shall be capable of retaining images for a minimum of 31 days, will be of good quality and will contain the correct time and date stamp information. The CCTV system and images will be kept in a secure environment to which members of the public will not be permitted access.
8. The display of alcohol shall be in a designated area of the premises which is capable of being supervised from the counter area. The display of spirits shall be in an area accessible only by staff.
9. There shall be no sale of beer, cider, lager and perry of 6.5% alcohol by volume or above.
10. Alcohol shall not be displayed next to the public entrance/exit of the premises.
11. The name of the premises shall not contain reference to alcohol.
12. There shall be no internal window displays or external window displays, posters, advertisements or other imagery depicting or referring to alcohol and neither shall any such displays, posters, advertisements or other imagery be placed on the shop frontage or in front of the premises.
13. Customers shall be discouraged from drinking alcohol outside the premises.
14. The premises licence holder shall hold a current Fire Risk Assessment which shall be available for inspection by any authorised officer.
15. The licence holder/designated premises supervisor shall provide litter patrols and litter generated by customers shall be cleared away regularly.

16. This premises licence will not authorise a telephone/on-line alcohol collection service nor a telephone/on-line alcohol delivery service from these premises
17. No deliveries to the premises shall take place between 23:00 and 07:00 hours.

## **7 Application for the Grant of a Premises Licence for Rileys, Unit 1, 123 Albion Street, Leeds, LS2 8ER**

The Chief Officer Elections and Regulatory submitted a report for Members consideration on an application for the grant of a premises licence made by WPC7 Ltd., for Rileys, Unit 1, 123 Albion Street, Leeds, LS2 8ER.

Attending the meeting were:

- Chris Rees-Gay, Woods Whur – Applicant’s Representative
- Craig Mayes, CEO, WPC7 Ltd - Applicant

The Legal Officer explained the procedure for the hearing. Clearer colour copies of the Landlord Pack, contained within the first supplement pack for Item 7 were tabled by the Applicant’s Representative, with agreement from the Chair.

The Licensing Officer presented the application informing the Members of the following points:

- The application was for the grant of a premises licence made by WPC7 Ltd., for Rileys, Unit 1, 123 Albion Street, Leeds, LS2 8ER and was proposed to operate as a social, competitive sports and entertainment venue.
- In summary the application was for: sale by retail of alcohol every day 10:00 – 03:00 (for consumption both on and off the premises) late night refreshment every day 23:00 – 03:00 and exhibition of a film every day 10:00 – 03:00. Non-standard timings: Licensable activities were to be extended from the end of the permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.
- A copy of the application form was contained within appendix A on page 61 of the report pack. Agreements had been reached with the Environmental Protection Team (EPT) and WYP and details were available at appendix D and E, respectively. As part of supplement pack 2, additional agreed conditions were contained.
- 8 representations had been made in objection, on the grounds of public nuisance and were contained at appendix F on page 91 and remained an outstanding matter for consideration by the Sub-Committee.
- Members were advised that the premises was within the Cumulative Impact Assessment Area (CIA) for the City Centre but was not within the two red zones, so licences, and appended conditions, were to be tailored to address the measures and impact on the CIA.
- A list of surrounding licensed premises was available at appendix H from page 167 of the report pack.

The applicant’s representatives provided the Sub-Committee with the following information:

- The application was sought to be granted, as applied for and including the additional conditions contained in supplement pack 2.

- The application was submitted by WPC7 Ltd on behalf of Rileys. Rileys was founded in 1878 and had been operating venues on a largely unchanged model since 1976.
- Tables and equipment for playing snooker, pool, table tennis, golf and darts were provided at the venue, with 13 existing sites across England, Scotland and Wales. The venue was largely targeted at students but was open for all ages. 4 full time and 20 part times jobs were to be created upon approval of the licence.
- Historically, there had not been a review held against any of the Rileys Venues. The applicant / CEO for WPC7 Ltd held 25 years of experience within the organisation and the proposed operations manager was also noted to be experienced. An additional general manager was to be appointed, who would likely be brought in from the existing management structure at Rileys.
- All staff at Rileys were trained on compliance with and promotion of the licensing objectives, including refresher courses.
- The application for: Sale by retail of alcohol every day 10:00 – 03:00 (for consumption both on and off the premises) Late night refreshment every day 23:00 – 03:00 Exhibition of a film every day 10:00 – 03:00 was considered appropriate and proportion with the area and business model. The market analysis was based on similar existing Rileys venues in comparable locations such as Nottingham, Manchester and Coventry.
- Details of the pre-engagement efforts made were contained at pages 3 and 4 of the first supplement pack. The impact of the Public Spaces Protection Order (PSPO) had been considered and a condition had been included restricting any sale of alcohol for consumption off the premises.
- Playing recorded music had not been applied for and only background music was proposed, which was noted to limit any disturbance to nearby residents.
- As agreements had been reached with responsible authorities, it was noted, they were the experts in regard to appropriate measures to limit and reduce nuisance, crime and disorder. Reference to 9.12 of the Licensing Act 2003 was made.
- The premises was not within the CIA red zones and the style of operations was considered to be of low impact. There was no evidence base for crime or disorder stemming from the premises and the agreed conditions with WYP were considered sufficient.
- A copy of the Rileys Landlord pack had been sent to the 8 objectors, including contact details for the applicant in case issues arose that impacted the nearby residents.
- The depth and considered nature of the conditions contained in supplement pack 2 were stressed, with condition 1 for the premises to remain as a sports and entertainment venue, 2 for CCTV measures, 3 for a register held by the DPS/licence holder, 4 for door staff, 5 for an incident log, 11 and 12 for limiting and addressing noise, nuisance and crime, 21 and 22 for limiting delivery hours and noise from patrons leaving the premises and section e) covered operations for Challenge 25 and refusing sales appropriately. Additional agreed EPT conditions were for no plant and machinery and outside noise reduction measures; an additional 34 conditions were contained in this document.

- Addressing the objecting representations, it was noted that there was a misconception relating to noise and disturbance as no recorded or live music had been applied for, there was a 15 minute table change over time proposed to limit noise and congregation and vomit and glass litter concerns were not based on evidence as the premises was not a night club or vertical drinking establishment.
- The objections were not evidence based and Rileys was not to be compared to the previous licensed premises at this location, Players bar. Members were reminded of the powers of review available if any issues arose.
- The Thwaites Case was referenced in order to relay the importance of decision making against evidence and it was requested that Members grant the application alongside the robust conditions.

Responding to questions from Members the Sub-Committee were informed of the following by the applicant team:

- It was confirmed that the objection originally lodged by EPT had been withdrawn and conditions had been agreed and were considered appropriate to the premises operations.

In summing up the applicant's representative outlined the following:

- Pre-application consultation and engagement had been conducted and Rileys was considered to be a good and trustworthy operator.
- The management and DPS were considered experienced and had shared their details with concerned parties.
- There was no registered evidence against the application or any other Rileys operated premises.
- The powers of review and Thwaites case were again referenced.

**RESOLVED** – To grant the application, as applied for and subject to the additional conditions agreed with the Environment Protection Team and West Yorkshire Police.