

Licensing Sub-Committee

Tuesday, 2nd May, 2023

PRESENT: Councillor A Hutchison in the Chair

Councillors L Martin and I Wilson

1 Election of the Chair

RESOLVED – That Councillor Hutchison be elected as Chair for the duration of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

4 Late Items

A formal late item was published and circulated to Sub-Committee Members prior to the meeting, regarding a Temporary Event Notice (TEN) for Premier Banqueting Suite, Stoney Rock Lane, Burmantofts, Leeds, LS9 7TZ.

There was also supplementary information submitted in relation to Item 6 - Application for the grant of a Premises Licence for Maxi Foods, 22 Harehills Road, Harehills, Leeds, LS8 5PB.

5 Declaration of Interests

No interests were raised at the meeting.

6 Application for the Grant of a Premises Licence for Maxi Foods, 22 Harehills Road, Harehills, Leeds, LS8 5PB

The report of the Chief Officer (Elections and Regulatory) set out an application for the grant of a premises licence, made by Maxi Food Leeds Ltd, for Maxi Foods, 22 Harehills Road, Harehills, Leeds, LS8 5PB.

The following were in attendance for this item:

- Chris Rees-Gay, Woods Whur – Applicants Legal Representative
- Dylan Safy, Maxi Food Ltd – Operator/ Designated Premises Supervisor (DPS)
- Darrell Butterworth - Expert Witness in support of the application
- Peter Mudge - Safer Stronger Communities Team
- Councillor Salma Arif – Public Objector representor
- PC Andy Clifford – West Yorkshire Police (WYP)
- Sue Duckworth – Entertainment Licensing
- Vanessa Holroyd – Environmental Health
- Nicola Kelly-Johnson - Public Health

The Legal Officer set out the procedure to be followed. At the discretion of the Chair, it was agreed that 25 minutes was permitted for each party to make their representation to the Sub-Committee.

In response to a request to table an additional community watch document by the public objector representor, following legal advice, the Sub-Committee deemed that the document should not be considered due to relevant parties not having sufficient time to address its contents.

The Licensing Officer presented the application, highlighting the following points:

- The application had been made for the premises to operate as a convenience store with the licensable activity sale by retail of alcohol for consumption off the premises for the hours of 08:00 – 23:00 daily.
- Responsible authorities and Ward Members had been notified of the application.
- The application had attracted representations from other persons and responsible authorities.
- The premises were located within an area which was covered by Harehills Cumulative Impact Assessment Policy (CIA).
- The application form was available at appendix A of the report, a map of the locality at appendix B, Entertainment Licensing's objection at appendix C, Environmental Health's objection at appendix D, WYP's objection at appendix E, Safer, Stronger Communities Team's objection at appendix F, Leeds Anti-Social Behaviour Team's objection at appendix G, Public Health's objection at appendix H, Neighbourhood Policing WYP's objection at appendix I, public objections at appendix J, CIA information at appendix K and a list of local licensed premises at appendix L.
- A case summary document had been provided at Supplementary Information 2 which proposed two conditions, that if granted, the licence will exclude the sale of beers, lagers, or ciders and a litter collection will be undertaken daily outside the premises prior to opening. Information as to how the operating schedule was not perceived to contribute to the concerns for the area was also contained.

The Applicant's Representative presented the following information:

- The grant of a licence was sought with the amended operating schedule of no beer, lager or cider to be stocked, as well as other proposed conditions such as all spirits less than 70cl will not be stored or sold at the premises and alcohol products will not accommodate more than 10% of the available shop floor space.
- Photographs of the shop fittings and displays were available at pages 5-9 of Supplementary Pack 1 with £150,000 invested in the shop.
- The premises had been in operation as a mini mart since November 2022 with 9 employees. Customers had made requests for the shop to stock alcohol in order to be able to do a one stop shop.
- The DPS already operated 2 licenced stores within the CIA since 2016, 'Maxi Food and Wine' at 309 Harehills Lane and 'Maxi Foods' at 270 Harehills Lane. A third store in the locality made sense with service and management close by. It was also noted the DPS held a personal licence.

- The street drinking issues were perceived to be largely occurring from sales at Lane Stores and was not a notable issue from any of the Maxi Food stores.
- The Freedom of Information requests, contained at pages 27-37 of Supplementary Pack 1, outlined no results or issues by WYP, Trading Standards or the Council that stem from trade at the premises, which confirmed robust procedures followed by staff.
- The operating schedule and conditions offered at pages 4-5 of Supplementary Pack 2 were considered to be sufficient and would have no impact on the CIA.
- A CCTV system was in place, with 19 cameras, 15 in store and 4 outside the premises, with a TV screen behind the counter where all camera recordings can be viewed from.
- Offered conditions 12 and 14 will assist with staff being able to adequately manage potential conflict, particularly regarding street drinkers.
- Pre-application consultation had occurred, with responsible authorities contacted. This information was available at pages 11-16 of Supplementary Pack 1. A WYP Officer had also visited the premises prior to the full application.
- Community engagement had consisted of 165 letters distributed locally, signage displayed outside the shop, an engagement event which had been held with a number of residents in attendance that sought their views on alcohol being sold at the premises. A post-application meeting had been planned for the 27th of March 2023; however, no local residents had attended.
- The supporting petition contained 200 signatures from local residents who use the shop, which was believed to outweigh the 13 written objections. It was perceived that Councillor Arif may have written to local residents in order to gather objection.
- A supporting statement, at pages 51-57 of Supplementary Pack 1, from the Expert Witness, a retired Greater Manchester Police Inspector, noted street drinking was more common on Compton Road and during their investigations noted no gathering of people engaging in anti-social behaviour outside Maxi Foods.
- Plans submitted at pages 8-9 of Supplementary Pack 2 showed the premises to be within Middle Layer Super Output Area (MSOA) Harehills North, not on the boundary between North and South as had been referenced in the Licensing Authority's objection.
- The Data Matrix, at page 32 of the Report, referenced harm to young people under 16, however there was no evidence of underage sales of alcohol at the licence holder's current licensed stores.
- There was no evidence to support the Environmental Health's claim of potential noise or disturbance to local residents.
- The WYP objection was likely due to support of their part in the adoption of the CIA, the prices of alcohol proposed for the premises will not be driven down by competition and wine and spirits were noted to not be cheap options. There was no evidence for anti-social behaviour emanating from any of the licence holder's stores, confirmed by the FOI requests.
- A litter pick would be implemented prior to the store opening daily.
- The representations were perceived to be generic to protect the CIA and the BrewDog judgment in 2012 proved a CIA does not mean an automatic ban on

new licences. The 'Thwaites Case' was also referenced to outline to Members that the application should be considered on the information before them.

The Applicants Expert Witness provided the following information:

- Over multiple visits to the area they had observed social problems of street drinking and drug dealing but could not see evidence that this stems from Maxi Food premises.
- A more recent visit in March 2023 had noted no issues on Compton Road.
- The proposed conditions, particularly the limitations of stock to wine and spirits, were believed to go above and beyond to mitigate concerns, such as the migration of street drinkers to a new premises.
- They had proposed a limit to sales of beer to a maximum 5.2% ABV as the majority of street drinkers witnessed had been consuming stronger lager.
- With foreign, strong lager available at nearby stores, Maxi Foods will not be a desirable option for street drinkers.

The hearing was adjourned to allow time to consider what capacity the Elected Ward Member representing the public objector could comment due to no formal representation from the Elected Ward Members being received by the Entertainment Licensing. It was outlined an email had been sent to the Safer Stronger Communities Team but had not reached Entertainment Licensing so the representation would be on behalf of the public objector but comments in response to those made by the Applicant's Representative were permissible.

The Objectors to the application provided the following information:

Councillor Salma Arif on the behalf of a public objector:

- A multitude of representations, contained at Appendix J of the report, had been submitted by residents in opposition to the grant of another licence to sell alcohol within the locality.
- A new off licence will contribute to anti-social behaviour, violence, theft, nuisance, disturbance, litter and public urination and Maxi Foods was within a residential area proposing to sell alcohol at a time when many nearby residents will be in bed.
- Many young people live in deprivation in the area and witness street drinking daily.
- Whilst businesses need support in the area, it was noted there are already many off licences which had hindered the prosperity and opportunities for other businesses models.
- Staff at St. James Hospital often travel to work via Harehills Road and, particularly female staff, had reported feeling unsafe and receiving abuse whilst on route.
- Harehills had a large number of off licences leading to many street drinkers within the area; broken glass and litter were a common sight which poses a danger to children. Intimidating street drinkers had also caused fear for elderly people to go about their usual, daily life.
- St. Augustine's Church, located directly opposite the premises used to have a garden frontage which had been paved over due to the congregation of street drinkers, impacting local amenity negatively.

- Shine Business Centre included a nursery and thus parents and carers pass street drinkers on their way there, the regularly used route down Harehills Road goes past Maxi Foods so grant of an alcohol licence would increase exposure to anti-social behaviour.
- Street drinkers often purchase alcohol and then drink in Banstead Park. Due to the limited green space access of the many gardenless terrace properties in the locality this hinders on people's ability to enjoy the park. It was noted Maxi Foods was on the closest side to the children's play area.
- The condition for the sale of alcohol limited to wine and spirits will not deter alcoholics to whom all alcohol is alcohol and often have no preference of taste.
- Outreach work in the area to improve the living standards and reduce drug and alcohol addiction in the area was outlined to be ongoing and any further off licences will contribute to unravelling this partnership work.

West Yorkshire Police

- The CIA was in place due to the saturation of off licences, with 29 within its boundary. The area is saturated with similar business models, the CIA was to limit any more without good reason and as the applicant already owns two other shops in the area, they were already contributing to the problem.
- The report of seeing street drinkers outside Mama Mia, referenced in the Expert Witness statement in Supplement Pack 1, which is close to the two licenced Maxi Food premises, does not possess a licence so the reported street drinking may stem from one of the applicant's premises.
- The offered condition of limiting stock to wine and spirits will still encourage street drinkers as they are less inclined to have a preference of product. They had witnessed all kinds of alcohol consumed on the streets of Harehills.
- Exposing children and younger people to the normalisation of heavy alcohol consumption and the crime and disorder associated had negatively impacted their development and wellbeing.
- WYP requested that the application be refused.

Environmental Health

- It can be difficult to prove where alcohol was purchased and statutory nuisance can be hard to track, so any further availability of any form of alcohol in the locality will contribute to the issues outlined.
- The offered conditions do not go far enough to limit the impact on the CIA and grant of the licence will increase anti-social behaviour, so it was requested that the application be refused.

Licensing Authority Enforcement

- The BrewDog case referenced by the applicant's representative was considered not relevant when compared to this case as it was an old appeal that Entertainment Licensing and WYP had objected to and expected a refusal. Maxi Foods was also a different business model as alcohol is for consumption off the premises only.
- The Licensing Authority had not attended a site visit as requested by the applicant due to it being ineffective as they had already advised the applicant,

they would be objecting due there being no offered conditions that would limit impact on the CIA at the time.

- Points 7.42 and 7.43 of the Statement of Licensing Policy stated while CIA policy is not absolute, each application will be judged on its own merit and ability to prove grant of a licence will be unlikely to negatively impact the licensing objectives. With there being two similar premises in the applicant's possession in the locality impact would be expected.
- The FOI request in Supplementary Pack 2 detailing no enforcement action doesn't demonstrate exceptional performance as it is an expectation for a premises to adhere to this standard.
- With the premises in MSOA Harehills North and then one street away Harehills South, the impact on both areas ought to be considered, noting, issues of street drinking and deprivation in both. The application should be primarily determined against the entirety of the CIA, covering both areas.
- The offered condition of stocking only wine and 70cl spirits would likely be ineffective as both products have a higher alcohol percentage than beer. Alcoholics are less likely to be concerned with the type of alcohol they consume, and street drinkers often pool money together to purchase larger bottles.
- The Expert Witness statement referred to witnessing sherry and cheap white wine on the streets which may be available for sale under this licence.
- The conditions had displayed some consideration of the CIA, however, there was already a significant number of premises in the area and approval would contribute to littering and anti-social behaviour.
- The supporting petition required less effort than those submitting individual objections, which hold the potential for personal details to be publicised due to objectors supplying names and addresses and they should be considered to hold a lot more weight when determining applications.

Public Health

- Sub-Committee Members should consider the housing density and deprivation experienced in Harehills and the negative impact further accessibility of alcohol will contribute to the wider determinants of health.
- Poorer areas on average had higher numbers of premises selling alcohol when compared to more affluent areas and contributed to poorer health outcomes for residents.
- The Alcohol Data Matrix, produced by the Licensing Authority and Public Health, displayed Harehills South as 18th and Harehills North as 30th out of 107 areas at highest risk. It showed a variety of data regarding the impact alcohol had on the area.
- Children and young people are susceptible to harm from normalising heavy drinking, impacting their future health and wellbeing. Data showed many young people in the area are without qualifications or pathways to careers who may turn to drinking. Harehills North was the 6th highest area for looked after children who may require additional support and not exposure to addiction.
- The route most children took to schools in the area was down Harehills Road which was already densely populated with off licences.

- The bus shelter on Compton Road was congregated with street drinkers and most times can't be used as planned due to residents feeling unsafe. This similarly applied to the local park.
- Cheap, high strength alcohol for sale would be counterproductive to the ongoing partnership work to address issues of addiction in the area and also alcohol contributes to domestic violence.
- A statement from the Compton Centre Hub Manager outlined that street drinking adds to social problems and the benches and garden area at the centre were often utilised as a space to drink alcohol.
- A statement from a GP partner from Burmatofts and Richmond Hill network advised people in the area had an unjustly low health expectancy, alcohol dulls the pain of poverty and people's small income was often spent on alcohol rather than healthy food due to addiction.
- Heavy alcohol consumption is detrimental to physical and mental health and leads to poorer social outcomes.
- A Healthwatch report received 80 resident's representations from the area with street drinking and drug dealing being the primary concern. Mothers had reported feeling unsafe and were reluctant to let their children play outside at times.

Safer Stronger Communities Team

- The one stop shop ideal should be discouraged to support diverse local business.
- The aim should be to reduce the number of off licences in the area, not contribute to further options which may become a magnet for street drinkers.
- Street drinkers travel from other areas to access cheap, abundant alcohol.
- The community infrastructure and institutions in the area, such as the park, Shine and places of worship need support to build the community.
- The riots in Harehills had made national news, the area needs investment and improvement which is not done through further access to alcohol.

In response to questions from Sub-Committee Members, the following was confirmed:

- The two people who had attended the consultation event at the premises were there for information rather than support or objection to the application.
- The Expert Witness report of street drinkers was to outline awareness of the type of alcohol drank in Harehills to be mostly strong lager, in support of the wine and spirit only condition.
- The applicant would be content to condition a minimum price for a bottle of wine at £5.
- Realistic methods to restrict accessibility of alcohol to street drinkers were outlined by the applicant as not stocking the preferred type of alcohol, minimum pricing and due diligence of staff. The WYP representative stated this as a narrow focus as alcoholics would be content with wine and spirits too.
- The supporting petition had been conducted after objections began to occur and was ran from the shop from March 2023. Members were of the opinion it

was difficult to give weight as evidence of support with just a signature and the CIA policy was more significant.

- The Expert Witness had witnessed one bottle of sherry and one bottle of wine on the two occasions they visited the area, the rest of the witnessed street drinking had been of strong lager. The sale of wine and spirits would be in disfavour to street drinkers due to the cost point.
- It was outlined that the applicant team believed people buying wine and spirits would have less chaotic lifestyles, the DPS and staff would be responsible and do not want to sell to street drinkers, there were also plenty of other outlets if people were to pool money together and buy the preferred cans of beer.
- Entertainment Licensing outlined that the effort to consider the CIA from the applicant was welcomed, however it was a late offered condition, the problems in Harehills were severe with large groups, often of intimidating men socialising through street drinking, the conditions weren't going far enough to dissuade street drinkers and the aim is to improve the area.
- The multiagency outreach programmes in the area included the Licensing Authority, Environmental Health and WYP, holding lengthy meetings for residents to outline their concerns and outreach events such as breakfast clubs where people living with addiction can be signposted to treatment.
- A Public Spaces Protection Order (PSPO) was in place, intended to deal with persistent anti-social behaviour in a local area. Selective licensing and working to establish varied businesses in the area will help improve the community.
- Harehills in Bloom was outlined as a community driven group to improve the amenity of the area and given the majority of housing is terraced houses, all green spaces should be protected which entails discouraging street drinking.
- Rates of street drinking had declined over the pandemic, largely due to less availability, however it had still occurred during this time and had increased again since lockdown restrictions were lifted.
- On-licensed premises such as restaurants and pubs would be the preferred types of applications for the area to encourage sociable, more responsible alcohol consumption and improve the town street.
- WYP believed there to be more than enough off licences in the locality with 29 already within the CIA, two already in possession of the applicant, which could be considered profitable and also an option for street drinkers.

The applicants representative provided a summary of their case, noting, the applicant ran two similar, successful and responsible shops on Harehills Road, the BrewDog case outlined new licences shouldn't be dealt with as an automatic ban within CIAs, grant of this application will not impact the CIA with no evidence to prove otherwise with the FOI request and the long liaison process with customers who endorsed the application, the offered conditions and operating schedule was sufficient to deal with potential problems and the issues in Harehills did not stem from Maxi Foods.

RESOLVED – That the application for the grant of a Premises Licence for Maxi Foods, 22 Harehills Road, Harehills, Leeds, LS8 5PB, be refused.

7 Temporary Event Notice for Premier Banqueting Suite, Stoney Rock Lane, Burmantofts, Leeds, LS9 7TZ

This was a late item added to the agenda as Item 7.

The report of the Chief Officer (Elections and Regulatory) advised Members of a Temporary Event Notice (TEN) which has been received by the Licensing Authority in respect of an event at Premier Banqueting Suite, Stoney Rock Lane, Burmantofts, Leeds, LS9 7TZ.

The following were in attendance for this item:

- Elizabeth Hebbert – Environmental Protection Team
- Tatine Naruhana – Proposed Premises User (PPU) for the TEN

The Legal Officer set out the procedure to be followed.

The Licensing Officer presented the application, highlighting the following points:

- Members were advised that a Temporary Event Notice had been received and that Leeds City Council's Environmental Protection Team had served an objection notice on the grounds of public nuisance.
- The PPU was Tatine Naruhana and a copy of the temporary event notice was attached to the late item report pack at Appendix A.
- The Temporary Event Notice was for the provision of regulated entertainment from 23:00 on the 12th of August 2023 to 02:00 on the 13th of August 2023. The maximum number of people including staff on the premises during the event had been specified as 280.
- Members were advised that there was no premises licence in force for the suite.

The Environmental Health Officer in attendance outlined the following information to the Sub-Committee:

- The objection notice had been served due to public nuisance associated with people leaving the premises, slamming taxi doors and noise from music, with residential housing bordering the carpark.
- The premises had a history of 10 years of complaints, mostly comprised of disturbance from noise, sometimes until 3:00am.
- An event had been held at the premises on the 8th of April 2023 which had gone on past midnight and the disturbance to local residents had been noted.
- Complaints had been re-occurring over the last year regarding car doors slamming, glass bins being emptied and guests leaving at late hours. Noise monitoring had been used from the 22nd to the 24th of July 2022 and the equipment had detected noise and disturbance until 3:00am.
- The evidence gathered had been sufficient for a material complaint and serving the objection notice.
- The Premises Events Manager had been contacted to notify them of the complaints received and requested improved measures for noise control however, the complaints continued. They had been advised not to hold events past 23:00 to limit the impact on residents and responded stating the Environmental Protection Team should object when necessary.

- A planning application from September 2022 had approved the hours of operation for the premises as 9:00 until 23:00 Monday to Friday and 9:00 until 22:00 on Sundays and Bank Holidays. This TEN was proposed outside these hours.
- There was great potential for disturbance from the event if allowed as it was for up to 280 people, late into the night and within a residential area.

The PPU outlined the following information the Sub-Committee:

- The premises had been booked for the event in June 2022 with the Events Manager stating the PPU was able to easily apply for a TEN to licence the event.
- They were unaware of the issues raised in the Environmental Protection Team's objection and likely would have not submitted the TEN if it was going to receive objection.
- Part of the planned event would consist of a ritual which would need to take place after midnight, hence the late hours applied for. The PPU would require the venue until around 12:30am and then the event could conclude.
- Awareness for the sensitivity of noise in a residential area was outlined, with the PPU residing on a busy, often loud street.

In response to questions from Sub-Committee Members, the following was confirmed:

- The Events Manager had stated it is customers that apply for TENs and the Environmental Protection Team should object in their capacity as a relevant person. The process for the premises taking bookings and advising customers was unclear with the premises not holding a licence.
- The Events Manager had stated the Environmental Protection Team should object as a means of controlling and monitoring events after 23:00.
- The event held on the 8th of April 2023 had been a wedding and the TEN had been submitted by a different user to the PPU.
- An abatement notice had been served on the premises in July 2022 following a series of complaints, further noise complaints had been received after this.
- Complaints against the premises had been sporadic and difficult to track; the sufficient evidence to submit the abatement notice had been via noise monitoring data.
- The public complaints were mainly regarding out of hours disturbance on Friday and Saturday nights with events being held later than expected.
- The Environmental Protection Team will continue to object to TENs at this premises due to the proximity to residents, the history of complaints and no proposed measures in response to advice to control noise.
- Guidance to the PPU had not been clear from the Events Manager regarding notices or objections against the premises, the advice had just been to submit a TEN for the event.
- The PPU would be content with a condition to hold the event until 12:30am, however, the Sub-Committee were unable to add conditions to the TEN and it had to be determined against the times proposed. The event had been proposed until 2:00am to allow time to celebrate after the ceremony.

- If the PPU were to submit a new TEN with an amended earlier finishing time, the Environmental Protection Team would likely be permissive of this, but it would still be in breach of the planning approved hours of operation.
- It was outlined that the Premises Owners and Event Manager should communicate to customers that they are without a licence and events beyond 23:00 were against Planning Approval. A breach of planning control would be against the owner and a TEN would not supersede this.

Sub-Committee Members were sympathetic to the PPU following the lack of advice from the Premises Owner and Events Manager and would have found it useful for them to be present at the meeting.

RESOLVED – To issue a counter notice against the event to prevent the event from taking place.