

Licensing Sub-Committee

Tuesday, 18th September, 2018

PRESENT: Councillor N Buckley in the Chair

Councillors B Garner and G Wilkinson

1 Election of the Chair

RESOLVED – Councillor Neil Buckley 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

The Sub Committee was in receipt of the following:

Agenda item 6 Meanwood Park Café Three Cottages, Green Road, Meanwood (minute 7 refers) - Formal late items were submitted in the following format:

- One local resident, who had submitted a representation in objection to the application requested to submit photographs of the locality which was agreed by all parties. However, at the start of the hearing it was requested that the photographs be disregarded.
- One local resident, who had submitted a representation in objection made an application to present a video purporting to evidence how sound would travel across the park. The video was of a private party held at one side of the park and observed from another side. The applicant made no objection but commented that videos could be edited and that the way sound travelled was actually mathematical.

Agenda item 7 Off Licence, 223 Dewsbury Road - Supplementary information submitted by Environmental Health with the agreement of all parties. Minute 6 refers.

RESOLVED - To receive the supplementary and late matters and to take them into account during consideration of the relevant application.

5 Declarations of Disclosable Pecuniary Interests

No declarations of disclosable pecuniary interests were made.

6 Application for the grant of a premises licence for Off Licence 223 Dewsbury Road Hunslet Leeds LS11 5HZ

The report of the of the Chief Officer Elections and Regulatory set out an application for the grant of a premises licence, made by Mr Ahmad Ibrahim, for 223 Dewsbury Road, Hunslet, Leeds, LS11 5HZ.

The application had attracted representations from other persons and responsible authorities.

It was noted that representations had been received from West Yorkshire Police, Environmental Health and Ward Councillors. It was acknowledged that after negotiations with West Yorkshire Police agreements had been made, subsequently their representation had been withdrawn

This was the first application for a premises licence for these premises, the application was for the sale of alcohol 24 hours a day (off sales only)

Present at the hearing were;

- Mr Niyaz Raof – Re-Group representing Mr Ahmad Ibrahim who had not been able to attend
- Cllr. Paul Wray ward member for Hunslet and Riverside
- Jessica Deighton and Gary Mann – Officers of Environmental Health Team

Mr Raof provided the sub-committee with the following information:

- The premises previously been a barbers shop;
- Mr Ibrahim had got a personal licence in 2009;
- Mr Ibrahim had a shop in Harehills which sold alcohol there had been no issues at this shop;
- Mr Ibrahim was proposing the following to promote the licensing objectives:
 - Regular staff training sessions;
 - Adequate lighting both inside and outside the premises;
 - CCTV with recording facility up to 30 days which would be available on request from responsible authorities;
 - Public notices to request that customers respect neighbours;
 - Log of anti-social behaviour and a refusals log;
 - Noise would be monitored;
 - Outside the premises would be kept clean;
 - Contract for refuse collection;
 - Passport or ID cards would be requested to ascertain age;
- The proposed hatch system shuttered would not be opened or lowered during the time period of 11:00pm – 07:00am in consideration to neighbouring properties;
- There would be CCTV over the opening of the hatch;
- There was one other premises with a 24 hour licence which was half a mile down the road.

In response to questions from the Members the sub-committee heard:

- The DPS would operate the premises and the hatch in the proper manner adhering to the licensing policy. There would be no access to the shop during the period that the hatch system was in operation.

- Staff would be trained to ask customers to respect neighbours and leave the premises quietly
- Research had shown that people who would use this 24 hour store would mainly be Eastern European who worked shifts.

Cllr. Wray addressed the sub-committee saying that this was a disregard to the rules as the area was a densely populated residential area with local schools nearby. Members heard that this area had alcohol and drugs related issues.

Cllr. Wray said that he had visited a school in the area recently and asked the children what they would like to do to improve the area. The children had told him that noise was a concern for them as they were unable to sleep therefore they could not concentrate on their lessons.

Cllr. Wray had concerns that the DPS would not be able to control the level of noise made by his customers. He went on to say that this was not an appropriate application given the sensitivity of the area.

He also brought to the attention of the Licensing sub-committee that the Police had also requested the restriction of licensing hours. He informed the Members that there were three other licensed premises within the area, all closing at 11:00pm. Cllr. Wray said that he was not opposed to the licence but was opposed to the hours applied in relation to noise nuisance in this sensitive community.

The Environmental Health Officer addressed the sub-committee advising them that Environmental Health were not opposed to the licence of the premises, only to the hours applied for due to noise nuisance which would be from the customers using the hatch system.

The sub-committee were advised of implications of opening a 24 hour licensed premises at this location as follows:

- Noise arising from voices within the premises from both customers and staff
- Noise arising from general use of shop such as bangs from moving boxes/stocking shelves
- Noise arising from customers who may already be intoxicated using the premises
- Noise arising from people loitering outside, increased footfall in to the area at sensitive hours. However it was noted that there are limitations as to how this can be controlled.
- Noise arising from increased vehicles such as doors banging, car radios, and people talking. It was noted that the premises do not have parking facilities and that parking would be outside of the residential properties.
- Residential premises above the shop and neighbouring businesses.
- Noise from plant and machinery such as condenser units for refrigeration

It was acknowledged that no noise report had been done to assess the impact of noise from staff and patrons impacting on occupiers of residential premises during sensitive hours.

Mr Raof in response said:

- No residents had made objections to the application.
- The refrigeration unit would omit low level noise
- Need to acknowledge the Home Office definition for granting a premises licence.
- There was an off licence only half a mile away with a 24 hour licence.
- The premises above the shop were for storage purposes only, the premises to one side was a solicitors, the premises to the other side had been a pharmacy but was currently empty and the applicant had not been able to discover if the premises above were occupied.
- West Yorkshire Police had agreed to the store being closed to the public during use of the hatch system.

Members carefully considered all the information provided including the agreed conditions set out at pages 585 and 597 of the agenda pack.

RESOLVED – To grant the premises licence to include the agreed conditions of West Yorkshire Police and Environmental Health as set out in the submitted agenda. However, they did not grant the hours as sought but to grant a premises licence for the sale of alcohol between 7:00am and midnight each day.

7 Application for the grant of a premises licence for Meanwood Park Cafe Three Cottages, Green Road, Meanwood, Leeds, LS6 4JP

The report of the Chief Officer Elections and Regulatory set out an application for the grant of a premises licence made by Mr Scott Westlake for Meanwood Park Café Three Cottages, Green Road, Meanwood, Leeds, LS6 4JP.

Mr Westlake was in attendance for the hearing along with his representative Mr Matthew Cooney, consultant.

In attendance at the meeting were members of the public who had submitted representations to Entertainment Licensing both in objection and support of the application. A number of those in attendance had requested to speak.

Additionally, approximately 20 local residents who had submitted a representation objecting to the application also attended the hearing to observe.

Those who spoke in objection to the application were:

Peter Bonsall
 Mr Nixon (for Mr Jimack)
 Miss J Dickinson
 J Matthews (Friends of Meanwood Park)
 Hugh Thornton
 Sarah Hinman
 Mr J Ainsworth (for Green Road Residents)
 Linda Adamson
 Ian Harker

Those who spoke in support of the application were:

Charlotte Dalton

Rachel Dalton
Matthew Carmichael
Ann Bramfitt
Susan Thirkell

Prior to the start of the hearing the Chair addressed all those present advising them that the Members of the sub-committee had received and read all information appertaining to the application including those letters of representation which had been originally missed from the agenda. The Chair also confirmed that the Members had read and considered the unredacted copies of the papers.

The Chair informed all those present that he and Cllr. Garner had been contacted directly by an objector but they had disregarded that email and allowed others within the council to respond.

Licensing Officer informed the Members that this application sought the grant of a premises licence for:

Plays, indoor sporting events, live music, recorded music, performance of dance, anything of a similar description, provision of facilities for dancing, provision of facilities for entertainment of a similar description. Every day 09:00 until 23:00.

Sale of alcohol, everyday 11:00 until 23:00, non-standard timings being an additional hour may be required at bank holidays and the day before bank holidays.

This was the first application for a premises licence.

It was noted that representations had been received from Planning Services and Environmental Protection Team in their capacity as a responsible authority. However, during negotiations prior to the hearing measures had been agreed with the Environmental Protection Team, the agreement was appended to the submitted report.

It was acknowledged that representations submitted by Planning Services remained a matter for Members considerations. A copy of the representation was attached at Appendix D of the submitted report.

The Licensing Authority had received a number of individual letters of objection, including a letter from a ward councillor, all opposed to the application on the grounds of public nuisance and crime and disorder. There were also numerous letters in support of the application, who believed that the licence would be beneficial to the park.

Mr Cooney on behalf of the applicant addressed the sub-committee:

- He said it was good to see so many people in attendance at the meeting, it showed how much people cared about the area they lived in.
- He explained that Meanwood Park was a place of outstanding beauty and was surrounded by historic structures.
- Reference was made to the Meanwood Conservation Area Appraisal and Management Plan (2008). It was noted that within this document a recommendation was that the Three Cottages site should have a

management plan to allow opportunity and to enhance the area and bring it back to productive use.

- The proposal was for the café to serve cakes, toasties, hot and cold drinks. However this was not enough to make the business viable and Mr Westlake was proposing to also sell beer and wine with meat and cheese platters.
- Other parks within Leeds such as Roundhay, Rothwell, Horsforth and Kirkstall Abbey all have licensed premises in and around the parks.
- Parks are noisy places by virtue of there being a playground and that they are by definition noisy places. He said that parks should be full of life and was of the view that granting a premises licence would not adversely affect the park.

Mr Westlake then addressed the sub-committee:

- He provided the Members with a background of himself explaining that he owned another pub called the Myrtle Tavern. He said that when he had first taken over the Myrtle it had a history of drugs and violence. He had worked with the Police and Environmental Health and managed to turn the pub round.
- He was cautious of noise nuisance as he had experienced complaints in relation to the pub. However these were found not to be related to the pub.
- He informed the Members that the Park was a busy noisy place hosting events such as the recent fun run, people chatting and having picnics.
- He acknowledged the concerns raised in relation to the location near a school and he had approached the school and discussed his proposal with the head teacher. He had also offered the use of his facilities if and when needed.
- He informed the Members that he worked with the local schools in the area and sponsored a children's football team.
- He had contacted Highways who had informed him that Green Road was the only vehicular access to the café. Highways had not objected to the planning application. It was also noted that major works were due to place on Green Road in the near future.
- He made the sub-committee aware that he also owned the White Swan at Yeadon. Recently there had been a litter pick organised by the pub to clean up the Tarn. He said that this was something that he was passionate about and would be looking to do the same at Meanwood Park. He said that he already cleaned the car park area in Meanwood Park.
- The café currently has three full time staff who are local residents. The café was operating and had been since June 2018. However, it was limited in what hot food could be served as there were limited utilities available at the site currently.

Mr Cooney said that the proposal for the café was tasteful, adult and mature akin to the Roundhay Fox or the Mansion. He said that it was not a place for raves. Mr Cooney put the sub-committee that Mr Westlake had an exemplary reputation.

In responding to Members questions Mr Westlake made the following points:

- He had applied for live music to prevent having to fill in Temporary Event Notices should he wish to offer this type of event in future. He said that he was happy to remove this from the licence.

- The alcohol on offer would be a maximum of four hand pumps, a few gins and a small range of wines. He said that the pumps and the wines would be hidden from view as he wanted the display to be like a delicatessen.
- The proposal was for small tables offering a peaceful haven, a chilled out bar.
- He would not admit entrance to large groups.
- He was aware that he could only operate within the hours approved by planning.
- He would encourage his customers to travel to the premises on foot.
- He would discourage his customers from using the car park overnight.
- He confirmed that Green Road was a busy road.

Members of the public were given permission of the Chair to ask Mr Westlake questions. His response was as follows:

- He confirmed that there was a two bedroom flat that he had offered to a member of staff as a perk and also to act as caretaker. He said that it would not be viable to offer the flat commercially as the entrance was through the café and there was no direct access from the street.
- He had extensive knowledge of the area as he had attended Meanwood Primary School.
- He had CCTV in place at the café and he was able to observe the use of Green Road and the car park.
- In terms of external music he would have live music removed from the licence but did wish to play music outside but this would not be over loud speakers but on a system similar to a home entertainment system and he was happy for Environmental Health to test.
- That the 2008 report by the council had not stipulated that the Three Cottages be a café but that it had said that the building should be brought back into productive use.
- He was unable to compare the concept of the café to anything else in the area. However he said that it would be similar to that of the Lakeside café at Roundhay but with more affordable pricing.
- It was noted that although the application made reference to weddings the applicant thought it would be unlikely that such an event would take place there as the capacity was for 30 people.
- Mr Westlake said that he had not consulted with parents directly but had been informed that some parents had been made aware by the school and parents had been notified using a WhatsApp Group. He said that he had also displayed the blue notices in the area as required by law.
- Mr Westlake explained that he had consulted with Parks and Countryside prior to purchasing the land. However they were not regarded as a responsible authority in relation to licensing and were not present at the meeting.

The Licensing sub-committee heard from those objectors listed and in attendance at the meeting who put forward their reasons for objecting as follows:

- The park was used for quiet and informal recreation
- The licence would cause significant public nuisance allowing noise to extend beyond into the night

- Noise would be audible as residents on Weetwood Avenue can hear when someone scores a 6 in cricket at Headingley Stadium which it was felt showed how noise can travel
- The original plan for the premises allowed for operating hours between 8am and 6pm
- The Meanwood conservation plan was to provide quiet and informal recreation
- There was a Leeds City Council notice which said that the playing of music was a deep social misbehaviour
- Concerns expressed causing public nuisance caused by parking
- Noise and light pollution would affect the wildlife and human beings
- Concerns that late night opening would attract undesirables to the park
- Concerns for vanishing green spaces and green belt areas
- Delivery lorries would not be able to access the car park
- Access would be restricted for emergency vehicles
- Disputed that the café could not be viable without an alcohol licence
- The Friends of Meanwood Park had undertaken over 500 hours of work to improve it
- Concern that the café/bar was already being marketed as a destination for the whole of north Leeds. If this was so then there was a fear that not many people would arrive on foot but there would be an increase in traffic
- The car park and access road already deal with significant traffic
- The park was a special green place where people come to do Tai Chi, jogging and school children play
- Public nuisance due to increase in footfall
- Concern that the licence was for the premises and should Mr Westlake move the premises could be taken over by someone less conscientious

It was noted that many of those objector were not objecting to the café but to the licence to sell alcohol as it was there view that the café/bar would spoil the atmosphere of the quiet tranquillity of the park.

Members, Mr Westlake and Mr Cooney were shown a video by Ms Hinman who said that the video of a house party showed how sound travelled across the park.

The Licensing sub-committee heard from the four people listed and in attendance who spoke in support of the application providing the following points:

- One supporter had worked for Mr Westlake at his pub Myrtle Tavern, she said in the time that she had worked for him he was strict in policing the licensing laws;
- He had created a safe place at the Myrtle Tavern for families
- Mr Westlake had won Community Hero award in 2012 and 2014
- The applicant had turned the Myrtle Tavern around providing a community pub
- The Park offered little for young adults except birdwatching and walks and it was a view that a café/bar would provide somewhere to go and enjoy a quiet drink
- Mr Westlake undertook charitable events in the area

- Complaints had not been made about the Myrtle Tavern which backs onto the park
- There had been some anti-social behaviour in the park and it was an opinion that the development would be good as it would help to reduce anti-social behaviour
- It would provide jobs in the local area
- There would still be traffic in the area with people accessing the school at the start and end of the school day
- A café/bar serving tapas and wine would be an asset
- It would be a shame to have the site shut up again
- It was the view that the type of premises proposed would discourage teenagers who currently buy alcohol at the nearby supermarket and consume it in the park

One supporter provided the sub-committee with an example of the good work that Mr Westlake had done, explaining that she worked for elderly people and Mr Westlake had provided a free Christmas meal at the Myrtle Tavern providing a chance for people to get together. He followed this up with free coffee mornings.

The sub-committee allowed people in attendance but had not already spoken to make submissions if they were of the view that their point had not been made. 15 minutes was allocated to this period, with each person being given equal amount of time to speak.

Concerns were raised in relation to the following:

- How child focused the area would be and that the presence of a beer garden may dissuade people from visiting the park
- Exposure of children to a drinking culture
- Public safety
- Future holders of the premises licence
- Effect on wildlife and complex eco system of the park

In making final submissions to the Members Mr Cooney and Mr Westlake provided the following points:

- Nothing states that the planning permission must be made first
- The premises had been unused for 20 years
- Mr Westlake had met with Cllr Hamilton to outline his plans for the site. Cllr. Hamilton said that they wanted everyone to be able to use the park
- The change of use of the building would be decided as a planning matter
- He had tried to engage with the nearest resident and hoped that he would be able to work alongside those attending if granted the licence
- Everyone had a responsibility to report anti-social behaviour and he had found the police receptive to information provided
- A meeting was due to take place on 24th September about the area and also to discuss the café
- Reference was made to other licensed premises near to schools
- The cost of repairs to gas and electrics in the premises without the grant of the premises licence and the uncertainty of a viable business in selling only cakes and coffee

- In respect of air quality control, it was noted that the school takes deliveries every day, the café also takes a delivery although not on Sunday.
- He said that he used social media to advertise events as a way to reduce his carbon footprint by not producing flyers and he had also stopped using straws in his premises

Mr Westlake thanked all who had attended and hoped that no matter what the outcome there would be no animosity in the future.

All those in attendance at the meeting were informed that no decision would be forthcoming that day, and that a decision would be sent out within 5 working days.

The Members retired to consider all the information presented to them in written submissions, and at the hearing in oral submissions and video footage. Members also considered information including the Leeds City Council's Statement of Licensing Policy, the relevant sections of the Licensing Act 2003 and the s182 Home Office Guidance and took account of the four licensing objectives, namely:

- The protection of children from harm
- Public Safety
- Prevention of crime and disorder
- Public Nuisance

RESOLVED – To grant a premises licence as applied for, with the removal of live music and the imposition of a condition relating to planning hours.