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14 October 2008

APPLICATION FOR GRANT OF PREMISES LICENCE – “OFF LICENCE” TRADING UNDER AN UNKNOWN NAME, 14 ELDON TERRACE, WOODHOUSE, LEEDS LS2 9AB

On 15th September 2008 the Licensing Sub Committee heard an application by Mr Arshad Hussain of 22 Little Lane, Bradford BD9 5AD for the grant of a Premises Licence for the premises to be operated as an Off-Licence, 14 Eldon Terrace, Woodhouse, Leeds LS2.

The applicant sought the following:

Supply of alcohol (off the premises):

Monday to Saturday	08:00 until 02:00 hours (the following day)
Sunday	10:00 until 01:00 hours (the following day)

Late Night Refreshment

Monday to Saturday	23:00 until 02:00 hours the following day
Sunday	23:00 until 01:00 hours the following day

The applicant proposed to open the premises at the following times, if the application was granted:

Monday to Saturday	08:00 until 02:00 hours (the following day)
Sunday	10:00 until 01:00 hours (the following day)

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 decided the procedure for the hearing would not be varied and considered whether the public should be excluded from any parts of the hearing. The Sub Committee decided to exclude the public from that part of the hearing 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 the Sub Committee had considered the Licensing Officers Report which contained a copy of the application as submitted.



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The report also included representation from West Yorkshire Police (WYP) and LCC Environmental Health Services (LCC EHS) along with letters from the following local residents:

Mr J Woods resident of 23 Blenheim View	Bertha Barker Theresa Ward Wayne Wilson M Stead J Stead Ronnie at 36 Blenheim View Mrs T Myers Anna Roanne John Rooney Joy Ameenhi Mrs M Cox resident of 30 Blenheim View resident of 24 Blenheim View resident 32 Blenheim View	Mrs D Walton Ann Marie Vine J Brown Mrs M Harrison Lynda Robertson Frances Kemp Dionne Beaumont Karen Malpass I Chester L McKenna Fresia & Gilberto Hernandez B and M Whitley Mr P Mason & D Tremble
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The local residents did not attend the hearing and the Sub Committee resolved to consider their written submissions in their absence. It was noted that LCC EHS had withdrawn their representation to the application as the applicant had agreed to the measures proposed. Members also noted receipt of an amended document from WYP to replace the statistical information within their written submission which was presented with the agreement of the applicant

The Sub Committee permitted the applicant 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

The Hearing

The following attended the hearing
Mr Arshad Hussain – the applicant
Sergeant A Pickersgill – West Yorkshire Police

In determining the application the Sub Committee took into account all written submissions contained within the report which had been circulated to the Parties prior to the hearing. After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives. In reaching this 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 8 of the Guidance relating to the prevention of crime and disorder and public nuisance.

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application:

12:6 to 12:11 Crime and Disorder

12:22 to 12:32 Public Nuisance

The Sub Committee noted the premises lay within Area 3 (the A660 corridor) of Leeds' Cumulative Impact Policy and accordingly had regard to Section 7 of the Licensing Policy

Reasons for the decision

The Sub Committee noted the applicant had agreed the following measures proposed by LCC EHS in order to mitigate against any instances of public nuisance:

1. Ensure that no nuisance is caused by noise or vibration emanating from the premises

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2. Ensure that noise from plant or machinery is inaudible at the nearest noise sensitive premises during the operation of the plant or machinery. Plant and machinery shall be regularly serviced and maintained to continue to meet this level.
3. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting, slamming car doors sounding horns and loud use of vehicle stereos and anti social behaviour. The activity of persons leaving the premises shall be monitored and they shall be reminded to leave quietly where necessary

These measures would be included on the premises licence should the application be granted. Members were also made aware the applicant had offered to withdraw the request for provision of Late Night Refreshment

The Sub Committee heard representation from Sgt A Pickersgill on behalf of West Yorkshire Police (WYP) who provided the following information

- the area of Woodhouse Lane suffered from high levels of anti social behaviour and problems associated with street drinkers and rough sleepers. Implementation of a Designated Public Places Order was being considered in order to tackle anti social behaviour, crime and alcohol related problems and the consultation period would conclude at the end of September.
- Work was currently being done to address the existing problems in the locality with WYP, Drugs Intervention Unit, Leeds University and the Outreach Team
- Perpetrators were usually dealt with by way of a Police Caution or through the issue of an Anti Social Behaviour Order by the Magistrates Court which prevented perpetrators from frequenting particular areas. Sgt Pickersgill reported that business in the areas of Hyde Park Corner, Woodhouse Lane and the Lovell's had been affected by the problems associated with street drinkers and rough sleepers
- Premises experiencing those problems were located very close to this proposed off-licence, including the banking premises, Halo, the Unipol offices and Mega City One
- It was known that street drinkers often obtained alcohol from off-licensed premises, as these tended to have lax controls on sales of alcohol, or sought third persons to make the purchase of alcohol for them
- The premises lay within Area 3 of the Cumulative Impact Policy (CIP). WYP believed this CIP area had reached saturation point in terms of the number of premises selling alcohol. Area 3 suffered from problems associated with persons either migrating from Headingley to the city centre during the evening, or persons migrating from the city centre back to Headingley at the end of the night. Sgt Pickersgill referred to the tabled document which presented statistical information on the types of incidents associated with the area. She stated that Eldon Terrace was to the centre of the cluster of problems experienced along the A660 corridor
- The area was already well-served for sales of alcohol; and a Londis supermarket incorporating an off-licence was close by. WYP believed that opening another off-licensed premises would exacerbate the incidents of crime and disorder already experienced in the area

The Sub Committee then moved to asked questions and Sgt Pickersgill

- reiterated the problems experienced in this area and the concerns that as people migrated between CIP Areas 1 and 2, one further off-licence at this location would increase the problems already encountered in the area, with people already drunk being able to purchase more alcohol
- reiterated WYP belief that this area had reached saturation point for alcohol sales. This decision had been reached based on the statistical information presented to the Sub Committee which clearly outlined crime and the types of crime in the area

The Legal Adviser to the Sub Committee presented clarification for Members – noting that Mr Hussain had now withdrawn his request for Late Night Refreshment. The policy for CIP Area 3 advised implementing conditions, rather than refusal in the first instance, on applications. Sgt Pickersgill had referred to the peak hours for different types of crime as either before or after midnight and queried whether conditions would deal with these concerns. The Legal Adviser sought clarity on cases presented to the Magistrates Court and whether those crimes could be linked to this premise or

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any other off-licence. The Sub Committee queried whether reduced hours at this premise would address the concerns of WYP and Sgt Pickersgill advised that street drinkers caused problems all day with students causing problems in the evenings. Members commented on the likely impact of the proposed DPPO but were advised this could not be considered as it was not yet in place. Members were directed to consider the measures proposed in WYP written representation particularly the effectiveness of the suggested Check 21 policy on the patrons, such as students, who may use the premises. Sgt Pickersgill confirmed there were also problems with young offenders, who migrated from the Lovell's area of the city, situated to the rear of this premises and referred to the site map.

The Sub Committee then heard representation from Mr Hussain - the applicant. Mr Hussain stated he wished to withdraw that part of the application relating to provision of Late Night Refreshment which had been included as he had believed it necessary for the sale of sandwiches, crisps and snacks. Mr Hussain confirmed he had no intention of selling hot food from the premises which were intended simply as a convenience store and off licence.

Mr Hussain stated he was a serving Councillor on Bradford Metropolitan District Council and went on to provide the following information

- he had acquired the lease of the premises from Leeds City Council and had intended to establish a restaurant there, however planning permission had not been granted and he had opted to create a general store with off-licence
- prior to the hearing he had spoken to Sgt Pickersgill about the WYP concerns and he stated he was willing to cut the proposed hours of operation in order to close at midnight every day.
- He wished to avoid any anti social behaviour and did not want to cause problems for his neighbours.
- Mr Hussain stated he was willing to accept all of the measures proposed by WYP in their written representation as he believed it was most appropriate to do so
- Mr Hussain also offered to install CCTV system to the satisfaction of WYP

Mr Hussain therefore agreed to the following measures outlined below submitted by WYP in order to promote the prevention of crime and disorder objective:

- 1) Adopt the Check 21 proof of age scheme in accordance with guidance issued by WYP
- 2) All refusals of sales of alcohol will be recorded in a refusals Register. The Register will contain the following details:- The time, day and date the refusal was made, the name and address of the staff member refusing the sale, the name and address of the person attempting to buy the alcohol (where supplied), full description of said person and full details of the alcohol they attempted to purchase
- 3) The refusals Register must be produced upon request to the Police or a relevant officer of a Responsible Authority
- 4) All sales staff responsible for making sales to members of the public will undergo relevant and appropriate training with regards to Check 21 and refusals Register
- 5) A training register will be maintained at the premises. The register will contain training records which include the following:- the time, day and date the training was given, the signature of the person supplying and the person receiving said training
- 6) The training register must be produced upon request to the police or a relevant officer of a Responsible Authority
- 7) All sales of alcohol for consumption off the premises will only be in sealed containers

In conclusion Mr Hussain stated that street drinkers and rough sleepers already existed in the area, whether his off licence was open or not and already had access to alcohol from many other places. He was experienced in the licensing trade as he had run a licensed restaurant in Bradford for the last 15-20 years. Mr Hussain explained he was familiar with the requirements of the licensing legislation and knew how to deal with under age persons and with people who appeared to have drunk too much and was more than happy for his staff to undertake appropriate training

Turning to the statistical evidence, he explained that as Leeds had 2 universities with approximately 85 to 90,000 students, in his view the clusters showed WYP were doing a good job as there were so few numbers of incidents compared to the high numbers of students. He added that he did not believe all the offences presented related to drunkenness or occurred late at night

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The Sub Committee sought clarification on the hours of operation the current planning permission allowed and noted that there were no restrictions, however they were reminded that planning matters should form no part of their consideration of this licensing application

The Sub Committee then went onto ask questions and Mr Hussain provided the following additional details:

- noting the concerns expressed in local residents' letters about additional on street car parking, Mr Hussain stated there were very few residential properties around the premises, the nearest being 50 yards away. Eldon Court, a student housing scheme, was to the rear of the premises and this had dedicated car parking. Of the residents who had made representation, the nearest address was 60 yards away. Mr Hussain stated he did not believe this off licence would cause additional car parking problems
- The store was not yet open as the premises were being refurbished. The building had been vacant for at least 5 years before he had taken the lease. When he had entered the building for the first time he had found evidence of misuse of the premises by addicts and had cleared many discarded needles. The building had also been vandalized. The manager of Eldon Court had confirmed to him that he had seen the addicts and rough sleepers in and around the building.
- Mr Hussain stated that his use of the premises as a store/off licence would in fact reduce anti social behaviour in and around the site, and bring a currently disused building back into use
- Approximately 20% of the premises would be allocated for alcohol sales, including beer; wine and spirits; the remainder to be general groceries. Mr Hussain stated he wished to incorporate an off licence as he believed it would benefit the business
- Deliveries would be made to the rear of the store through a gated access shared with Eldon Court off St Marks Road. There was a driveway and a yard to the rear of the store suitable for deliveries and where Mr Hussain would park his car to ensure the access road was not blocked

The Sub Committee then altered protocol to allow Sgt Pickersgill to consider WYP evidence and respond to the representation made by Mr Hussain. Members noted the concessions offered by Mr Hussain, including closing at midnight, acceptance of the measures proposed by WYP and installation of CCTV. Sgt Pickersgill reiterated WYP stance that this premises lay within CIP Area 3 and that although Mr Hussain had offered to close at midnight, the statistics clearly showed that some incidents did occur during the day and during the evening

The Decision

The Sub Committee had read the application submitted and carefully considered the representations made at the hearing by Sgt Pickersgill and Mr Hussain. The Sub Committee also had regard to the contents of the representations submitted by local residents.

Members noted the applicant had reached agreement with LCC EHS over proposed measures and also noted the amendments made to the application by Mr Hussain at the hearing and his acceptance of the measures proposed by WYP. The Sub Committee considered whether these amendments and agreements would be sufficient to address the licensing objectives; the Area 3 CIP Policy and the concerns expressed by WYP about incidents in the area associated with the sales of alcohol.

On balance, the Sub Committee was satisfied that granting the licence in the terms requested would not undermine the licensing objectives. The Sub Committee therefore resolved to grant the application as amended at the hearing.

To clarify:

Supply of alcohol (off the premises):

Monday to Saturday	08:00 until 00:00 hours midnight
Sunday	10:00 until 00:00 hours midnight

The premises will open to the public at the following times:

Monday to Saturday	08:00 until 00:00 hours midnight
Sunday	10:00 until 00:00 hours midnight

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Conditions

- All those conditions proposed by LCC EHS and WYP (in relation to the sale of alcohol) (and previously outlined in this letter) will now be attached to the premise licence and form part of the Operating Schedule at the premises.
- An additional condition will be added following agreement between WYP and Mr Hussain "CCTV will be installed, operated and maintained to standards acceptable to West Yorkshire Police to cover internally and externally. Images will be retained for a period of 28 days and made available on request to enforcement authorities.

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 faithfully

Helen Gray

Clerk to the Licensing Sub Committee