

Crawley Borough Council

Minutes of Licensing Sub Committee 6 March 2017 at 7.30pm

Present:

Councillors B J Burgess, C J Mullins and M Pickett

Officers Present:

| | |
|-----------------|---|
| Tony Baldock | Environmental Health Manager |
| Heather Girling | Democratic Services Officer |
| Mike Lyons | Senior Licensing Officer |
| Iain Pocknell | Principal Environmental Health Practitioner (Observing) |
| Astrid Williams | Legal Clerk |

Also in Attendance:

| | |
|-------------|--|
| Councillors | T G Belben (Observing) |
| | K McCarthy (Observing) |
| Applicant | Alpesh Patel (Applicant) |
| | Jay Patel (Licensing Consultant for Applicant) |

1. Appointment of Chair

RESOLVED

That Councillor M Pickett be appointed Chair for the meeting.

2. Members' Disclosure of Interests

No disclosures of interests were made.

3. Application for the Grant of a Premises Licence to 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley, RH10 1FF

The Sub Committee considered an application to grant a premises licence in respect of 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF.

Following the introduction of those present at the meeting, the Chair advised that the Sub Committee would follow the hearing procedure, a copy of which had accompanied the letters of invitation.

The Legal Clerk then asked all parties present, if they wished to make any relevant applications, for example additional information or to cross-examine any party. No applications were made, however Mr Jay Patel stated that he wished to highlight section 2.3.1 of the report, which would be addressed further as part of the presentation to the Sub Committee.

The Chair informed all parties that the Sub Committee had requested a briefing meeting with the Legal Clerk and Democratic Services Officer prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting.

Report [PES/232](#) of the Council's Environmental Health Manager was presented by Mr Lyons, a Senior Licensing Officer for Crawley Borough Council.

The Application

The Senior Licensing Officer, Mr Lyons, informed the Sub Committee that on 11 January 2017 Mr Alpesh Patel submitted an application to the Council as the Licensing Authority for the Borough of Crawley for the grant of premises licence in respect of the premises known as 'County Mall News' at 53A County Mall, Station Way, Northgate, Crawley. The application was detailed in Appendix 1 to the report and sought the retail supply of alcohol 'OFF' the premises (only). The Applicant had stated in the application that the premises intended to promote the four licensing objectives with the steps set out in the operating schedule.

It was confirmed that the application had been advertised in accordance with legislation. Sussex Police had notified the Council that they had proposed to the applicant the following two minor amendments to the Operating Schedule thus negating the need for any representation. The changes proposed were as follows:

- i. Please change the wording on CCTV condition offered in the application from "Met Police Standards" to "UK Police Requirements for digital CCTV (PSDB 09/05)".*
- ii. Please add the wording on Refusal Incident register condition offered in the application to also include " and the register will be kept for a minimum of 12 months"*

The applicant agreed to accept both proposed amendments.

The Licensing Authority had received a relevant representation raising objection to the application, from Henry Smith and Family (attached as Appendix 3 to the report).

The Sub Committee was then guided through the remainder of the report which set out the reasons for the Hearing and the matters which the Sub Committee should take into consideration when determining the application, including the relevant sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations. It was emphasised that all licensing determinations should be considered on a case-by-case basis, be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

The Sub Committee's attention was drawn to section 4.36 in the report which detailed the necessary fine available on failure to comply with any conditions attached to a licence or certificate, which on conviction would be punishable by a fine or up to six months imprisonment or both. The Sub Committee was informed this fine is now unlimited.

Mr Lyons lastly informed the Hearing of the options available to it in respect of the application, and reminded the Sub Committee that any decision must be appropriate for the promotion of the four licensing objectives. The options were to:

1. Grant the application subject to:
 - (i) Conditions which are consistent with the operating schedule modified to such extent as the authority considered appropriate for the promotion of the licensing objectives, and
 - (ii) Any relevant mandatory conditions.
2. Exclude from the scope of the licence any of the licensable activities to which the application relates.
3. Refuse to specify a person in the licence as the premises supervisor.
4. Reject the application.

Questions asked by the Sub Committee of the Senior Licensing Officer

The Sub Committee then asked the following questions of the Senior Licensing Officer:

| Questions by the Sub Committee | Response (<i>respondent in brackets</i>) |
|---|--|
| If we grant the licence what is the timescale for an appeal? | Timescale for an appeal is 21 days. We allow 2 days for postage of decision notice so the 21 days commences on the day of receipt of decision notice. The decision notice would state the expiry date for the appeal. <i>(Mike Lyons)</i> |
| Would the selling of alcohol be in abeyance during those 21 days? | The licence would be granted throughout those 21 days. <i>(Mike Lyons)</i> |

The Applicant

Mr Jay Patel on behalf of the applicant, addressed the Sub Committee and made the following submissions:

- The applicant had applied for a premises licence for the retail supply of alcohol 'OFF' the premises (only).
- Applicant had been running a successful small business since 2012.
- The premises covers approximately 27 square metres with other much larger businesses within the vicinity open for longer hours. There was now a wish to add alcohol to complement the business.

- The Secretary of State S182 Statutory Guidelines states that licensing authorities should look to the police as the main source of advice on crime and disorder matters.
- The letter issued by Mr Smith and family does not explicitly link the objection to the application with the licensing objections in the Licensing Act 2003.
- Unfortunately there had been no response from Mr Smith and family to a letter issued 27 February 2017 providing an opportunity for mediation.
- The residential address of the objector is just over half a mile away from the applicant's premises and is outside the Crawley Town Centre boundary.
- Section 2.4 of the Crawley Borough Council Statement of Licensing Policy refers to reasonable control of individual licensees and others. Whilst Section 2.5 indicates that the licensing law is not a mechanism for the general control of anti-social behaviour once individuals are beyond the reasonable control of those holding a licence.
- The issue of homelessness within Crawley was not perceived to be directly linked to alcohol and there were other factors affecting homelessness such as short term tenancies terminating.
- The Sub Committee was referred to Appendix 2 that in order to address the licensing objections the applicant had stipulated various conditions. These included
 - the selling of multiple packs of 4 cans
 - no beer, lager or cider to be sold in cans with alcohol by volume in excess of 6.5%
 - operating challenge 25 policy
 - operating hours for retail of alcohol applied
 - alert system connected to County Mall security

Questions asked by the Sub Committee of the Applicant

The Sub Committee then asked the following questions of the Applicant:

| Questions by the Sub Committee | Response (<i>respondent in brackets</i>) |
|--|--|
| How often will the incidents register be monitored and reviewed? | Details of incidents shall be recorded as quickly as possible within the incident register, apart from refusals which are entered in Refusals Register which records all refused sales of age restricted products. The incidents are held on the register for 12 months, but monitored and discussed regularly with staff so incidents can be learned from. (Jay Patel) |
| Would it be beneficial to share information with other licensing premises and how would this be taken forward? | It would be beneficial to share information with other premises. (Jay Patel) Condition 11 within the Operating Schedule (page A28) stipulates that the premises will actively participate in the local shopwatch scheme. Further details of the scheme would subsequently be made available to the applicant. (Mike Lyons) |

| Questions by the Sub Committee | Response (<i>respondent in brackets</i>) |
|---|---|
| How will staff be trained? | Staff undertake a vigorous training programme consisting of licensing awareness, how to retail alcohol sensibly, how to enter information in the refusal register and incident log. This training is refreshed every 6 months. (Jay Patel) |
| Please can you explain and confirm the CCTV condition on page A36 'PSDB 09/05'? | PSDB 09/05 refers to the UK police requirements for digital CCTV; quality of images, storage of pictures, export (can the images be easily exported from the system) and playback (can the images be easily viewed by authorised third parties). If a certificate is required as confirmation to prove these requirements are being met this can be provided. (Jay Patel) |

Closing Statement by the Applicant

Mr Jay Patel on behalf of the applicant made the following point in his closing statement:

- The application has been subject to thorough consultation and has been submitted with full consideration of the licensing objectives.

RESOLVED

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the Hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the Hearing taking place in public.

4. Application for the Grant of a Premises Licence to 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. In formulating its decision, the Sub Committee took into account the options that were available to it and considered what was appropriate to ensure that the licensing objectives were promoted.

RESOLVED

The Sub Committee, having considered the application and the relevant representations in detail, resolved to take the actions as detailed in **Appendix A** to these minutes, because it was considered appropriate to promote the licensing objectives.

5. Re-admission of the Public

The Chair declared the meeting re-open for consideration of business in public session. The Chair read out the Sub Committee's decision as detailed in **Appendix A** to these minutes. It was also announced that all parties would receive a copy of the decision notice within five days of the Hearing.

6. Closure of Meeting

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 8.45pm.

COUNCILLOR M PICKETT
Chair

Appendix A

Determination of the Licensing Sub Committee sitting at Crawley Borough Council

6 March 2017

Decision in relation to the application for the grant of a Premises Licence to Alpesh Patel in relation to the premises, County Mall News, 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF

The hearing of the application of Mr Alpesh Patel for the grant of a premises licence in respect of 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF was heard by a Licensing Sub Committee of Crawley Borough Council on 6 March 2017.

At the conclusion of the hearing the Licensing Sub-Committee notified those present of their decision. Set out below the decision and the reasons for it.

The Sub Committee, in determining the application, carefully considered the following:

- The application and all the material provided in support of it by Mr Alpesh Patel, and the submissions made on his behalf during the hearing.
- The relevant representation made by the interested party.
- The guidance issued by the Secretary of State pursuant to s182 of the Licensing Act 2003.
- The Council's own Licensing Policy.

The decision of the Sub Committee was that it was appropriate for the promotion of the licensing objectives to grant the premises licence subject to the conditions consistent with the operating schedule (as set out on pages A28 and A29 of the Report PES/232 but modified as agreed with the Police as set out in 2.2.1 of the Report).

The sub-committee's reasoning was as follows:

- The Sub Committee was impressed by the professional manner in which the application was drafted and presented, including that the proposed licence conditions more than adequately promoted the 4 licensing objectives.
- The Sub Committee found that the absence of a representation from the Police objecting to the licence to be very persuasive; as they were mindful that both the section 182 guidance issued by the Secretary of State and our own Policy indicates that this authority should look to the Police as the main source of advice in relation to crime and disorder.
- The Sub Committee considered the representation made by Mr Smith, and whilst sympathetic to his general worries, they found his conclusions as to the likely increase in crime and disorder, nuisance and risk to youths in the area to be without any evidence such that they were merely speculative in nature.