

**MINUTES OF: LICENSING SUB-COMMITTEE
HEARING UNDER THE LICENSING ACT 2003**

DATE OF MEETING: 3rd May 2016

**PRESENT: Councillors M Smith (Chair), Cheetham and
Farrington**

**IN ATTENDANCE: Ms C Birtwistle, Legal Advisor
Mrs A Wrench, Trainee Solicitor
Ms S Chadwick, Licensing & Compliance Officer
Mr I Hyatt, Licensing Admin Officer
Mrs J Cook, Hearing Administrator
Mrs S Gulec, Applicant
Mr L Gurbuz, Attending with Applicant
Mr Hampson, Interested Party
Mr Treanor, Attending with Interested Party
Mr Savory, Attending with Interested Party**

1. APPOINTMENT OF CHAIR

The Legal advisor noted that in the absence of the Chair and Vice Chair of the Licensing Committee, it was necessary to appoint a Chair of the Hearing.

Resolved:

That Councillor Michelle Smith is appointed Chair of this Licensing Hearing.

2. APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES

There were no apologies for absence; all Councillors were present.

3. CHAIRMAN'S INTRODUCTION

The Chair welcomed all parties to the meeting and asked the members of the Sub-Committee and Council officers to introduce themselves.

The Chairman asked the Applicant, the party attending with the Applicant, the Interested Party and those attending with him to introduce themselves.

4. DECLARATIONS OF INTEREST

No declarations were made.

**5. APPLICATION FOR A PREMISES LICENCE
AT: THE HASLINGDEN BAR AND GRILL, 125 BLACKBURN ROAD,
HASLINGDEN, BB4 5HL**

Preliminary Matters

- 5.1 The Legal Representative asked all parties whether anyone wished to withdraw their representations. It was confirmed that no parties wished to withdraw their representations. The Interested Party confirmed that he wished

to make an additional representation. Members were advised to consider if they wished to accept the representation and it was noted that this additional information was only permitted to amplify the representation, not to introduce new evidence.

Resolved:

That the additional information would not be permitted as the Interested Party's representation was very clear.

5.2 The members of the panel were advised by the Legal Advisor as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the licensing objectives, being:-

1. The prevention of crime and disorder
2. Public safety
3. The prevention of public nuisance
4. The protection of children from harm

5.3 Members were also advised of their duties in carrying out those functions in relation to:-

- a) the Council's published Statement of Licensing Policy
- b) the guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003 which was updated in April 2012

5.4 Also the duty under Section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of the licensing function and the need to prevent crime and disorder.

5.5 The panel also had due regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

5.6 Members were notified that although three additional people wished to address the Hearing:-

1. Mr Treanor (attending with the Interested Party)
2. Mr Savory (attending with the Interested Party)
3. Mr Gurbuz (attending with the Applicant)

Resolved:

That the above three people be permitted to address the Hearing.

6. HEARING PROCESS

6.1 The Licensing Officer presented the report which detailed an application for a premises licence, submitted by Susan Gulec. It was noted that there was a formatting error within the Committee report and Members were asked to disregard the bullet points at 3.1 of the report. The Applicant had volunteered conditions and these would need to be addressed by Members during their deliberations.

- 6.2 The Licensing Officer outlined the proposed application for a premises licence for 125 Blackburn Road, Haslingden, BB4 5HL for licensable activities
- 6.3 The premises were described as being a large restaurant within a 5 minute walk of the town centre and which had been previously licensed until 15th October 2015 when the previous licence holder had surrendered the licence, following insolvency. The application outlined the intention to provide a waiter service restaurant/bar with background music, tribute acts/bands, belly dancers, traditional Turkish music, instrumental music and occasional DJ for wedding functions or similar. A bar serving alcohol in the lounge and at dining tables and in an outside courtyard when weather permitted was also intended.
- 6.4 The Licensing Officer noted that a representation had been received from a resident of Spring Lane, Haslingden and this had been deemed valid. Members were asked to note that decisions must be based around the four licensing objectives and the parking of vehicles was not a subject that they could consider.

The Applicant

- 6.5 Mrs Gulec addressed the Committee and stated that none of the responsible authorities had objected to the application. The building had fallen into a state of disrepair and that there had been a history of failed restaurants at the site. The application was for a restaurant with the licensing hours to provide the facility for tribute nights, wedding receptions, belly dancing etc. Mrs Gulec stated that this was not a nightclub application.
- 6.6 Mrs Gulec stated that CCTV cameras would be installed inside and outside the premises and that Challenge 25 would be adhered to. Mrs Gulec introduced Mr Gurbuz who would be the Front of House Manager, and who had 20 year's experience.
- 6.7 Members asked questions of Mrs Gulec and clarification was given:-
- There would be approximately 100 covers at the restaurant.
 - A 7 day operation was necessary for the business to succeed.
 - It was not expected to hold special events every weekend.
 - Once meals were finished, people would be permitted to drink at the bar, and it was intended that if people wished to meet up at the premises early in the evening prior to going into Rawtenstall/Accrington etc, this would also be permitted.
 - It was clarified that glass bottles would be bottles of wine brought to tables, and that beer would be decanted into glasses.
 - Clarification was given on the offered condition of children under 16 not being permitted to purchase soft drinks from the bar – this should be under 18 and would be a condition of any licence granted.
 - It was intended for the courtyard area to be used for outside dining.
 - It was intended to clear up the car park area.
 - It was clarified that the Applicant had asked companies house to change the registered address to the premises address.

Interested Party

- 6.8 Mr Hampson addressed the Committee and expressed concerns regarding the notices placed and the information given. He stated that residents were not against a restaurant but were concerned regarding the tribute nights and wedding receptions and other events which would involve amplified music. Mr Hampson referenced the photographs he had submitted and pointed out the proximity of his daughter's bedroom to the rear of the premises and expressed further concerns regarding the courtyard.
- 6.9 Although parking was not an issue that the Members could consider, Mr Hampson stated that customers parking at the premises would have a detrimental effect on the surrounding areas.
- 6.10 Mr Hampson stated concerns regarding public disorder arising out of late night drinking, public safety and police resources.
- 6.11 The Licensing Officer noted that statutory notifications and information given out had been in line with the restrictions and regulations within the Licensing Act.
- 6.12 Members asked questions of Mr Hampson and clarification was given:-
- It was reiterated that car parking was not a matter that the Committee was able to consider.
 - The applicant had noted that people would not be permitted to come into the premises late at night purely to drink.
 - Where customers smoked was not something that the Committee were permitted to licence.
 - 9am opening was to trial provision of breakfasts.
 - There would be no TVs and service would be waited service.
- 6.13 Mr Treanor was permitted to address the Committee and raised concerns regarding the potential frequency of late night events with amplified music and noted the concerns regarding 2am finishes. Concerns were also expressed regarding the behaviour of customers once they had left the premises. Mr Treanor noted that he had found statistics stating that 40% of incidents in East Lancashire were public disorder related.
- 6.14 Mr Savory was permitted to address the Committee and raised concerns on behalf of senior citizens residing in the area and amplified music at night.

7. FINAL STATEMENTS

- 7.1 Mrs Gulec stated that this was an application for a restaurant and not a nightclub and she was fully aware of the residents' concerns. The Challenge 25 principles would be promoted and drunken behaviour from customers would not be tolerated. There would be CCTV inside and outside the premises. Tribute nights and similar events would be needed to maximise the premises. She stated that she was investing a lot of money into the premises and wanted to bring employment to the area.
- 7.2 Mr Hampson stated that local residents were not against a restaurant on the premises and the concerns were based around amplified music late at night, parking issues and the proximity of residents to the premises. He noted that two houses were already for sale near to the premises.

7.3 The Applicant, the party attending with the Applicant, the Interested Party and those attending with him, and the Licensing Officers left the room to enable Members to determine the application. The Legal Advisor, Hearing Administrator and Trainee Solicitor remained in the room with Members to provide legal advice and record the decision. All attendees would return to the room for the Decision.

8. DETERMINATION

8.1 In determining the application, the panel gave consideration to the following:-

- Concerns regarding noise from the courtyard late at night.
- Environmental Health could monitor noise issues and complaints.
- Music late at night was a concern for residents.

9. DECISION:

9.1 After giving consideration to all the written and verbal representations made by the applicant and the interested parties; and after giving proper consideration to the Licensing Objectives, the Sub-Committee appointed under the Licensing Act 2003 decided to take the following action on the application to vary a premises licence under Section 18 of the 2003 Act

Resolved:

That the application for the premises licence be granted subject to conditions already imposed on the licence and conditions imposed by this hearing which are as follows:

1. No drinks shall be removed from the premises in an unsealed container and the licence holder or other person nominated by the licence holder shall be responsible for conducting regular checks throughout each day and or evening that the premises are used for licensable activities to ensure that unsealed containers have not been taken outdoors.
2. There shall be placed throughout the premises and in particular at each entrance to the premises a sign in font size 16 or larger indicating that persons are requested to leave the area quietly.
3. The licence holder or their representative shall conduct regular assessments or the noise coming from the premises at least fortnightly during organised events such as the tribute nights referred to in the application. They shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made on those assessments in a log book kept for that purpose and shall include the time and date of the checks, the person making them and the results including any remedial action. Such records shall be maintained for 12 months from opening of the business.
4. The courtyard marked on the plan edged red is permitted to be open to the public until 10.30pm to prevent public nuisance.
5. The hours of recorded music, provision of facilities for dancing, provision of facilities for entertainment of a similar description and the supply of alcohol will be between 0900 hours and midnight Sunday to

Thursday, between the hours of 0900 hours and 1am Friday and Saturday, save for New Year Eve which will continue to be up to 2am.

6. Late night refreshment will be 2300 hours and midnight Sunday to Thursday, between 2300 hours and 1am Friday and Saturday, and until 2am on New Year's Eve.
7. The hours the premises are open to the public will be 0900 hours to midnight Sunday to Thursday, between 0900 hours and 1am Friday and Saturday, save for New Year's Eve which will continue to be until 2am.
8. The applicant's reference to using amplified music to a minimum, no drinks to be consumed from glass bottles and children under the age of 16 not allowed to buy soft drinks from the bar shall be removed.

The additional conditions are considered necessary are necessary to promote the following licensing objectives:-

- Prevention of Crime & Disorder
- Protection of Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

There was a right of appeal for all parties before the Magistrates Court which must be exercised within 21 days of service of the Decision Notice.

The meeting commenced at 1.00pm and closed at 3.30pm