

LICENSING PANEL

Wednesday, 30 June 2021

Present: Councillors A Hodson
D Burgess-Joyce
D Mitchell

1 APPOINTMENT OF CHAIR

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel were asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

3 APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - FIT GRILL, 1A VILLAGE ROAD OXTON

The Director of Law and Governance reported upon an application that had been received from Fit Foods Wirral Limited to vary a Premises Licence in respect of Fit Grill, 1a Village Road, Oxton.

It was reported that the premises currently have a Premises Licence and the permitted hours were set out within the report. The hours applied for to vary the Premises Licence were also set out within the report. The application submitted was also to remove a condition from the Premises Licence that “the primary use of the premises shall be that of a café/restaurant and alcohol will only be sold as an ancillary to the provision of food.”

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the application be granted.

In respect of the application eight representations had been received from local residents. The representations related to concerns of crime and disorder

and public nuisance being caused to local residents should the application be granted. Copies of the representations were available.

The applicant, Mr Robinson attended the meeting. A number of local residents were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received.

The Licensing Manager outlined the report.

The applicant advised that the application had been made in order to seek flexibility to provide some customers with alcohol without the provision of food and to extend the times during which the business could operate. The applicant highlighted the fact that the premises had been closed for most of the year due to the pandemic which had resulted in a financial impact on him and the business. Mr Robinson emphasised the fact that he did not want the premises to operate as a bar and it would be first and foremost a restaurant with the provision for people being able to continue to drink after they had finished their meal and for a limited number of people to have a drink without having a meal. He informed Members that he would not allow large groups of people to enter the premises for a drink only and that he expected this offer to be primarily for couples.

Mr Robinson outlined the way in which his business operated which was to provide healthy food and drink to his customers. He advised that smoking and vaping would be discouraged outside the vicinity of the premises.

Mr Robinson responded to questions from Members of the Licensing Panel, local residents and Mr D K Abraham, Legal Advisor to the Panel.

Mr Robinson acknowledged the concerns expressed by residents and advised that he was very much aware of the issues relating to parking in the area. He advised the Panel that he did not want the operation of his business to be a cause for concern to local residents and that he was aware of his obligations to prevent public nuisance.

In response to questions from local residents, Mr Robinson advised that there would only be background music played at the premises and that he would operate table service only. He informed Members of the Panel that he would also be content for his contact number to be shared with local residents. He also referred to concerns expressed regarding a neon 'bar open' sign displayed at the premises and whilst he did not accept that this portrayed his business as a bar, he agreed that he would remove it.

The local residents in attendance expressed their serious concerns that the application to vary the Premises Licence would result in the premises

operating as a bar. They reported that this would result in increased noise and disturbance late at night and exacerbate the difficulties related to parking in the area.

The residents who lived directly opposite the premises expressed concerns that they would suffer disturbance from customers standing on the pavement outside the premises and also leaving the premises late at night. In response to these concerns the applicant advised that he would discourage persons from standing outside of the premises and manage customers leaving the restaurant so that they do not cause a nuisance to local residents.

In determining the application the Licensing Panel had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

The Licensing Panel had particular regard to the fact that the applicant advised that the removal of the condition that "the primary use of the premises shall be that of a cafe/restaurant and alcohol will only be sold as an ancillary to the provision of food" would not change the primary use of the premises as a restaurant and that the reason for seeking this variation was to allow flexibility to provide some customers with alcohol without the provision of food. The Panel took into account the fact that the current planning permission relating to these premises is that its primary use must be as a restaurant/café and not as a bar.

In coming to their decision Members of the Licensing Panel gave consideration to the assurances provided by the applicant that the premises would not operate as a bar and would be managed in such a way as to prevent any nuisance being caused to local residents.

Members of the Panel noted the willingness of the applicant to share his contact number in order to liaise with local residents in respect of any concerns that may arise.

In determining the matter, Members of the Licensing Panel had regard to Section 15 of their Licensing Policy which refers to premises situated in close proximity to residential accommodation.

Whilst the Members of the Licensing Panel noted the concerns of local residents in respect of parking, they considered that this was not a relevant matter for them to consider when determining an application for licensable activities at these premises which already had planning permission to operate as a restaurant.

In determining the application Members also had regard to the fact that there were no representations from any of the Responsible Authorities.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the application to vary a Premises Licence in respect of Fit Grill, 1a Village Road, Oxton, be granted with the following hours:

Sale by Retail of Alcohol

Sunday to Saturday 08:00 to 22:30

Hours Open to the Public

Sunday to Saturday 08:00 to 23:00

And that the following condition be removed:

- **The primary use of the premises shall be that of a cafe/restaurant and alcohol will only be sold as an ancillary to the provision of food be removed.**

(3) That in addition to the conditions set out in the operating schedule, the following conditions be placed on the Premises Licence:

- **The premises must not be referenced or promoted as a bar.**
- **The premises must operate table service only.**
- **The premises must implement a dispersal policy which includes customers remaining inside the premises whilst waiting for taxis.**

4 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - CONTENTO RESTAURANT, 146 BELVIDERE ROAD, WALLASEY

The Director of Law and Governance reported upon an application that had been received from SR (Wirral) Limited for a Premises Licence in respect of Contento Restaurant, 146 Belvidere Road, Wallasey.

It was reported that the premises do not currently have a Premises Licence. The hours applied for were set out within the report.

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the application be granted.

In respect of the application eleven representations had been received from local residents. The representations related to concerns of public nuisance being caused to local residents should the application be granted. Copies of the representations were available.

The applicant, Mr Buck attended the meeting together with his representative Mr Nickson and the proposed Manager of the premises.

Councillor Paul Hayes attended the meeting on behalf of local residents and a number of local residents were also in attendance.

The Licensing Manager confirmed that all documentation had been sent and received. Councillor Hayes referred to one of the documents submitted by an individual who lived in Bebington and highlighted the fact that this was some distance away from these premises.

In response to this, Mr Nickson advised that he would explain the relevance of the letter in his submissions.

The Licensing Manager outlined the report.

Mr Nickson addressed the Panel and advised that the application for a Premises Licence had been made in order that alcohol could be supplied as part of the offer as a restaurant. Mr Nickson further advised that the applicant had a number of years' experience operating restaurants in residential areas in Wirral. Mr Nickson made reference to the letter submitted by an individual who had previously been opposed to an application for a restaurant in a residential area operated by the applicant but that he was now content to endorse the applicant as a competent and ethical person to operate such a business.

Mr Nickson, on behalf of the applicant, referred to the comprehensive conditions put forward in the application to ensure that the premises would operate in accordance with the licensing objectives. Mr Nickson made reference to the fact that car parking was a particular concern raised by local residents within their representations, however he submitted that car parking was not a relevant consideration for the Licensing Panel in determining the application.

The applicant addressed the Panel and outlined his experience operating two restaurants in residential areas without causing issues to local residents. He

advised that through this experience he had put measures in place to prevent causing a nuisance to local residents, for example, he ensured that customers remained inside the premises whilst waiting for taxis late at night. He emphasised to the Licensing Panel that the business would operate as a tapas restaurant and not a bar.

The applicant responded to questions from Members of the Licensing Panel, Councillor P Hayes, Mr D K Abraham, Legal Advisor to the Panel and the local residents in attendance.

In response to the concerns raised by local residents in respect of noise outside the premises, Mr Buck amended his application to exclude the outside patio terraced area and advised he would not make use of this area for customers to consume food or drink. He reported that he would prohibit individuals taking drinks outside into this area.

The applicant informed Members of the Panel that he would be willing to reduce the hours applied for and he confirmed that there would be a dispersal policy in place in respect of customers leaving the premises.

Councillor Hayes addressed the Panel and advised that he was speaking on behalf of local residents. He reported that the location of the premises was in a residential area and that in his view, this was not a suitable location for this type of premises. He believed that the operation of this type of business in this area would have a negative impact on people living in the vicinity and that should the application be granted, it would constitute public nuisance given the close proximity to local residents and increase noise and disturbance in the area. He informed Members of the Licensing Panel that parking issues had blighted this area for a long time and therefore requested that the Panel refuse the application, however should Members be minded to grant the application, Councillor Hayes proposed that a number of conditions be placed on the Premises Licence including notices on their website in respect of parking difficulties in the area, a reduction in the hours applied for, deliveries to take place during office hours and for the outside area to close at 4.30 pm.

Councillor Hayes responded to questions from Mr Nickson.

The local residents in attendance addressed the Panel and highlighted their concerns regarding the potential for increased traffic which would exacerbate existing problems of parking in the area and also expressed their concerns in respect of increased noise late into the night with people leaving the premises as the premises is situated in a residential area.

In determining the application Members of the Licensing Panel had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

The Licensing Panel had regard to the fact that the applicant advised that the premises would operate as a restaurant. The Panel took into account the fact that the current planning permission relating to these premises is that its primary use must be as a restaurant/café and not as a bar.

In coming to their decision, Members gave consideration to the assurances provided by the applicant that the premises would be managed in such a way as to prevent any nuisance being caused to local residents. Members of the Panel had regard to the comprehensive conditions put forward in the operating schedule which set out how the premises would be managed to uphold the licensing objectives.

In determining the matter, Members of the Licensing Panel had regard to Section 15 of their Licensing Policy which refers to premises situated in close proximity to residential accommodation.

The Licensing Panel noted the concerns of local residents in respect of parking, however, Members considered that this was not a relevant matter for them to consider when determining an application for licensable activities at these premises which already had planning permission to operate as a restaurant.

In determining the application Members also had regard to the fact that there were no representations from any of the Responsible Authorities.

Members of the Licensing Panel noted the willingness of the applicant to liaise directly with local residents in respect of any concerns that may arise and also his willingness to reduce the hours applied for.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the application for a Premises Licence in respect of Contento Restaurant, 146 Belvidere Road, Wallasey be granted with the following hours:

Sale by Retail of Alcohol

Monday to Sunday 12:00 to 22:30

Hours Open to the Public

Monday to Sunday 12:00 to 23:00

(3) The application for Non-Standard Timings was refused.

(4) The patio terrace is to be excluded from the licensed area.

(3) That in addition to the conditions set out in the operating schedule, the following conditions be placed on the Premises Licence:

- No open drinking vessels, glasses or bottles may be taken beyond the delineated Licensed Area.**
- The premises must implement a dispersal policy which includes customers remaining inside the premises whilst waiting for taxis.**
- Deliveries may only take place at the premises between 09:00 and 17:00.**
- The collection of external waste bins from the premises may only take place between 09:00 and 17:00.**
- A notice must be published on the premises website to highlight the lack of parking provision in the area.**