

EAST STAFFORDSHIRE BOROUGH COUNCIL
LICENSING ACT SUB-COMMITTEE

Minutes of the Meeting of the Licensing Act Sub-Committee held a virtual environment on Monday 5th October 2020 at 10.00am.

Present:

Councillors S Gaskin (Chairman), Mrs B Ashcroft and Ms A Legg.

Officers Present:

Mrs A Wakefield (Solicitor) and Mrs H Farman-Mckenna (Licensing Officer).

41/20 **DECLARATIONS OF INTEREST**

There were no declarations of interest at the commencement of the meeting.

42/20 **APPOINTMENT OF CHAIRMAN**

Resolved:

That Councillor S Gaskin be appointed Chairman for this meeting.

43/20 **URGENT BUSINESS**

There was no urgent business brought forward to the Licensing Act Sub-Committee pursuant to Rule 12.

44/20 **APPLICATION FOR A PREMISES LICENCE – PREMIER KEBAB HOUSE, 195 STATION STREET, BURTON UPON TRENT, STAFFORDSHIRE DE14 1BH**

(HoS) The report of Mark Rizk (Head of Service), regarding an application for a premises licence was considered.

Mr Abid Hussain, the applicant, was present at the hearing.

Mr Duncan Craig (Licensing Barrister), on behalf of the applicant, was present at the meeting.

Sgt James Finn and Ms Nicky Bills (Staffordshire Police), the objectors, was present at the hearing.

The sub-committee heard oral evidence from the following:

Mrs Helen Farman-McKenna (Licensing Officer)
Mr Duncan Craig (Applicant's Representative)
Mr Abid Hussain (Applicant)
Ms Nicky Bills (Licensing Officer – Staffordshire Police)
Sgt James Finn (Staffordshire Police)

Resolved:

The Licensing Act Sub-Committee was required to determine an application for a new premises licence at Premise Kebab House, to authorise the provision of late night refreshments. The hearing had been convened in response to representations from Staffordshire Police.

Ms Nicky Bills, on behalf of Staffordshire Police, told Members that the premises was situated in the heart of the town centre, within the cumulative impact area. For the last three years the applicant had been running a taxi base from the premises and the Police were of the view that the provision of late night refreshments until 2.00 a.m. Sunday to Wednesday and until 5.00 a.m. Thursday to Saturday would be likely to undermine the licensing objectives by giving rise to crime and disorder and public nuisance. Ms Bills talked Members through CCTV footage showing incidents immediately outside the premises and she subsequently drew Members' attention to 13 relevant incidents from 11th January 2019 onwards. Ms Bills alleged that the applicant had been unlawfully serving late night refreshments during the time since June 2020 (when he received advice from the Council's licensing team to the effect that he would need to apply for a premises licence). In support of that allegation, Ms Bills suggested that two young women shown holding takeaway cartons in the second piece of CCTV footage had purchased hot food from the Premier Kebab House and that they had done so after 11.30 p.m. Ms Bills told Members that Staffordshire Police considered that the premises already contributed to crime and disorder; that the applicant had shown a disregard for the licensing objectives; and that he had been trading unlawfully, by serving late night refreshments without a licence to do so, at a time after he had received advice on the point from the Council's Licensing Team. Ms Bills concluded by telling Members that Staffordshire Police and the applicant had met on 19th August and the Police had told the applicant that their objections could be dealt with if the applicant agreed to end the sale of late night refreshments on-site at 1.00 a.m. seven days a week, with a delivery-only service operating from 1.00 a.m. until 5.00 a.m.

Members next heard from Mr Duncan Craig, on behalf of the applicant. Mr Craig had been instructed only on Friday 2nd October and over the course of the weekend he had circulated a set of revised conditions, intended to mitigate the risk of harm to the licensing objectives. Mr Craig explained that he had taken on board the requirements of the Council's Cumulative Impact Assessment and the revised conditions had been drafted taking into account those requirements. He acknowledged that a 5.00 a.m. terminal hour was inconsistent with the Cumulative Impact Assessment and he was instructed to revise the application as follows:

Sunday to Wednesday – a 2.00 a.m. terminal hour as originally applied for;
Thursday to Saturday – a 3.00 a.m. terminal hour in place of 5.00 a.m.
Deliveries permitted to 5.00 a.m. seven days a week.

Mr Craig spoke of the applicant's good track record of operating his taxi base and of the applicant's excellent relationship with Staffordshire Police. He said that his client categorically refuted that he had been unlawfully serving late night refreshments in the time since June 2020. He made the point that if the premises were to be brought within the licensing regime then the further requirements imposed upon the applicant would result in benefits for this part of the town centre – for example the SIA door staff which the applicant would employ would give an added layer of protection. Mr Craig said that the Police had indicated they would be happy with a 1.00 a.m. terminal hour, with deliveries thereafter; and that Sgt Finn had indicated that he proposed conditions were helpful. Mr Craig stated that the wide-ranging conditions offered by his client would mitigate any risk of harm to the licensing objectives.

The applicant, Mr Abid Hussain, described the measure he had in place to ensure the good running of his taxi business, telling the Members that he was used to dealing with hundreds of customers over the course of any one evening and that he wished to do his best to put in place every possible safety measure.

In his concluding statement, Mr Craig stated that this application was consistent with other late night refreshment venues in the area; he said that there was no evidence to support the Police allegation that Mr Hussain had continued serving after permitted hours; he pointed out that the applicant had amended his application to mitigate risks to the licensing objectives; and that the Police had indicated they were happy with a 1.00 a.m. terminal hour.

Sgt James Finn made a concluding statement on behalf of Staffordshire Police. He made the point that Staffordshire police do not routinely object but that they had assessed the need to do so in this case. The Police were concerned that the retention of customers on site while waiting for food orders would lead to an increase in the incidence of crime and disorder and public nuisance. Sgt Finn told Members that the Police licensing team's experience was that those premises terminating at 1.00 a.m. was not contributing to problems of crime and disorder. The Police were prepared to accept the revised conditions circulated by Mr Craig and their case remained that they wished to see a 1.00 a.m. terminal hour on-site, with a delivery service thereafter.

Taking into account the papers circulated in advance of the hearing and the oral submissions made at the hearing; as well as the Council's Statement of Licensing Policy, the Members concluded that the applicant's revised terminal hours and his proposed conditions, together with two revisions of the members' own, detailed below, would all serve to mitigate the risks to the licensing objectives and they determined that they would grant the revised application subject to the conditions circulated by Mr Craig in advance of the hearing. The Members' revised conditions were as follows:-

Condition 11 – “and staff will undertake a litter pick at the end of each day to ensure that the area in front of the premises is left free of litter”.

Condition 12 – “and the frontage of the premises should be adequately lit”.

Chairman