

Record of a Hearing of the Bradford District Licensing Panel held on Wednesday, 25 January 2017 in Committee Room 4, City Hall, Bradford

Procedural Items

DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents

Hearings

1. Application for a Premises Licence for Mahmood's, 35 Oak Lane, Bradford.



RECORD OF A HEARING FOR A PREMISES LICENCE FOR THE PROVISION OF LATE NIGHT REFRESHMENT FOR MAHMOODS, 35 OAK LANE, BRADFORD, BD9 4QB

Commenced: 1010
Adjourned: 1045
Reconvened: 1105
Concluded: 1110

Present

Members of the Panel

Bradford District Licensing Panel: Councillor M Slater (Ch), Councillor Engel and Councillor Hawkesworth

Parties to the Hearing

Representing the Applicant:

Mr Khan - applicant
Mr Gafoor - associate

Representing Responsible Authorities:

Mr Fairclough – Environmental Health Officer
Ms Caygill – Environmental Health Officer (Observing)

Observers:

Four local residents

Representations

The Assistant Director, Waste, Fleet and Transport Services, presented a report (**Document “L”**) that outlined an application for a new premises licence for the provision of late night refreshment, noting that representations had been received from the Environmental Health Officer in respect of noise nuisance and the fact that the premises had been operating without the benefit of such a licence.

The applicant then made representations in support of his application, stressing that he had been unaware of the need for a licence as he had taken over the franchise at these premises and had merely continued the hours of operation already in place. As soon as he had been made aware of the issue he had applied for a licence. He also explained that many businesses in his area had failed and that, as he employed ten local people, it would be detrimental to his business if a licence was not granted. He stated that he operated a CCTV system; did regular litter picks outside the premises and displayed notices requesting that patrons leave quietly. He had held a meeting with local residents and as a result had arranged additional litter picks. He had agreed with a local Councillor to hold regular meetings with residents to allow them to express their concerns direct to him. He stressed that he was not applying for a licence to sell alcohol and that there was a culture of late night eating in Bradford which he wished to access. He also noted that another premises in the vicinity of Mahmood’s opened until 0100.

Members of the Panel then questioned him on his application, asking first whether the adjoining premises were commercial and whether there were parking restrictions. In response he confirmed that the premises from 33 to 43 Oak Lane were commercial and that before 1800 parking in front of the premises was restricted to a one hour stay.

Members then queried the opening hours of these premises and others in the vicinity and were advised that Mahmood's had been opening between 1100 and 0200 and that other premises in the area had opening hours up until between 2000 and 0100.

A Member asked the applicant what steps he had already taken to comply with the regulations and was advised that fire exits and emergency exits had been clearly signed and a first aid kit was in place. The Member went on to ask also about the licensing objective to protect children from harm and was advised that CCTV was in place and that the applicant co-operated fully with the Police. He stressed that he would not serve children after 2100.

The applicant was asked how many staff were employed between 2300 and 0200 and stated that five people were on duty then as it was a busy time. The whole of Oak Lane was still reasonably busy throughout that time, with weekends being the busiest.

In response to a question in respect of his application for planning permission, the applicant confirmed that he had applied for this licence first and would apply for planning permission if successful.

In response to a further question in respect of contact with local residents, the applicant confirmed that he had been approached direct by residents about the noise of the refrigeration units but that issue had been resolved. Residents had also contacted him in respect of customer noise and he had put up the notices in the shop in response to that issue.

The Environmental Health Officer then made representations in respect of his objections to the application. He confirmed that complaints had first been received in respect of the premises in 2009 regarding a noisy air management system but that the issue had been resolved successfully. Complaints had next been received in 2016 in respect of the same issue as well as problems of patrons shouting, revving their car engines and pulling up to the premises too quickly. The complainants lived directly opposite the premises and the Environmental Health Officer stressed that it was important to deal with the noise nuisance via this Panel as other opportunities for a successful outcome were limited.

In response to questions from the Panel Members, he confirmed that the Police had not objected to the application and that complaints had been received from residents on both Oak Lane and Bertram Avenue.

A Member queried at what point Oak Lane became quiet enough for the noise from patrons of these premises to be distinguished from the ambient noise of the busy street scene and was advised that the complaints were in respect of trading until 0200 and at that point there was not a great deal of other traffic.

A Member queried the position in respect of this application and the application for planning permission which was also required and was advised by the Panel's Legal Advisor that the two regimes were completely separate and that the applicant would be bound by whichever terminal hour was the lower of the two permissions.

The Environmental Health Officer and the Legal Advisor also confirmed that determination of a public nuisance did not rely on the number of complaints received and would be decided by the investigating officer based on the disproportionate nature of the disturbance.

Both the applicant and the Environmental Health Officer then made brief closing statements in support of their representations.

Resolved -

That having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period; the published statement of licensing policy and relevant statutory guidance, the Panel grants the application subject to the following conditions:

- (1) That the hours of licensable activity shall be Monday to Sunday 23:00 to 01:00.**
- (2) That the Licensee shall ensure that the external areas around the perimeter of the premises are kept clear of litter and refuse.**
- (3) That prominent signs shall be displayed at all public exits to the premises requesting patrons to be quiet on leaving and entering.**
- (4) That no licensable activities shall take place at the premises unless or until a CCTV system has been installed at the premises. The CCTV shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or Responsible Authority on request.**

Reason – it is considered that the above conditions are necessary to prevent noise and disturbance to local residents.

ACTION: Assistant Director, Waste Fleet and Transport Services

