

Record of a Hearing of the Bradford District Licensing Panel held remotely on Wednesday, 27 May 2020 at 1pm

Procedural Items

DISCLOSURES OF INTEREST

Councillor Ellis disclosed that he had been a Member of the Planning Panel which had granted permission for two retail shops on the land where the applicant's premises would be based. As the application for a premises license was considered under different criteria to the planning applications he was advised to remain and take part in the hearing.

INSPECTION OF REPORTS AND BACKGROUND PAPERS

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

Hearings

Application for a New Premises Licence for Fresh N Funky, 31 Whetley Lane, Bradford BD8 9EH (Document "R")

FRESH N Funky, 31 Whetley Lane, Bradford BD8 9EH

Commenced: 1300

Adjourned: 1405

Reconvened: 1415

Concluded: 1420

Present

Members of the Panel

Bradford District Licensing Panel: Councillor M Slater (Chair), Councillor Ellis and Councillor Godwin

Parties to the Hearing

Representing the Applicant

Mr Y Choudry

Interested Parties

Mr M Ayub – local resident

Mr A Hussain – local resident

Representations

The Interim Assistant Director Waste, Fleet and Transport Services presented a report (**Document “R”**) which outlined an application for a new Premises Licence for the provision of late night refreshment.

The applicant had informed the Panel that he wished his brother to represent him and it was his brother, Mr Choudry, who addressed the hearing. Mr Choudry advised Members that he would be working with his brother at the premises which would be operated as a small café providing hot and cold drinks and pre prepared snacks. The application had been made to enable the business to provide those refreshments later in the evening. The hours of licensable activities were contained in Document “R” together with steps proposed by the applicant to address the Licensing Objectives.

The comments made in the written representations received, and appended to Document “R” were addressed by the applicant’s representative. In respect of concerns regarding potential litter in the area it was explained that two waste and one recycling receptacles would be placed outside of the premises and staff would ensure that the area outside of the premises was kept clear of rubbish and cleaned. Assurances were provided that those measures would ensure the area outside of the business would be kept clear of rubbish generated by the premises and from elsewhere.

The business would be operated as a drive by takeaway. Facilities would not be provided for customers to eat on the premises. Food would not be prepared on the premises and it would be dispensed quickly. As customers would leave the premises as soon as their orders were completed it was felt that the potential for noise disturbance was reduced.

Parking provision in the area was reported and it was explained that there were three or four slots of unrestricted parking spaces outside of the premises; there was a small cul-de-

sac at the side of the business and off street parking was available on side streets in the area. Assurances were provided that staff would monitor the parking situation when the premises were busy.

The applicant's representative reported that the land on which the café unit was located had received local authority planning approval for the operation of two retail shops. He maintained that planning approval would not have been granted if traffic or highways issues were anticipated in the area and he believed that the café would generate less traffic than two retail outlets.

In response to questions from the Panel the applicant's representative explained that there had been a bungalow located on the land on which the café was sited. The bungalow had been demolished and foundations had been laid for the erection of two retail shops. Due to the current economic climate plans had changed; the site had now been paved and a temporary cabin would house the café business. It was expected that the café would operate for approximately two years before the retail shops would be constructed.

It was questioned if the properties located in the vicinity of the business were residential or commercial properties and the applicant's representative explained that there was one residential property and the remainder were commercial units.

A Member questioned arrangements to keep customers safe during the current COVID 19 situation and it was confirmed that the premises were not currently open and would adhere to all guidelines when operations began. The premises were never intended to utilise seating areas for customers to dine and food and beverages would not be prepared on the premises.

The Panel's Legal Advisor questioned the operation of the business located next door to the premises and the nature of the premises located closest to the café.

In response it was explained that the business located next door to the premises was a driving school and that the property on the other side of the business was a residential property which had been abandoned for some years. Upon further questioning it was explained that properties at the rear of the premises were an accountancy firm; a hairdresser and a travel agent.

The applicant's representative acknowledged that other business premises in the immediate vicinity operated throughout the day. It was agreed that there was potential for noise disturbance to people in residential accommodation in the area but it was maintained that traffic would be driving through the area anyway and not merely to visit the café premises.

Two local residents in objection to the licence addressed the meeting. The first explained that he lived opposite the premises on Whetley Lane. He reported that the land on which the café would be located was owned by a relative of the applicant who also owned the accountancy business located close by. It was stressed that the remainder of the properties were residential and that at similar food businesses in the area people were seen sitting in their vehicles eating food and leaving rubbish when they drove off. Concern was expressed that the applicant's representative had, when questioned about car parking, referred to the availability of parking space on residential streets in the proximity of the business.

In response to questions from the Panel's Legal Advisor the resident stated he had lived in the area for 11 years and he believed that 90% of properties in the vicinity of the premises were residential.

The second resident in objection informed the Panel that he lived two doors away from the applicant's premises. He reported that the accountancy firm was located adjacent to the premises and that the majority of the properties in the vicinity of the premises were residential. He confirmed that some commercial properties had an element of residential use including the local barbers shop which had residential premises above the business. He was concerned about potential noise nuisance and residents being disturbed by the vehicles of customers visiting the premises and customers parking and talking in the area late at night. It was also feared that rubbish would be left on the street as the premises did not have dedicated parking space.

In response to questions it was confirmed that the resident had lived in the area for 15 years and that he knew the area well. He acknowledged that he did use late night take away facilities and reported the location of an additional, nearby, takeaway food outlet which operated until 0200 hours. It was reported that those premises had parking facilities which were always full to capacity. The potential for the noise disturbance from the applicant's premises was reiterated.

In summation the first resident stressed that there were already late night take away facilities in the area. Concerns were expressed that the application being discussed was housed in a container; was situated on a road where two lanes of traffic merged into one and was near to traffic lights. It was feared that traffic waiting at the premises in that location would be dangerous and could cause accidents to occur.

The second applicant concluded with the statement that the majority of properties in the vicinity of the premises were residential and that trading until 0200 hours in the morning would cause disturbance to residents.

In the applicant's closing statement he acknowledged the issues raised but asked Members to consider that the applicant had been granted planning permission to operate two retail shops. If the application was unsuccessful alternative businesses would be operated from that site. It was confirmed that the applicant's uncle owned the land on which the café would be located and that both the applicant and his uncle had a vested interest in the business.

In respect of potential noise nuisance it was explained that the applicant did not want to cause disturbance or to upset his neighbours. It was reported that the highway was wide and had there been any highway issues planning permission would not have been granted.

The take away food outlet referred to by the local residents was located more than 500 metres from the premises and had parking facilities for 50 cars. It was not intended that customers at the applicant's premises would linger in their vehicles as car parking facilities would not be provided.

Resolved –

That, having considered all valid representations made by the parties to the hearing; 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 adequate secured trade waste storage facilities are provided in the external areas of the premises to the satisfaction of the Licensing Authority.**
- 2. That the Licensee shall ensure that the external areas around the perimeter of the premises are kept clear of litter and refuse.**

Reason – it is considered that the conditions are necessary in order to ameliorate any anti-social behaviour in the area.

(Melanie McGurk – 01274 431873)

Chair

Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.

THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

