

Record of a Hearing of the Bradford District Licensing Panel held remotely on Wednesday, 2 June 2021

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

Hearing

Application for Premises Licence for the provision of late night refreshment at Chaii Wali, 752 Little Horton Lane, Bradford

RECORD OF A HEARING FOR A PREMISES LICENCE FOR THE PROVISION OF LATE NIGHT REFRESHMENT TO TAKE PLACE INDOORS AT CHAI WALI, 752 LITTLE HORTON LANE, BRADFORD.

Commenced: 1245
Adjourned: 1355
Reconvened 1410
Concluded : 1415

PRESENT

Members of the Panel

Bradford District Licensing Panel – Councillors Slater (Ch), Akhtar and Winnard

Representing the Applicant

Mr Aslam – applicant

Ms Naz – business partner

Mr Steel – applicant’s agent

Representing Responsible Authorities

Ms Howarth – Environmental Health officer

Representations

The Interim Assistant Director Waste, Fleet and Transport Services presented a report (**Document “A”**) which outlined an application for the grant of a new Premises Licence for the provision of late night refreshment to take place indoors at Chai Wali. The receipt of representations from the Environmental Health Officer, a ward councillor and a resident in objection to the application was explained, as well as the receipt of two representations from ward councillors in support of the application.

The applicant, his business partner and agent attended the meeting and the agent made a detailed representation on his client’s behalf, referring to the way in which businesses had suffered as a result of the pandemic. He explained that this business had managed to trade throughout the pandemic and that previous problems with trading from a cabin had now been resolved and the business was based in a retail unit. Problems of noise had been resolved since the removal of the cabin and a noise report prepared for the applicant had shown that there was now no problem. He considered that all four licensing objectives had been met and that the business provided a valuable service to the locally based police and hospital staff. Since the removal of the cabin, the availability of car parking had increased, in contrast to other local 24 hour businesses which had no parking at all.

The Chair queried the reference to a planning application and was advised that it had been made to vary a condition of the extant planning permission which required closure of the business by 2300 and requested an extension to 0100. As a result of that response, the Chair queried why this application was for hours of operation until 0200. He was advised that the business owner intended to spend an hour cleaning the premises after closure and considered that a neighbour would complain if it was considered that the business was operating without permission.

A panel member asked how long it had been since the cabin’s removal and if the business

was now fully based indoors. She was advised by the applicant's business partner that the cabin had been removed six weeks ago and that the business was based fully indoors. The business partner also stated that the terminal hour of 0200 had been applied for so that the business could choose when to close and may operate until then on bank holidays, festivals such as Eid and when there was a football match on.

In response to a question about the prevention of noise nuisance, the Panel was advised that customers would be required to turn off their car engines; would be advised how long their order would take to prepare and would be prevented from playing loud music. It was also stated that there was indoor seating for customers' use. Further to that, members then clarified that part of the business involved takeaway sales. It was also clarified that if the business opened until 0200, cleaning of the premises would go on until 0300.

The Panel's legal advisor established the identity of the directors of the business and that one of the directors did not currently work in the shop. He also clarified with the agent that the difference in timings on the two applications could leave the applicant in breach of his planning permission if both were granted. In response to a question about amending this application to match the planning application, the applicant declined to do so as he was concerned about his neighbour's complaints.

The legal advisor asked about issues of noise from the former cabin and the applicant stated that there had been problems with young people lighting fires behind it.

The legal advisor asked about parking at the premises and was informed that the applicant's sister owned the car park and that the acoustic report covered both the premises and the car park but that it had not been produced for the information of this panel.

The Environmental Health Officer then made representations in her capacity as a responsible authority, stating that the cabin referred to was a shipping container which had been placed on site without planning permission. An enforcement notice had been issued in March 2020 but the container had not been removed until May 2021. The first complaints about noise nuisance had been received by Environmental Health in March 2020 and it had also been established that the premises had no late night refreshment licence but had been trading between 2300 and midnight. Further complaints had been received from a councillor about waste being burnt on site and a visit had shown that a brazier was in use on the site. More complaints had been received about noise, especially vehicle noise until 0200. Planning permission for a permanent structure had then been given on appeal by the Planning Inspector who had noted that the business had agreed to close at 2000 on Monday to Saturday and 1800 on Sundays.

The Environmental Health Officer also advised that the site had no off-street parking and that the land referred to by the applicant actually belonged to National Power Grid, with the applicant only having access to his premises.

Further visits to the premises in June and July 2020 showed large gatherings of people and loud music being played and a community protection order was issued to the applicant requiring access to the car park to be ceased. The applicant was reported to have reacted badly to the issue of the order and not to have accepted its terms. The applicant was spoken to again in November 2020 and stated that he had limited control over the car park. A further visit had been made this year and the applicant had again been warned not to trade after 2300.

The Environmental Health Officer did not accept the conclusion of the acoustic report as it was predicated on a takeaway business with customers leaving after making their purchases and only a limited amount of parking taking place. In practice, she considered that people would gather at the premises and cause a nuisance. She concluded by advising that local residents had already provided her with reports of noise nuisance taking place well after midnight.

In response to questions she confirmed that noise recordings had been undertaken by residents and provided to the Council via its noise app.

The Licensing Officer also clarified that there was only one other licensed premises in the near vicinity which was a shop on Little Horton Lane and was licensed between 0700 and 2300 for sales of alcohol.

Closing submissions were made by the Environmental Health Officer and the applicant and his agent. The Environmental Health Officer stated that the applicant had shown a clear disregard for the planning and licensing laws; that complaints had been received as recently as in the last few days and recommended that the application be refused.

The applicant reiterated that the land being used as a car park belonged to his sister and stated that another person had been burning rubbish, not himself. He considered that he was being victimised and that everything he had been asked to do had been done.

The applicant's agent noted that the planning panel would make its own decision on that application and that this panel could not pre-empt that.

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 refuses the application on the grounds that, in the light of the evidence presented by the Environmental Health officer as a responsible authority, it considers that the prevention of public nuisance licensing objective cannot be met.

ACTION: Interim Assistant Director, Waster, Fleet & Transport Services

Chair

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