

MINUTES

of the

**LICENSING COMMITTEE
HEARING**

held on 21 August 2019 at 10am

Present:

Councillor L.A. Mascot (Chair of Hearing)

Councillors, D.J.R. Clark, D.G. Jones. and I.C. Roberts

1. **Apologies for Absence**

There were no apologies for absence.

2. **Declarations of Interests**

All Members were reminded to declare any Disclosable Pecuniary Interests (DPI) or other registerable interests where appropriate in any of the items of business on the meeting's agenda, none were made.

3. **Licensing Act 2003 - Application for a New Premises Licence – Doner Zamani, Backnang Square, Chelmsford, Essex, CM2 6FD**

The Committee considered an application for a new premises licence in respect of Doner Zamani, Backnang Square, Chelmsford, Essex, CM2 6FD.

Late Night Refreshment:

Wednesday - 23:00 – 03:00

Friday- Midnight till 04:00

Saturday – Midnight till 04:00

It was noted by the Committee that there were three options namely;

1. Grant the application, on the terms and conditions applied for.
2. Grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the Licensing Objectives.
3. Refuse the application in whole or in part.

The following parties attended this hearing and took part in it:

***The Applicant and their representative
Nigel Dermott – Essex Police Licensing Officer***

The Chair advised that the written representations had been read and considered by the members of the Committee in advance of the meeting. The Chair invited the applicant to introduce their application. The applicant produced a statement moments before the hearing, with supporting documents.

The applicant introduced their application to the Committee and read aloud the statement produced at the door of the hearing. They stated that their application had been refused before but that by opening later they would not be adding to violence and crime that was already in the area anyway. They stated that they have not had any problems with their location and it is ideal for people to purchase food after leaving nearby venues on their way to taxis etc.

The applicant's representative informed the Committee that they were a small family run business with no alcohol or music at the premises. He stated that they kept the area clean and also cleared nearby litter from other premises. The Committee heard that they had received no complaints and that nobody loitered near the premises. The Committee was informed that the Essex Police objections did not refer to any specific issues from their business and were just about the general location. The representative stated that they had completed a risk assessment and felt that there was no evidence that their later opening hours would lead to increased crime or disorder. The Committee heard that they would have CCTV installed by professionals and also confirmed that they could have door staff with the relevant insurance. The representative stated that their premises would dissuade people heading back to the high street and would help reduce the likelihood of violence. They also stated that a six-month trial period with the licence would allow them to demonstrate their suitability.

At this point in the hearing the Essex Police Licensing Officer detailed their representation to the Committee. He stated that their objections were based on the same issues as the previous application and their view had not changed. He stated that it was not possible to establish if the business had a direct impact during the period when it was trading without the necessary licence previously. It was also stated that this had been via a misunderstanding with the landowner and not a deliberate act. In response to other premises having licences in the area, it was confirmed that these were contained within buildings and were not catering van style premises as being applied for.

The Committee was referred to the crime statistics detailed in the representation which showed the high amount of calls for service and reported crime in the area. In response to the CCTV detailed by the applicant, it was noted that there was already Council CCTV in the area. The Committee heard that this was lawful, and the Council were registered as data controllers. It was also noted that the offer of CCTV could only be from within the trailer and would not legally be able to include the public outside area without registering as data controllers with the ICO. The Committee heard that the ICO was clear in that CCTV should not be used by private individuals to monitor public space. Mr Dermott also referred to the offer of door staff made by the applicant. He stated that this would not be practical with the style of premises and no evidence of relevant insurance had been provided. He stated that they would have no remit to operate in the open space outside the premises.

In summary, Mr Dermott stated that this was a busy hotspot area of the night-time economy with high crime figures and that to grant the application would set a precedent for similar operators in the city centre. He informed the Committee that CCTV and door staff were not practical options for a catering van style premises. He also stated that the legal case referred to in his representation detailed that local authorities could act on concerns of future crime when considering an application and do not need to wait for licensing objectives to be contravened. Mr Dermott confirmed that the position of Essex Police was unchanged from the last application and asked that the application be refused.

In response to questions from the Committee, the applicant and their representative confirmed that they had produced a risk assessment but did not have a copy available. They also confirmed that if granted, the door staff would operate between 00:00 and 04:00.

The Committee retired at 10.33am to deliberate on the matter and returned at 10.48am.

RESOLVED that the Director of Public Places be authorised to refuse the application on the basis that to grant the application would undermine the prevention of crime and disorder objective.

The Chair provided a summary of the reasons for the Committee's decision and advised that a formal decision notice would be sent out in due course to the relevant parties.

The Committee had careful regard to the representations of the applicant and the objecting responsible authority.

In particular, the Committee has concluded that having regard to the location and the nature of the premises, the provision of late-night refreshment during the hours applied for would constitute a focal point for people leaving the various bars and clubs in the area, many of whom may be intoxicated. A focal point for congregating intoxicated persons increases the likelihood of crime and disorder occurring.

The Committee is aware that its decisions need to be evidence based and in reaching its decision has had regard to the following factors which it considers to be evidence of the prospective harm;

1. The nature of the trading premises being a catering trailer located in a public open space, with no practical means of restricting access by security as compared to an indoor premises, with a door supervisor which can control queues etc, severely reduces the ability to mitigate any increase in crime and disorder. The location of the premises also may prevent people from dispersing and encourage them to congregate in Backnang Square, which may contribute to increased crime and disorder.

2. The Police data provided by Mr Dermott for the period 1st March 2019 and 30th June 2019 show that 68 calls for service were recorded on the Essex Police system as being applicable to the area to the area as they relate to night time economy. During the period of 1st March 2019 to 29th July 2019 an additional 72 night time economy related crimes were recorded as assessed as relating to night time economy crime and disorder.

(10am to 10.50am)

The meeting closed at 10.50am.

Chair