

MINUTES

of the

**LICENSING COMMITTEE
HEARINGS**

held on 26 March 2019 at 10am

Present:

Councillor L. Millane (Chairman of Hearing)

Councillors, R.A. Alcock and F.B. Mountain

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. **Minutes**

The minutes of the hearing held on 4 March 2019 were agreed as a correct record and signed by the Chairman.

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

The Chairman adjourned the hearing until 10:15 to allow the Committee and interested parties to read further documentation that had been provided by the applicant. This information included statements and comments on the premises.

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

Late Night Refreshment

Wednesday 23:00 -03:00

Friday 00:00 -04:00

Saturday 00:00-04:00

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

Objectors – Essex Police and Cllr De Vries.

The Chairman advised that the written representations had been read and considered by the members of the Committee in advance of the meeting. The Chairman invited the applicant to introduce their application.

The applicant informed the Committee that they were now only applying for late night refreshment on Friday and Saturday nights and not Wednesday nights as in the original application. The Committee heard that the application was therefore only for 2 nights and 4 hours on each night. The applicant stated that they were trying to earn a living and had been open for around four months. The Committee heard that they kept the premises clean and regularly checked for any litter around the premises. The applicant stated that by offering food it allowed those visiting the night time economy a chance to sober up on their way home and that they did not anticipate any problems. The applicant informed the Committee that if the licence was to be granted they would be happy to employ a security guard in addition to a CCTV camera at the premises.

The Essex Police Licensing Officer who had objected to the application addressed the Committee. He informed the Committee that he would have been failing in his duty if he had not objected to the application which was situated in the hotspot for crime, disorder, anti-social behaviour and public nuisance of the Chelmsford Night Time Economy. He stated that he had spoken with the applicant in January regarding their previous opening hours and this had been resolved quickly and had been a misunderstanding. The Committee heard that he had looked at various statistics detailing incidents of crime in the area and also noted that not all crimes were reported officially. The Committee heard that there had been 100 recorded crimes in the area over a 12 month period and this was discounting those that appeared not to be alcohol related or in the daytime. It was also noted that 20 of these had been near to the supermarket close to the premises.

The Essex Police Licensing Officer also informed the Committee that as in his report the premises had been trading illegally in the night time economy, but this had been a misunderstanding. He also stated that other local doorstaff had been asked to help if issues arose, but this led to various issues including a lack of insurance. The Committee was also informed that the offer of a security guard would be difficult due to issues with the premises being a catering van on the public thoroughfare. He stated that it would be difficult to apply policies and safeguards that other night time economy venues had to a catering van. The Committee heard that late night refreshment venues often ended up as flashpoint areas later in the night when groups meet again after previous arguments and this premises would not be able to offer safeguarding measures in that respect.

Councillor De Vries who had also objected to the application addressed the Committee. He informed the Committee that due to his experience as a police officer who had worked during the late-night economy he knew that this was a hotspot area where problems often arose. He stated that the premises was not suitable for the area and would lead to issues with orderly dispersal of visitors to other late night venues in the area. He informed the Committee that currently dispersal in the area was naturally staggered but the introduction of a late night refreshment catering venue would lead to crowds gathering and issues occurring. He stated it would be a focal point where intoxicated people could re-visit previous arguments leading to public safety concerns. He also stated that litter from the premises would lead to public nuisance especially as litter could easily end up in the nearby river. He stated he had regularly helped with clean up events of the river and had seen the amount of litter from the late night economy. He informed the Committee that his concerns related to late night refreshment and that it could easily add to problems that already exist in the area. He also informed the Committee that the offer of one security guard would not help with potential issues.

In response to the concerns raised by the objectors the applicant stated that they did not contribute to any litter problems and had always made sure the surrounding area of their premises is clean. The applicant also stated that customers did not stand around loitering and often headed straight for their taxi after receiving their food and that they did not serve alcohol. The applicant also stated that they would expect customer levels to be relatively low compared to other venues in the late night economy.

A member of the Committee stated that the premises appeared to be very clean and that any issues in the area were there before the premises even opened. He asked how many convictions had resulted from the 100 crimes, but the Police Licensing Officer stated he did not have that information available. Another member of the Committee asked whether the proposed security staff would be appropriately trained. The applicant confirmed they would be fully qualified. A member of the Committee also asked how many customers were expected at the premises. The applicant confirmed that the number would be low and around 15-20 during the late night hours being requested.

The Committee retired at 10:42am to deliberate on the matter and returned at 11:15am.

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 Chairman 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 objectors including the 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 Police data provided for the period December 2017 to January 2019 in relation to the number of alcohol related recorder crimes directly related to this area.
2. The 113 calls for services over the same period, with 20 of these taking place in the area directly outside Tesco's.
3. 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 to 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.

(10 am to 11:15 am)

Exclusion of the Public

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Item 5 on the grounds that they involve the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

5. **Licensing Act 2003 – Application for a Personal Licence**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee considered an application from Miss B for a personal licence.

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

1. Grant the application,
2. Refuse the application.

The Committee was informed that the applicant had a relevant conviction for 'Driving a motor vehicle with excess alcohol.' The Committee heard that this had led to the application form and DBS certificate being sent to Essex Police for consultation in accordance with Section 120 of the Licensing Act 2003. The Committee was informed that as a result of the conviction Essex Police had objected to the grant of the personal licence.

The applicant informed the Committee that she had made a previous mistake and had now learnt her lesson. She informed the Committee that she had been working in a pub and had recently completed her licensing exams as a step toward being a personal licence holder which would allow her to work full time and become a Designated Premises Supervisor.

The Essex Police Licensing Officer stated that this was a difficult situation, but the relevant conviction could not be ignored and had not yet become a spent conviction. He had therefore had to object to the grant of the licence. He stated that the grant of a personal licence could lead to the applicant being a Designated Premises Supervisor and due to the conviction, this was not felt to be appropriate. He stated that extensive research detailed that drink drivers regularly believed they would not be caught and due to resources, this often proved to be the case. He stated that the incident showed a disregard for others safety and moral compass issues which were very relevant to consider for someone being a personal licence holder. The position requires a responsible person to control the sale of alcohol and this conviction was in conflict with that.

In response the applicant stated that she had been on a drink driving awareness course and was now aware of the dangerous consequences of drink driving.

The Committee retired at 11:38 am to deliberate on the matter and returned at 11:42 am.

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 Chairman 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 regard to the representations of the Police as required by Part 6 of the Licensing Act 2003 and to those of the applicant.

Having regard to the nature and circumstances of the relevant offence in question as expanded on the Police's statement, dated 13.3.19, the Committee considers it appropriate for the promotion of the prevention of crime and disorder objective, to refuse the personal licence (in line with Part 6 of the Licensing Act 2003.)

The meeting closed at 11:43am.

Chairman