

Minutes

Licensing Sub-Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Monday, 12 July 2021
Time:	1.30 pm
Present:	Councillors J Chilvers (Chair), J Mackman and S Duckett
Officers present:	Jade Reynolds, Solicitor, Sharon Cousins, Licensing Manager; and Dawn Drury, Democratic Services Officer
Others present:	T-Post, Declan Richardson, Applicant

1 ELECTION OF CHAIR

It was proposed, and seconded, that Councillor Judith Chilvers be elected as Chair for this meeting.

RESOLVED:

To appoint Councillor Judith Chilvers as Chair for this meeting.

2 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor Sweeting.

3 DISCLOSURES OF INTEREST

There were no disclosures of interest.

4 PROCEDURE FOR LICENSING HEARINGS

The Committee noted the Licensing hearing procedure.

5 APPLICATION FOR A PREMISES LICENCE FOR T-POST, 66 HIGH STREET, SOUTH MILFORD, LEEDS, LS25 5AQ

The Chair introduced all the parties present at the meeting and summarised the Licensing hearing procedure which had been circulated as part of the agenda pack. All parties confirmed that they had received a copy of the hearing procedure.

The Licensing Manager presented the report which outlined the details of the application for the determination of a premises licence for T-Post, 66 High Street, South Milford, Leeds, LS25 5AQ. The hearing had been necessitated by representations which had been received from three members of the public.

The Sub-Committee heard that the application was to permit the sale of alcohol at the designated premises, on any day of the week, between the times as detailed within the report.

The Licensing Manager informed Members that conditions had been agreed between North Yorkshire Police and the applicant and Environmental Health and the applicant following representations made by the responsible authorities. The necessary amendments had been incorporated into the operating schedule following these representations and formed the conditions of any granted licence.

It was confirmed that a consultation had been carried out by the applicant in accordance with the Act and the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, and that the applicant had complied with all the statutory requirements.

Members noted that the three people who had made representations against the application had all objected on the grounds of the prevention of public nuisance objective.

In response to a query from one of the representors regarding the number of representations which had been received by the authority, the officer confirmed that all the valid representations that had been received by the authority had been included within the agenda pack.

The Sub-Committee listened to evidence from the applicant, Mr Richardson, and evidence in support of the relevant representations from four members of the public.

Mr Richardson explained that T-Post was a small, family run business which had been in operation since 2016, the premises had undercover, outdoor seating for 24 people and seating for a further 10 people inside. However, at present, to comply with Covid-19 regulations, only a takeaway service was being operated with customers being offered five-to-ten-minute collection time slots to safeguard customers and staff. It was further explained that a ten-year lease had recently been secured on

the premises by the applicant.

Members heard that the aim of the application for a premises licence was to enhance the main business of providing restaurant quality food by offering alcoholic beverages with a substantial meal, along with Prosecco afternoon teas and themed evenings.

Mr Richardson stated that the bulk of the premise's clientele lived within the village of South Milford, signage had been displayed at the premises making customers aware that a premises licence was being sought, and customers had been supportive of the application.

Mr Richardson addressed the concerns of the representors as set out within their individual emails of representation contained within the agenda pack. In relation to on street parking, Members heard that on street parking was an ongoing issue, this had been exacerbated due to measures which the children's nursery that was housed in the Women's Institute (WI) building directly opposite the premises had put into place due to Covid-19. The WI building had its own car park; however, this had been closed to allow parents and children space to assemble while they could safely access the nursery at drop off and pick up times. Mr Richardson re-iterated that individual collection time slots were given to his customers to collect their takeaway food, thereby reducing the number of cars parking.

Members heard that CCTV was already in place at the premises, and in terms of the extraction fan unit and the possibility of vandalism, an extraction fan had been in place for five years, the opening hours for food was unchanged therefore, the extraction fan would not be running for any longer periods; and there had been no incidences of vandalism to date.

The Sub-Committee were informed that the bin storage area for the disposal of glass bottles was enclosed and therefore contained the noise, and furthermore it was not accessible to the public.

Mr Richardson explained that the business had to change to continue to trade, the business was already well established, and the regular clientele would continue to frequent the premises, but an alcoholic drink was something to offer in addition to food.

In response to Member queries regarding what plans were in place to mitigate noise coming from the premises and whether there was private parking provision at the premises, it was confirmed that a pagoda with a roof had been erected and this would benefit from walls made from soundproofing materials once the Covid restrictions had been lifted; inside dining would also be offered. Mr Richardson informed the Sub-Committee that he had recently acquired the premises adjacent to T-Post which had been a hairdressing salon, and this came with provision for the parking of three vehicles.

Members queried how the business would operate over the winter months when unable to use the outdoor area, if the premises would be open seven days per week to include the festive Christmas period; and if the use of time slots would continue. Mr Richardson explained that due to Covid the takeaway trade had grown, and this element along with breakfasts, afternoon teas and celebration cakes provided a large percentage of the businesses turnover and would continue over the winter period. In terms of the premise opening hours, T-Post was only open from Tuesday through to Sunday and was not open over bank holidays and the Christmas and New Year period. It was confirmed that due to the size of the premises and the small kitchen area, customers would continue to be required to pre-book a table, with last orders for food being taken at 8.30 pm.

It was highlighted that public access to the post box was an area of concern for the representors, and it was queried whether it would be possible for the post box to be re-located, Mr Richardson stated that he had spoken to the Post Office, who had confirmed that this could be a possibility, however the post box was a talking point for his customers, but agreed that the issue could be addressed if it was felt necessary to do so.

In relation to the last food orders being taken at 8.30 pm, one of the representors queried why the applicant had applied for a premise licence to finish at 10.30 pm, and if the intention was to turn the premises into a brasserie. Mr Richardson confirmed that he had applied for a 10.30 pm finish, however he was amenable to that time being reduced, and if granted, the 10.30 pm finish would probably only be used on the odd occasion when the premises was being used for a special occasion event. It was further confirmed that there was no intention of the premises becoming a brasserie, the aim was to provide an alcoholic drink with a meal and that the demographic being encouraged were family groups not drinking groups.

It was queried how many staff members Mr Richardson employed, and what plans for the premises the applicant had for the future, Mr Richardson stated that he employed twelve staff members and that in terms of the future, as Members had previously heard the premises adjacent to T-Post had recently been acquired which provided additional space for food production.

The first representor stated that her objection to the application was on the grounds of the prevention of public nuisance objective and proceeded to explain that the premises were already a public nuisance without the sale of alcohol.

Member's attention was drawn to the fact that the current level of noise was high and continued throughout the day particularly at peak times. Grave concerns had been raised as this was a residential area and given the acoustics of the area noise travelled; if the sale of alcohol was made

available then it must be a consideration that this would increase noise levels even more for the local residents as the seating area could, potentially, seat in excess of 36 people.

It was questioned why the High Street needed another public beer garden as there were two public houses, situated at either end of the High Street, and concern was raised as to how the premises would be policed. The objector acknowledged that Mr Richardson had CCTV in operation, however the legality of this was also questioned as the CCTV covered the post box and the parish council noticeboard. In terms of underage drinking or anti-social behaviour, it was felt that the majority of staff employed by the applicant may not have the age and maturity to deal with some situations that could arise from customers under the influence of alcohol.

The representor advised Members that, at present, there were no indoor tables and that the applicant had installed pizza ovens within the premises, it was felt that it would be unlikely that there would be sufficient room to implement indoor tables due to this.

In terms of odour from the extraction fan unit, the representor explained that her property was approximately 30 metres away from the premises, but the smell of cooking was quite identifiable.

The representor stated that the applicant had been approached by the Playing Field Committee regarding litter on the playing field and acknowledged that the applicant had arranged for the litter to be removed. Extra bin bags had also been placed at the premises and a shed had been built, however the waste bins were still full to overflowing.

Another major concern for residents was the on-street parking and the volume and size of the traffic using the High Street; the road was used regularly by agricultural machinery who found it difficult to manoeuvre comfortably in the street due to the cars parked, and along with revving of car engines, this all added to the loss of residential amenity.

Finally, in terms of the post box situated in the wall at the premises, the representor felt that it was unlikely that the Post Office would be amendable to re-situating the post box as it had been there for a number of years. It was stated that the area directly in front of the post box was used for customers queuing to collect their takeaways which made it very difficult for residents to pass to use the post box.

The representor wished the applicant well with his business and commented that Mr Richardson was very highly regarded in the area, however, in her view, the business required larger premises and was in the wrong setting.

In response, Mr Richardson clarified that the whole premises had been refurbished to include in-door tables, however, at present, due to the

Covid restrictions the café counter and a fridge had been moved to provide a natural blockade at the entrance to the premises.

Mr Richardson informed Members that, as they would be aware, refuse collection was provided by the Council, however he had taken the decision to pay his staff to litter pick in the playing field, as the bins had been full and there was nowhere for people to place their excess litter. It was further confirmed that the premises used compost bins for their compostable rubbish, this was then transferred into used flour and sugar sack bags which were then collected every two days by one of the premises customers, who used the compost on the village allotments. The objector concurred that litter no longer posed the issue that it had.

Mr Richardson stated that since 1972 the premises had been the post sorting office, it then became the local post office, and queried whether the objector had made an objection when planning permission was sought for the change of use of the business premises from a post office to a café in 2014. The objector confirmed that she had not lodged an objection to the change of use of the premises at that time.

The second representor stated that his objections took into account the accuracy of the data provided within the application form, road safety and the location of the premises. Members noted that on the application form it stated there was seating for 24 persons at the outside seating area, however the area was actually capable of holding six tables which could seat up to six or eight people, and although the premises was open to the public for business from 9 am to 11 pm the staff started work at 6 am, with the extraction fan unit working from this time. It was further noted that due to the odour and noise from the extraction fan that one neighbour had to go indoors and close the door and windows to mitigate the smell and sound from the unit.

In terms of road safety, it was explained that at any given time there could be up to 20 vehicles parked on the pavement at either side of the High Street, close to the walls of the adjacent properties, which prevented pedestrians and prams from using the pavement and forced them into the road. When requesting drivers not to park on the pavement, Members heard that the representor was very often met with abuse and refusal to move the vehicle.

It was confirmed that the High Street saw a large volume of traffic to include farm vehicles, lorries and buses, with the premises located on a crossroads at the centre of the street, and the problem of traffic had recently been exacerbated by a newly established dog walking facility located in the same area.

Members noted that the public nuisance objective included odour, noise, litter and light pollution, of which the objector felt the local residents were suffering from all four nuisances.

In response, Mr Richardson clarified that the outside tables were recommended to seat four to six people at each table, and that it was not illegal to park on a road without a yellow line.

The Committee stressed to the objectors that the problems that they were experiencing with regards to people parking and obstructing the pavement was a matter for the Police, and that the issues must be reported to them for the Police to act on their behalf.

Mr Richardson agreed that the new dog walking facility had increased the volume and worsened the flow of traffic along the High Street, which in turn had affected his business, and commented that the traffic was not all generated by his clientele, some people were travelling to events taking place at the WI building and visiting the dog walking facility. Mr Richardson also expressed frustration as the dog walking facility had opened for business prior to obtaining the correct licence, whereas he had followed the correct channels and procedures prior to making any change to his business.

Mr Richardson informed Members that the extraction fan unit was put into use from 5.30 am, it was a new unit that had been installed six months previously which was due to be cleaned, and the possibility of having the fan re-positioned was being explored, which Mr Richardson had discussed with his closest neighbour.

In terms of the neighbours to the premises, it was noted that, if granted, the applicant would display prominent, clear notices around the premises that requested customers and staff to respect the needs of local residents.

The third representor was accompanied by her daughter, who both spoke on the application and re-iterated the comments made by the previous representors regarding, what they believed was misleading information and a transgression, in the number of guests able to be seated in the outdoor seating area, as they had seen 36 customers sat outside in the seating area.

Members heard that the premises were currently closed on a Monday and Tuesday, open between 9 am to 6 pm on a Wednesday and Thursday, open between 9 am to 9 pm on a Friday and Saturday, and then 9 am to 3 pm on a Sunday. It was stressed that, were the premise licence to be granted, the premises would be open seven days per week between 9am and 11 pm each day. Members were asked to consider how the peace and tranquillity of life would be eroded with the possibility of 36 people sat outdoors drinking at a distance of four metres from the bedroom window of the residential property.

Members noted that the Council's Environmental Health team had stated in their letter of the 11 June 2021 that the proposed premises licence had the potential for causing nuisance to domestic properties situated close to

the premises, the objectors stated that nuisance was already taking place.

The representor explained that the noise from the extraction fan was extremely loud and once it was in use the only way to escape the noise and smell was to leave her garden and go indoors. It was further explained that the café's customers parked over the drive to the property, and if asked to move they refused. In addition, with the property being so close to the premises, the representor could hear the customers individual conversations.

Mr Ricardson assured Members and the representors that the premises would remain closed on a Monday and Tuesday and clarified that the opening hours on a Wednesday were 9 am – 3 pm, Thursday, Friday and Saturday from 9 am to 8.30 pm, and 9 am to 3 pm on a Sunday, and confirmed that this would not change.

The representors felt that the applicant had an excellent product, but that it was in the wrong location, and that granting the premises licence would impact the local community detrimentally in terms of the material effect on their lives.

Mr Richardson commented that he did not want to cause stress for his neighbours, however the business had to be viable, and he was not in a position to move to a different property.

The Chair confirmed with all parties that they had said all that they needed to say in relation to the application.

The Chair thanked all parties for attending the Licensing Sub-Committee and requested that they leave the meeting. It was explained that the Members of the Sub-Committee would retire together with the Democratic Services Officer and Solicitor to consider the application, and in doing so Members would consider the written and oral representations as well as the operating schedule, the Licensing Act 2003 having regard to the Secretary of State's Guidance issued under section 182 of the same, and the Council's Statement of Licensing Policy when arriving at the decision.

It was further explained that all parties would be notified of the outcome of the hearing in writing.

The Licensing Sub-Committee considered that it was appropriate and proportionate, having considered all representations and all the evidence presented and the promotion of the licensing objectives to grant the Premises Licence, but with reduced hours, as follows: Monday to Saturday: 11am to 8:30pm, and Sunday: 11am to 5:00pm

RESOLVED:

To grant the Premises Licence, with reduced hours, as follows: Monday to Saturday: 11am to 8:30pm, and

Sunday: 11am to 5:00pm.

Reasons for Decision:

The Licensing Sub-Committee considered that it was appropriate and proportionate for the promotion of the licensing objectives.

The meeting closed at 4.03 pm.