

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-Committee held on Thursday, 8 June 2023 at 2.00 pm in the Council Chamber, the Guildhall, Portsmouth

Present

Councillors Jason Fazackarley
Darren Sanders
Emily Strudwick

Apologies for Absence

Councillor George Madgwick and Councillor Daniel Wemyss

21. Appointment of Chair

Councillor Jason Fazackarley was duly appointed as Sub-Committee Chair.

22. Declaration of Interests

There were no declarations of interest.

23. Licensing Act 2003 - Application for grant of a premises licence - Panormus Pizzeria, 53 Albert Road, Southsea, PO5 2SF

The Sub-Committee had to consider an application for the grant of a new premises licence pursuant to section 18 of the Licensing Act 2003 ("The Act") following receipt of relevant representation from a local resident.

Present at the hearing were:

Derek Stone, Principal Licensing Officer, PCC
Ben Attrill, Legal Advisor, PCC
Vincenzo Capazzo, Applicant

Summary of Application and Representations

The Principal Licensing Officer introduced his report and advised the hearing related to the granting of a premises licence. He outlined the opening hours and the proposed hours for the sale of alcohol as detailed in the report. He noted that the applicant had already agreed to the small garden at the rear of the premises to be closed from 10pm.

Two objections were initially received, following which the applicant agreed to limit the numbers in the garden area to 16 people, this would be from 9pm until closing off access at 10pm. Following this, one objector withdrew their representation.

The remaining objector was a close neighbour whose house overlooks the rear garden area and who had stated that should noise occur it would impact on the sleep and wellbeing of his children. Both the Principal Licensing Officer and the applicant had attempted to contact the objector to update them

with the proposed amendment and for the applicant to reassure him on how the business would be conducted but had received no response.

There were no objections from any responsible authorities in regard to the application. The application was properly advertised in accordance with the required regulations.

The Principal Licensing Officer outlined the options that were open to the Sub-Committee having heard all the evidence, as detailed in his report.

The applicant had also provided the Principal Licensing Officer with a notice that he intended to affix to the wall in the garden in a prominent position for customers to read and this was distributed to the panel. The notice read as follows:

Remember that you are in private space surrounded by houses where
children and the elderly live.
So keep a decent attitude, don't raise your voice and enjoy a good pizza?
The garden closes at 10pm.
The last drink will be served at 9.30pm

The Principal Licensing Officer reminded the panel of the revised guidance issued by the Home Secretary in accordance with section 182 of the Licensing Act 2003, paragraph 11.1 and 11.2 which sets out the proceedings for a review should there be a contravention of any of the four licensing objectives.

Panel Member questions to the Principal Licensing Officer

In response to questions the Principal Licensing Officer clarified:

- The premises have been open for one week with the business running and operating without serving alcohol. The hours are 5pm - 10.30pm Tuesday to Thursday and 5pm - 11pm Saturday and Sunday.
- The complainant had not clarified what they considered 'noise'. There is a statutory definition of noise nuisance, and this may not correspond with the objector's definition of noise.
- The garden area would be closed from 10pm, 7 nights a week.
- There had been no problems during the first week of operating.
- He had sent the objector several emails, personally hand delivered two letters through the objector's letterbox and hand delivered the invitation to come to the hearing. There had been no face-to-face contact with the remaining objector.

The Legal Officer clarified for the panel that the business is not currently conducting any licensable activities as they are serving hot food up until 11pm. If the business was to go beyond 11pm it would become a regulated activity classed as late-night refreshment. The current activity did not require a licence in any shape or form so could continue to operate irrespective of the panel's decision. The panel was only required to determine the sale of alcohol and the extent to which this may aggravate the potential for noise falling within the potential ground of public nuisance.

Applicant questions to the Principal Licensing Officer

There were no questions.

The Applicant's Case

The applicant presented his case to the panel. He advised he had been running the pizzeria for the last week. When he received notification of the objections to his application, he proposed to mitigate this and attempted to contact the objector to offer a face-to-face meeting to discuss his objection. He received no reply.

The Applicant made the panel aware that he was not a pub, just a little restaurant which will close very early and noted he would be happy to close the garden earlier if that was needed. He had provided the proposed notice for the garden area, which would be placed on a wall close to the garden benches where people sit so they can read it. He advised he would do his best not to cause any issue and would be happy to accept other conditions if needed.

Panel Members' questions to the Applicant

In response to questions the Applicant clarified:

- He had no security personnel.
- He had installed cameras in the garden and restaurant and would ensure customers did not become so drunk they caused an issue. He would call the Police should the situation require it but felt he would be able to mitigate with customers himself due to his experience. He noted his main income was from the service of food with an accompanying beer or a glass of wine should the customer wish.
- The business was operated by himself and one other person. The total capacity, including the garden area, was 38 people.
- He previously ran a pizzeria in 'Outside In', a food court based in Middle Street, Southsea for four years. He also had experience running a bar in the casino for 10 years.
- The last drink in the garden will be served at 9.30pm but customers inside would be served till a later hour.
- The proposed sign would be painted on the wall in the garden to ensure greater visibility. Customers will be advised of the restrictions, so they have a choice to sit in or out.
- No problems had been reported during the first week of opening despite the hot weather and customers sitting in the garden.

The Other Persons' Case

The Chair noted that the one objector was not present at the hearing to present his case. However, the written objection had been included in the papers for the panel and he formally noted that all the panel had read it.

Summing Up

The Principal Licensing Officer had nothing further to add apart from noting that the Applicant had operated for four years in the 'Outside In' food court

and he was not aware of any issues that had ever been reported in relation to that venue.

The Applicant had nothing further to add.

The Committee adjourned to deliberate in private at 14.21.

The meeting resumed at 14.31

DECISION:

All parties shall receive written confirmation of the decision and reasons.

The Sub-Committee had considered very carefully the application for a premises licence at Panormus Pizzeria. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, and the adopted statement of licensing policy.

The Sub-Committee considered the relevant representations, both written and given orally at the hearing, by all parties. Human rights legislation and the public sector equality duty had been borne in mind whilst making the decision.

The Sub-Committee noted that there had been a representation from a single resident objecting to the grant of the licence due to concerns about the prevention of public nuisance licensing objective. One other residential objection had been received but had been withdrawn following additional steps and amendment of the application by the applicant.

After having heard all of the above evidence the Sub-Committee determined to grant the proposed application, subject to imposing the agreed conditions and noting the amended application and amended hours as follows (and detailed in the report):

The outside area at the rear of the premises being closed from 22:00 and reducing the numbers to 4 persons per each of the 4 tables from 21:00 until 22:00 in order to reduce the potential for any noise that may disturb local residents.

Reasons

It was noted that there had been no representations from responsible authorities and accordingly the Sub-Committee had to accept the inference that there are no concerns on their part and particularly Environmental Health - given the issue raised by the single objector.

Objection from the resident focussed upon potential noise disturbance from the rear of the premises.

The applicant had submitted a full and detailed operating schedule and had detailed conditions relating to CCTV, Challenge 25 policy, a refusal register, the prevention of alcohol consumption off the premises and training of staff.

Music was confirmed in the application to only be provided indoors. In addition, the applicant had clarified and proposed conditions limiting use of the rear outside area of the premises.

The Sub-Committee accepted the position that it was considering the use of the premises for licensable activities - in this case the sale/supply of alcohol and that late night refreshment was not forming part of the application. Accordingly, the consumption of food in the outside area was not a regulated activity per se, however, it was understood that alcohol consumption can cause aggravated nuisance.

The applicant outlined their intention to run a small restaurant focussed on food consumption and not alcohol led.

The Sub-Committee noted that there is a right for parties, to bring the licence back for review, if there are any issues undermining the licensing objectives resulting from the licensable activity at the premises. If nuisance occurs as a result of the application, residents are encouraged to liaise with Environmental Health and report the matter promptly. In this respect residents can be reassured that if the premises changes hands or changes the nature of the operation, or indeed fails to implement the steps indicated and this leads to public nuisance, the matter can be brought back to the licensing authority for action to be taken.

The Sub-Committee balanced all of the above issues and determined that in light of the lack of representation from Environmental Health and the additional steps proposed by the applicant, it was considered appropriate to grant the licence with the timings now applied for and that this balanced the interests of residents with those of the business.

There is a right of appeal for all parties to the Magistrates Court. Formal notification of the decision will set out that right in full.

The meeting concluded at 14:31.

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Chair