

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 22nd February, 2024, 10.00 am

Councillors: Steve Hedges (Chair), Toby Simon and Ann Morgan

Officers in attendance: John Dowding (Lead Officer - Licensing), Geoff Cannon (Public Protection Officer (Licensing)) and Donna Marks (Legal Services Manager and Deputy Monitoring Officer)

86 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

87 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

88 DECLARATIONS OF INTEREST

There were none.

89 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

90 MINUTES OF PREVIOUS MEETING: 11TH JANUARY 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 11th January 2024.

91 LICENSING PROCEDURE

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

92 APPLICATION: ONE STOP SHOP, KEYNSHAM

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee and highlighted the following information from it.

The application proposes the following licensable activities:

- The sale of alcohol for consumption off the premises every day between the hours of 06:00 and 23:00.

The application proposes the following opening times:

- Every day between the hours of 06:00 and 23:00.

He explained that there were three written representations of objection from local residents and one written representation on behalf of St Monica's Trust in support of the application.

He explained that following a consultation with the police, the applicant agreed to a series of measures, as set out in the report, which will replace those offered by the applicant in the original application.

The Chair asked if any of the Responsible Authorities had made any objection to the application.

The Public Protection Officer (Licensing) that they had not.

Hardish Purewal addressed the Sub-Committee on behalf of the applicant, she was accompanied by a current store manager Debbie Stacey.

She informed the Sub-Committee that One Stop have over 700 stores nationally and employ around 10,000 people. She added that they have 30 stores in the South West area.

She explained that the company has a Good Neighbour Policy and would like to become part of the neighbourhood when it opens. She added that they would want to hear from local people should any problems concerning the store occur.

She stated that all staff training is documented and that they would receive refreshed training on age related sales twice a year. She said that the store strongly follows the Think 25 policy and that appropriate forms of ID must be shown for sales to be approved.

She informed the Sub-Committee that there would be between 12 – 18 cameras in the store, mainly covering the main door and checkout areas. She added that they would also have panic alarms in place.

She thanked the residents for sharing their concerns and said that they hoped to be able to have an open dialogue with them regarding the store.

She stated that having agreed a number of conditions with the police and having received no formal objections from them or other Responsible Authorities that they believe that the application should be granted on its own merits.

Councillor Toby Simon asked if alcohol sales were a necessary element required for the store to open.

Hardish Purewal replied that they were.

Councillor Ann Morgan asked what procedure would be followed if abuse was directed towards a member of staff.

Hardish Purewal replied that the expectation would be for the store manager to intervene and that if the abuse did not cease then the police would be contacted. She added that at least two members of staff would be present on site at all times.

Caron Mills, who had formally objected to the application, asked how the store would deal with repeat offenders.

Debbie Stacey replied that they would contact their Head Office and seek to write to those persons and issue them with a store ban.

Caron Mills asked what would staff do if such a person were to then return to the store.

Debbie Stacey replied that they would be asked to leave the store and that staff would be able to link their communication equipment to the store tannoy system to make all staff aware of the situation.

Hardish Purewal added that if a person has been banned from the store and tried to return, this would be a matter of trespass that the police would be able to follow up on.

The Chair commented that to some degree he felt that the store was a little remote and asked if they had considered the use of security staff at all at the premises.

Hardish Purewal replied that any additional security would be introduced on a risk assessment basis and said that at the present time they did not anticipate the need for such measures.

Caron Mills addressed the Sub-Committee and said that she was heartened by what she had heard from the applicant in their statement and in response to questioning.

She stated that she lives opposite the proposed premises and has witnessed incidents of anti-social behaviour in the past in the area. She said that the premises is next door to a care home that provides palliative care and has residents who suffer from dementia and would not want them to be disturbed by an increased level of activity.

She said that she does retain her concerns over potential bad behaviour and questioned whether the hours for the sale of alcohol needed as late every day of the week.

Councillor Toby Simon asked the nature of the anti-social behaviour that she has witnessed in the area.

Caron Mills replied that she had seen vehicles with young people in continually driving around the area causing a disturbance and young people taking over the children's playground area and behaving in a noisy manner.

Councillor Ann Morgan asked if the local school or the St. Monica's Trust had raised an objection to the application.

Caron Mills replied that they had not.

Hardish Purewal made a closing statement to the Sub-Committee. She began by informing them that staff would also wear body cameras whilst working in the store.

She stated that One Stop was a good operator with a track record of upholding the licensing objectives. She added that there was no evidence in place for them to amend their hours for the sale of alcohol and that no objections to the application had been received from the Responsible Authorities.

She said that the store would be willing to work with residents on any issues that may occur.

Caron Mills made a closing statement to the Sub-Committee. She said that she welcomed the measures that had been agreed with the police and that if granted that the store would be run as responsibly as been stated.

Decision & Reasons

The Members of the Sub-Committee have carefully considered the Council's Licensing Policy, the Legislation around the granting of a New Premises licence, the Local Government Miscellaneous Provisions Act, appropriate case law and the Human Rights Act.

In particular, the Sub-Committee considered the Licensing Officers' report, the Applicant's written and oral representations, the written and oral representations from the Objector, other written objections made and the written representation in support of the application.

There was an opportunity for all parties to ask questions of each other on the relevant oral submissions.

It was noted the additional measures as discussed with the Applicant and the Police that have been adopted by the Applicant.

It also noted that the Applicant would be happy to engage with the Community should any issues arise should the Premises Licence be granted.

The Sub-Committee after carefully considering the application and hearing all of the representations, noting that this is a new premises licence, does consider that the licensing objectives have been met and therefore grants the Premises Licence as set out in the Application.

The full decision, which will have the representations discussed today at the hearing, will be published on the Council's website.

93 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972.

It was **RESOLVED** that the public be excluded from the meeting for the following items of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

94 CONSIDERATION OF FIT AND PROPER STATUS - 22/00290/TAXI

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

The licensee was asked by the Chair to address them on the matters raised within the report and why he felt that he remained fit and proper to hold his licences.

The licensee stated that he felt that quite a lot of the allegations made against him were spurious as they had resulted in no further action being taken. He added that he was sorry any offence that had occurred as a result of his behaviour.

Councillor Toby Simon acknowledged that a number of the allegations were historical, but asked if the licensee could offer any reason why three incidents had occurred in the past year.

The licensee replied that he does take a mild mood corrective medication, but did not think that he has a bad attitude in general. He added that he had submitted letters of reference from parents that have praised his work with their children whilst doing school runs.

The Chair reminded the licensee that when driving his taxi he is representing the Council. He said that he was most concerned by his reported interactions with children (Annex I) and disabled people (Annex E).

The licensee said that he was not a vindictive or vicious person. He added that the incident that occurred with the disabled driver was when their vehicle was blocking an entrance to a car park. He said that at the time the vehicle was not displaying any disabled identification and that he had simply asked the driver to move the vehicle out of the way. He stated that he would not use bad language unless it was used towards him in the first place.

One of the complainants was present and he addressed the Sub-Committee. He explained that he was crossing the road (Orange Grove) and became aware of a vehicle moving towards him on purpose. He said that this was the licensee in question and that the licensee also verbally abused him and made offensive hand gestures.

He said that he then noticed the vehicle again a few minutes later having come around Grand Parade / Pierrepont Street. He explained that he approached the vehicle and that the altercation did not go well.

The Chair asked if he knew the licensee personally.

The complainant replied that he did not.

The Chair asked if he was 100% sure that the vehicle changed direction towards you.

The complainant replied yes.

The licensee said that as he was driving away from the Abbey taxi rank towards the High Street a pedestrian crossed in front of him. He stated that he did not change his direction towards them and that his window was closed and therefore could not have shouted the alleged abuse.

He said that when the complainant approached him after the incident it was the complainant that was abusive towards him.

The complainant said that a heated argument did take place, but he did not swear at the licensee and informed him that he would be reporting him to the Council.

The Lead Officer (Licensing) commented that there were a number of independent reports referring to the language and behaviour of the licensee. He asked the licensee to confirm that they had met numerous times over the years and that in his opinion the licensee does swear in day-to-day life.

The licensee replied by saying that he would not swear at any member of the public, but acknowledged that it was part of his used vocabulary.

Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of complaints about his behaviour as referred to in the Licensing Officer's report. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The Fit and Proper Person test is a statutory test, but there is no statutory definition, however the Sub-Committee needs to be mindful of the Council Policy on Licensing and the Fit and Proper person test, as follows:

POLICY ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING STANDARDS FOR DRIVERS, VEHICLES AND OPERATORS 2023

Under the Policy Section 5.12 – 5.14

“Licensing It is a legal requirement that driver's and operators must be ‘fit and proper’ for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. In determining fit and proper the B&NES Licensing Sub-Committee has used the following term of authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?”

Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person which is considered to be substantively the same as the suggestion in the Standards Guidance. Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.

There are a number of incidents including historical incidents, but the 3 latter incidents as set out in the Licensing Officer's report are where the Sub-Committee have given the most weight too. In particular, the Licensee's behaviour and the licensee's driving safety as demonstrated when in a situation with a member of public.

Members heard from the Licensing Officer, the licensee in oral and written representations and the complainant in written oral and representations.

It was noted by the Sub-Committee that the licensee did not give reasonable or adequate explanations into the recent incidents or provide any insight and rationale as to what led to that behaviour.

On balance, the Members of the Sub-Committee find that the licensee is not a fit and proper person to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence and hereby revoke his licence.

The Sub-Committee notified him that he has 21 days to Appeal their decision to the Magistrates Court on receipt of the written decision by the Council.

The meeting ended at 12.48 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services