

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Licensing Sub Committee held in the Trent Meeting Room - The Guildhall on 5 August 2019 commencing at 10.00 am.

Present: Councillor Mrs Jessie Milne (Chairman)

Councillor Timothy Davies
Councillor Paul Howitt-Cowan

In Attendance:

Tracy Gavins	Licensing Enforcement Officer
Andy Gray	Housing and Enforcement Manager
Phil Hinch	Licensing & Local Land Charges Manager
Martha Rees	Legal Advisor
James Welbourn	Democratic and Civic Officer

Paul Henocq	John Gaunt and Partners Solicitors
Mandeep Kaur	Applicant
Satnam Singh	Applicant

Apologies: None.

Also in attendance: 3 Members of the public.

1 TO ELECT A CHAIRMAN FOR THIS MEETING ONLY

The Democratic and Civic Officer opened the meeting and asked for nominations for Chairman and it was

RESOLVED that Councillor Milne be elected Chairman of the Licensing Sub-Committee for this meeting.

Councillor Milne took the Chair for the remainder of the meeting and round the table introductions were made.

2 APOLOGIES FOR ABSENCE

None.

3 MEMBERS' DECLARATIONS OF INTEREST

Cllr Milne declared that she worked for Sir Edward Leigh MP; in that capacity she had spoken to Mr Singh as he had not heard about the hearing from West Lindsey District

Council. They did not discuss the case.

4 PROCEDURE

The legal representative for West Lindsey District Council outlined the procedure to those present, as set out in the agenda pack.

5 LICENCE HEARING

Licence Number: n/a

Hearing Type: Grant of a Premises Licence

Premises: "Morton Premier" 1 Crooked Billet Street, Morton, Lincolnshire DN21 3AG

Applicants: Mr Satnam Singh and Mrs Mandeep Kaur

The Licensing Manager outlined the case to those present, highlighting the following:

- This was an application for a grant of a new premises licence under Section 17 of the Licensing Act 2003;
- The premises was originally a Public House, and was originally granted a premises licence in 2005. This was surrendered in 2018 when the premises closed;
- A representation had been received from West Lindsey District Council's (WLDCs) Environmental Protection team, who were concerned about the application on the grounds of Public Safety.

No other representations had been received;

- Each application must be considered on its own merits, with each representation taken into account. WLDC may only intervene when it was deemed appropriate; any conditions must be appropriate to the licensing objectives;
- Conditions should not be imposed for an ulterior motive. Any conditions must be proportionate, reasonable, and capable of being directly complied with by the licensee.

Following this introduction, the legal representative for the applicant outlined their position:

- The shop was on the site of the old Crooked Billet Public House in Morton. Traditionally, having been a Public House, it was a very large building and it had had accommodation located above the premises.

In 2018, the licence was surrendered and eventually the property was sold to Mr Singh – Mr Singh's daughter in law was to be the designated premises supervisor;

- Mr Singh had decided to purchase this property as a project for his family;
- There was a convenience store underneath the residential property. The family would assist in the running of the store; currently, the family travel to Morton from Sheffield;

- There were some ongoing issues in relation to other regulatory bodies; there was no date set for a prosecution in these matters;
- The representation from WLDC must be taken into account as a responsible authority. The principal issue was Public Safety, but this impinged on the character of Mr Singh. WLDC claimed to have strong reasons to believe that the property was to be operated as a House of Multiple Occupancy (HMO);
- The convenience store had been open since 12 July 2019. It owned a Building Regulations Compliance certificate that had been issued by the Council-led scheme;
- The upstairs accommodation was being converted, with the aim of putting 4 bedrooms in place. The intention was for Mr Singh to move over and assist his son and daughter in law with the store. The store would be open 7 days a week;
- Premises Licence Holders had a responsibility to those using their premises. However, nothing above the shop affected the transactional process. The Public Safety Objective looked at the ability to buy alcohol in a relevant environment with appropriate conditions. Granting a licence increased control over a premises;
- This application was for off-sales only. Should a premises licence have been granted, a number of conditions came into play, including those around staff on site, incident logs and records of accidents. There was CCTV that covered security and safety within the store;
- On 24 April 2019, Mr Singh had agreed, along with Lincolnshire Police to a number of conditions, namely:
 - The type of alcohol sold;
 - The training of staff;
 - Minimum period of time for CCTV;
 - The provenance of products;
 - Identity checks for staff;
 - Home Office code of practice for employers.
- Mr Singh was previously a hackney carriage driver in the Sheffield area and had no previous convictions. There had been no representation from the Police;
- Late temporary event notices had been applied for on 29 April 2019, and were all granted. These notices were not traded, as Mr Singh believed he would be able to open the store in May. He was unable to do so due to delay in the renovation works to the premises;
- There was concern on the evidence around the potential HMO. Mr Singh did not have any privately rented property, and no previous convictions.

At this point in proceedings, there were no questions or statements from Members. Therefore, the Housing and Enforcement Manager presented WLDC's position, raising the following points:

- The main issue concerned compliance with the relevant regulations on the application;
- The renovation of the premises was started in 2018. The upstairs of the property was non-compliant with building regulations, although the shop was in operation;
- The applicant has clearly demonstrated he can comply with licensing concerns, but this hasn't transferred to other regulatory areas. The aim was to arrive in a situation where compliance was achieved;
- The concerns around the HMO were in relation to the way the premises were set up. Conduct so far does not necessarily convince officers that the premises would be used for family housing.

Following questions of officers and representatives by Members, further information was provided:

- WLDC enforcement officers had visited the premises on 12 July 2019, in relation to an emergency prohibition order;
- There were some outstanding issues in relation to the siting of the toilet in the downstairs of the premises. In addition, the certificate issued to the applicant was in relation to electrical installation, and would not cover all building requirements. Engagement was ongoing between the applicant's architect and WLDC;
- The family were travelling from Sheffield every day and then returning back there in the evening; they could not currently reside in the premises above the shop;
- The shop had had a visit from the local licensing officer, and the relevant certificates were in place;
- It was estimated that there 2-3 weeks before the upstairs of the property would be habitable;
- The reports of burning rubbish related to contractors burning wood to warm themselves up. Going forward, disposal of rubbish would be dealt with as soon as possible;
- If a potential HMO remained a concern, the applicant was willing to put forward a condition setting out that the residential property would not be used as an HMO unless a certificate was granted – an HMO was not the intention for the property.

The committee were assured that no-one would live at the property unless it was habitable.

Note: The Panel then adjourned to consider the application at **1052**.

Note: The Panel reconvened at **1208**.

RESOLVED:

The Licensing Sub Committee have heard from Mr Hinch (Licensing and Local Land Charges Manager), Mr Singh (one of the applicants) and his solicitor speaking on his behalf, and Mr Gray (Housing and Enforcement Manager). Additionally, the Sub-Committee had due regard for the papers received before the hearing, and various documents submitted during the hearing on behalf of the applicant with the agreement of all parties.

Mr Hinch informed the sub-committee of the contents of the report, confirming that following receipt of the application for a premises licence how a relevant representation was received from the Council's Housing and Environmental Enforcement Team, and therefore a hearing was required to determine the application.

The sub-committee heard from Mr Gray the details of his team's concerns, and the reasoning behind the representation submitted on the ground of 'Public Safety'. Mr Gray confirmed that they had concerns due to the fact that the applicant has failed to adhere to a number of other regulatory processes until attention is drawn to them by the Council; an example given was the fact that the refurbishment works were commenced without change of use planning permission and a delay to register the premises as a food business. It was confirmed to the sub-committee that in most cases, the regulatory failures have now been resolved, and the others remain under consideration for determination. Mr Gray explained there were also concerns regarding the burning of, and the removal of waste from the premises. Additionally, it was detailed in the committee papers how a number of individuals were encountered living at the upper floor of the premises during the refurbishment, and how a prohibition notice was served due to the conditions encountered. The visits undertaken, and the regulatory issues encountered have led the Housing and Environmental Enforcement Team to have concerns that the upper floor above the premises will be operated as an HMO, and given the applicant's previous shortcomings with complying with regulatory processes, they have concerns that an HMO licence will not be applied for.

It was summarised to the sub-committee that the main reasoning behind the representation submitted is the applicant's failure to comply with other regulatory processes that are required additionally to a premises licence to run this type of premises.

The sub-committee also heard from the applicant's solicitor in response to the representation submitted. It was stressed to the sub-committee how the premises had been purchased by Mr Singh as a project for his family; it is the family's intention to run the premises. Mr Singh was accompanied by his daughter in law, Mrs Kaur, who is the other applicant for the premises licence, and the intended DPS. It was confirmed to the sub-committee that Mrs Kaur and her family would be living above the premises, and how they currently travel daily from Sheffield to run the premises which is already open and operating but does not currently sell alcohol. When questioned, Mr Singh confirmed that the family would not move into the premises until it was completed and safe for them to do so. A number of the issues raised were held to be the fault of a third party builder who had been hired by the applicants. In attempts to address the concerns of the Housing and Environmental Enforcement Team, it was further confirmed to the sub-committee how the upper floor of the premises would not be operated as an HMO but a family home, how when the issue of burning waste was raised, Mr Singh had intervened and asked the third party builders to stop doing so. Additionally it was confirmed that the issue of waste removal was

currently being addressed and would soon be in place.

At the hearing a certificate issued by the Council in relation to the electrics at the premises was produced, and it was stressed that the premises is open and complies with all required standards to be open and operating.

Additionally, the sub-committee heard how Mr Singh has run another premises in Sheffield with no issues, and it was also highlighted that the Police had been communicating with the applicant over the application, and had not submitted an objection. The applicants and the Police had agreed a set of conditions should the licence be granted. Mr Singh has no criminal convictions, and had applied for late Temporary Event Notices to cover an anticipated gap in trading when it was thought the premises would be ready for opening in May.

Taking all that they have read and heard into consideration, and having the regard for the Licensing Act 2003, the Section 182 guidance, and the Council's licensing policy, the sub-committee have decided that it is reasonable and proportionate to grant the premises licence as applied for (i.e. as per the opening hours and conditions confirmed in the letter dated 7 June 2019, and as per the conditions agreed with the Police in the letter dated 24 April 2019, and the mandatory conditions).

In granting the application, the sub-committee had strong regard for the comments from Mr Gray, and note the concerns that led to the representation being submitted. However, the sub-committee heard from the applicant and his solicitor and placed great weight on the fact that it was stressed to them that the upper floor of the premises would be inhabited by the applicant's family, and of his history of running a similar premises without incident.

To that end, the sub-committee did not attach the offered House of Multiple Occupancy condition to the premises licence. The sub-committee are aware that Houses of Multiple Occupancy are covered and governed by separate legislation, and enforcement procedures, and feel at this moment in time there is no evidence that the applicants will fail to adhere to the licensing objective of Public Safety in running the premises, and consequently it would be disproportionate and unreasonable to impose such a condition at this point.

Accordingly the licence is granted as set out above.

All parties have a right of appeal of this decision to the Magistrates' Court within 21 days of receipt of this decision.

The meeting concluded at 12.15 pm.

Chairman