

## **LICENSING SUB-COMMITTEE**

Minutes of the meeting held at 10.00 am on 3 April 2024

### **Present:**

Councillors Christine Harris, Simon Jeal and Sam Webber

### **1 APPOINTMENT OF CHAIRMAN FOR THE MEETING**

Members appointed Councillor Jeal as the chairman for the meeting.

### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **3 APPLICATION FOR A NEW PREMISES LICENCE AT FIRE AWAY PIZZA**

By way of update, Mr Slaney stated that there was no planning permission to operate at the proposed times, but an application was pending.

Applicant's case:

Mr Gibson announced that the application was amended so that the hours the premises would be open to the public on Sundays were reduced from 23:00 to 22:00. The proposed late night refreshment hours were unchanged.

After closing to the public, the premises would appear shut from the outside with the cooking taking place in the rear. Deliveries would be made following internet orders only. Although there had been an objection from the planning authority, there was nothing to prevent the licence being granted before planning permission had been obtained. If the licence were granted, the premises would comply with the current planning permission and not offer late night refreshments.

Delivery drivers would wait inside, be employed by the business and drive hybrid cars. There would be at most 2 vehicles and they would park at the front of the premises rather than the rear.

The premises was on a busy main road and most residents were at the rear, with Lidl between them and the premises. It was not considered granting the licence would materially add to public nuisance in terms of noise.

Questions to the applicant:

Cllr Harris asked if the unit above the premises was residential and the applicant stated it was an office. The applicant was not certain if the unit above the barber's next door was residential.

In relation to days, the applicant stated he would be content with just Fridays and Saturdays if Members thought that necessary.

As for noise from the premises itself, the applicant stated the ventilation was the quietest system available and that the door to the premises was silent when opening and closing.

Cllr Webber asked about closing before 02:00 and the applicant responded the business was suffering so that if he was not able to open until 02:00 on at least Fridays, Saturdays and Sundays before bank holidays, he would need to close down with jobs lost.

Cllr Jeal obtained clarification that although orders could be placed through third-party apps, such as Deliveroo, only the applicant's drivers would be used.

Objectors' case

Mr White stated he would be content with a licence being granted until 00:00. There would be noise from the ventilation as well as the vehicles coming and going. The unit above the barber's was residential, so parking would be there or at the rear where there were also residents. There was no longer a child protection concern as the premises wouldn't be open late on school nights.

In reply to the applicant's question, Mr White confirmed there had been no noise complaints about the premises.

Mr White advised Cllr Jeal he was not aware of any premises in the area which had a licence to operate after 00:00.

Mrs Bywater said she agreed with what Mr White had stated and that she too would be content with operating up to 00:00.

Final comments from applicant

Mr Gibson pointed out there had been no noise complaints so far and that it was no logical to assume that after 23:00 there would suddenly be absolute quiet so that the ventilation would cause a nuisance. Although the application had been advertised, there were no objections from residents. There would be no nuisance over and above the background noise.

Summary of decision

Following an adjournment, Members returned and the Chairman announced the licence would be granted in accordance with the amended application but for the hours between 23:00 and 01:00 on Fridays, Saturdays and the day before a bank or public holiday only. The licence was subject to the 12 conditions listed in Mr Gibson's representation of 22 March 2024, but with the 12<sup>th</sup> condition amended to include a requirement that deliveries be made by a maximum of 2 hybrid or electric vehicles only.

This struck a proportionate and reasonable balance between the needs of the applicant's business and protecting residents from public nuisance while having regard to the licensing objectives and objections made.

Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Fire Away West Wickham 1 Bell Parade Glebe Way West Wickham BR4 0RH. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Members noted the absence of any objection relating to the prevention of crime and disorder and public safety. In light the conditions the applicant had proposed, Members were reassured in relation to both of these objectives.

Although an objection had been made citing the protection of children from harm, this was withdrawn following the applicant's amendment to his application. Members found no reason to believe children would not be protected.

When it came to public nuisance, Members took the concerns raised by the responsible authorities seriously. They noted the premises would be a new late night noise source in the area. The applicant was most focussed on being able to operate late on Fridays and Saturdays and before bank holidays. This would limit the frequency of any impact as would the operation of deliveries only. It was relevant that the unit immediately above the premises was not residential and that no residents had objected. It therefore appeared any harmful noise impact would be limited to a relatively small number of individuals. Although things could change in the future, the premises appeared to be well run with no noise complaints to date. Members were also concerned that if a licence were not granted, the business could close.

In all the circumstances, Members considered while there would be noise impacts, refusing the application outright would be disproportionate and unreasonable. If the operating times and days were more limited, on balance Members were satisfied that the objective of preventing public nuisance would be met.

Members noted there was a choice of parking in front and at the rear. They gave consideration to imposing a condition preventing parking at the rear, but on balance concluded this would concentrate noise at the front.

Although the Council's Statement of Licensing Policy says a new premises licence should not be granted unless the relevant planning permission is in place, Members noted the objections all related to public nuisance. This was a licensing objective so that there were no matters most suitably considered as part of the planning process first. An exception to the policy was accordingly made.

The Licensing Sub-Committee therefore decided to grant a new premises licence for Fire Away West Wickham 1 Bell Parade Glebe Way West Wickham BR4 0RH in accordance with the amended application but for the hours of 23:00 and 01:00 on Fridays, Saturdays and the day before a bank or public holiday only. The licence was subject to the 12 conditions listed in Mr Gibson's representation of 22 March 2024 but with the 12<sup>th</sup> condition amended to include at the end "Deliveries shall be made by a maximum of 2 hybrid or electric vehicles only." Those conditions are necessary in order to uphold the licensing objectives.

#### **4 APPLICATION FOR A NEW PREMISES LICENCE AT SEL'S KEBAB STATION APPROACH ORPINGTON BR6 0ST**

By way of update, Mr Slaney confirmed that planning permission had now been granted to operate at the proposed times. There were no objectors present.

##### Applicant's case

Mr Avci clarified that although the planning permission allowed opening until 23:00 on Sundays, the premises would close at 22:00.

The intention was to meet the demand from customers arriving by train at Orpington station. There had been no alcohol-related problems at the premises and the nearest residential area was approximately 100 metres away.

Cllr Webber asked if anything could be done about litter and Mr Avci replied that no complaints had been received. Most customers left by car or bus.

##### Summary of decision

Following an adjournment, Members returned and the Chairman announced the licence would be granted in accordance with the application. The licence was subject to the conditions agreed between the applicant and police with an additional condition requiring a "Dispose of litter responsibly" sign to be displaced inside the premises.

The application would not have an adverse effect on the licensing objectives, having regard to objections made.

##### Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Sel's Kebab Station Approach Orpington BR6 0ST. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Members noted the absence of any objection from any responsible authority. In relation to the police, they did not object provided that their conditions were attached, which the applicant said they agreed to. Members were therefore reassured in relation to the prevention of crime and disorder.

Members took into account the Council's Statement of Licensing Policy, that the access of children to licensed premises will only be limited where it is necessary for the prevention of physical, moral or psychological harm (P27). No such harm was identified and no alcohol would be sold. Members therefore reached the conclusion that children would be protected from harm.

Members had no reason to believe public safety would be at risk.

When it came to public nuisance, Members took the concerns raised by local residents seriously, as well as the comments of the ward councillor. Members were conscious though that pre-existing problems could not be visited upon the applicant. There was no power to require the applicant to do anything outside of the premises, such as litter picking. A sign inside the premises would help though. Members were satisfied that any public nuisance would not be disproportionate or unreasonable. Accordingly, the objective of preventing public nuisance would be met.

The Licensing Sub-Committee therefore decided to grant a new premises licence for Sel's Kebab Station Approach Orpington BR6 0ST in accordance with the application. The licence was subject to the 3 conditions agreed between the applicant and police and new 4<sup>th</sup> condition requiring a "Dispose of litter responsibly" sign to be prominently displayed inside the premises. Those conditions are necessary in order to uphold the licensing objectives.

Chairman