

LICENSING SUB-COMMITTEE

Wednesday 16th September, 2015 at 10.30am

In a Conference Room, Council House, Walsall

Present

Councillor Rochelle (Chairman)
Councillor Sarohi
Councillor Anson

In attendance

Mr Steven Knapper – Principal Licensing Officer – Walsall MBC
Mrs Emma Oliver – Legal Services – Walsall MBC
Mr Heath Thomas – Solicitor to the Applicant
Mr Hiwa Khoodarahmy – Premises Licence Holder
Ms Laura Shirley (Observer)
Councillor Allah Ditta - Objector
Councillor Arif

Appointment of Chairman

Resolved

That Councillor Rochelle be appointed Chairman of the Licensing Sub-Committee for this meeting only.

Councillor Rochelle in the Chair

Welcome

The Chairman extended a welcome to all persons present at the Licensing Sub-Committee which had been established under the Licensing Act, 2003.

Apology

An apology for non-attendance was submitted on behalf of Councillor Sears.

Declarations of Interest

There were no declarations of interest.

Licence Hearing

Application for a premises licence variation under Section 34 of the Licensing Act, 2003 – Kobani, 38 West Bromwich Street, Walsall, WS1 4BW

The report of the Head of Economy & Environment was submitted:-

(see annexed)

Councillor Rochelle explained the purpose of the meeting and requested the Principal Licensing Officer (Mr Knapper) to explain the application.

The Principal Licensing Officer (Mr Knapper) enlarged upon the report for the benefit of the Sub-Committee and indicated that the application for a Premises Licence variation in respect of Kobani, 38 West Bromwich Street, Walsall, WS1 4BW had been made under Section 34 of the Licensing Act, 2003. The application could be granted as requested, granted with additional/modified conditions or rejected. The variation application was given in Appendix 2 to the report and the Applicant had identified that no additional conditions needed to be attached to the licence to promote the licensing objectives if it was granted.

Mr Knapper drew the Sub-Committee's attention to paragraph 3.3 of the report which sought to extend the hours of operation by two hours for the supply of alcohol (from 23.00 – 01.00) and the opening hours of the premises being extended by one hour. A street map showing the location of the premises was given as appendix 3 to the report. Mr Knapper confirmed that the application had been submitted to the statutory "responsible authorities" and had been advertised by way of a blue site notice displayed at the premises and a licensing notice had been placed in a newspaper circulating in the area to comply with the requirements of the Licensing Act.

Referring to paragraph 3.9 of the report, Mr Knapper indicated that a representation had been received from the Chief Constable of West Midlands Police on 3rd August 2015 (appendix 4 refers). However, following further discussions between the Police and the Applicant's solicitor, it had been agreed that the sale of alcohol would cease a midnight rather than 1.00am and the Police objection to the revised variation application had been removed. On 27th July 2015, a representation had been made by a ward Councillor, an "other person" under the terms of the Act (appendix 5 refers).

Mr Knapper then referred to paragraph 4.2 of the report which contained the legal position.

Mr Thomas had no questions for Mr Knapper.

Councillor Anson referred to appendix 5 to the report and asked if the reference to two off licences having their application for longer opening hours refused was correct. Mr Knapper replied that he was not aware of any premises having applications for extended hours refused. He added that each application had to be considered on its own merits, however, and there was no cumulative impact policy operating in the area.

Councillor Anson asked for confirmation that the Police were happy for the supply of alcohol to be extended from 23.00 hours to midnight. Mr Knapper confirmed that they were and that they had removed their objection to the amended application.

Councillor Ditta, as an objector to the application, was invited to address the Sub-Committee and spoke as a ward Councillor and resident of the area. He indicated that he had received a number of complaints from residents about anti social behaviour committed by drunken persons. He also referred to the problems of inconsiderate parking by visitors to the premises. He added that residents taking their children to school or to the mosque felt intimidated by people hanging about outside 38 West Bromwich Street.

Mr Knapper had not questions for Councillor Ditta.

Mr Thomas had not questions for Councillor Ditta.

Councillor Anson asked if the premises had been open after 11.00pm. Councillor Ditta replied that residents had advised him that the premises were often open at 11.00pm. Mr Thomas informed the Sub-Committee that under its existing licence the premises could remain open until midnight. In staying open until 11.00pm the owner was doing nothing wrong. The proposal, as amended, was to extend the sale of alcohol to midnight. This would mean that the sale of alcohol and closure of the premises would be aligned.

Mr Thomas was invited to present his case on behalf of the Applicant, Mr Khoodarahmy and stated that the application had been amended so that sales of alcohol would terminate at midnight rather than 1.00am. This met with the approval of the police and removed their objection to the licence variation as a result. The premises were not in a cumulative impact area so the amended application should be granted.

Mr Thomas continued that having held discussions with West Midlands Police it had become apparent that their concerns could not be corroborated as no evidence had been offered in the form of Police incident logs. They had also confirmed that the premises did not give rise to problems of anti social behaviour or crime and disorder.

With regard to Councillor Ditta's remarks, Mr Thomas reported that the opening hours for the premises had not changed so his comments should be disregarded. The traffic problems referred to were not a licensing matter and should be referred to the Highways Authority. It was unlikely that there would be traffic problems in the area between 23.00 hours and midnight. Mr Thomas continued that no evidence had been produced to link the premises to any of the problems referred to. Mr Thomas added that although the shop was in a residential area there had been no representations from nearby residents. As the application had been amended following discussions with the Police it should be granted.

Mr Khoodarahmy was invited to address the Sub-Committee and informed members that there were parking spaces outside the premises for customers' use and he added that he did allow people to congregate outside his shop.

Councillor Anson asked if this approval could be used as a precedent to enable other premises in the area to sell alcohol for longer hours. Emma Oliver (Legal Services)

replied that it would not as each case had to be determined on its own merits and taking into account any evidence offered.

All parties were invited to sum up and Councillor Ditta stated that in his opinion allowing the premises to sell alcohol until midnight would create problems for surrounding residents. He was also concerned that it would increase the anti social behaviour problems in the area. Mr Thomas reiterated the hours for the sale of alcohol had been amended from 01.00 hours to midnight to tie in with the opening hours of the premises and had been accepted by West Midlands Police who had withdrawn their objection. He requested the Sub-Committee to grant the amended application.

Councillor Rochelle asked if the parties were satisfied that they had had ample opportunity to air their views. This was confirmed and the parties withdrew from the meeting at 11.20am.

The Licensing Sub-Committee considered carefully all the evidence submitted and the representations made during the hearing and it was then

Resolved

That the Sub-Committee grants the amended premises licence variation under Section 34 of the Licensing Act, 2003 in respect of Kobani, 38 West Bromwich Street, Walsall, WS1 4BW as requested.

All parties were re-admitted to the meeting at 11.35am and informed of the Sub-Committee's decision. The parties were informed of their right of appeal to the Local Magistrates Court within 21 days of the receipt of the determination letter.

Termination of meeting

The meeting terminated at 11.37am

Chairman

Date