

COUNCIL MEETING – 11 OCTOBER 2016
REPORT OF THE LICENSING SUB-COMMITTEE

21 July 2016 (2)

Present: Councillors Simmons, Harrington and Maguire.

Also present: Mr G Hollands, Solicitor District Law, Mrs A Wilcox, Principal Environmental Health Manager and Mrs C A Mundy, Democratic Services Officer.

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Simmons be appointed as chairman for this sub-committee meeting.

The meeting commenced at 1.15pm.

2. APPLICATION FOR PREMISES LICENCE - AFROLAND, 6 HIGH STREET, WELLINGBOROUGH PRIVATE HIRE VEHICLE LICENCE

The chairman introduced the sub-committee members and officers present and welcomed the applicant, Mr Neville Etube, PC 113 David Bryan and two representatives from Northamptonshire County Council's public health team, Stephen Marks and Carla Mulchrone

The annexed circulated report of the Head of Planning and Local Development was received in relation to an application for a premises licence for Afroland Foods, 6 High Street, Wellingborough, for the retail sale of alcohol.

Representations had been received from two responsible authorities and four interested parties, objecting to the licence on the grounds that the licensing objectives, as prescribed by Section 4 (2) (a), (b) and (d) of the Act are not likely to be met. These are as follows:

- Prevention of crime and disorder;
- Public safety;
- The protection of children from harm.

The report detailed the hours that had been requested for the sale of alcohol.

Representations from the Police and Public Health had both raised concern particularly around the sale of alcohol in this area as it was considered that it was likely to exacerbate the existing high levels of alcohol related harm further. The report detailed statistics to support this finding. Public Health had also suggested that if the licence was granted that conditions be added.

Four representations had been received from interested parties and these were appended to the report. These were from local businesses within the area and related to anti-social behaviour, including street drinking, vandalism,

broken bottles, swearing, littering, harassment, begging, public urination, vomiting and defecation. The Daylight Centre was also quoted as an issue due to its nearby location.

The chairman asked PC Bryan if he wished to address the committee in regard to the issues raised by the Police.

PC Bryan confirmed that the police were objecting under the prevention of crime and disorder licensing objective and were concerned that another establishment selling alcohol in this area would create more problems and issues with alcohol related incidents. The Daylight Centre was very near to these premises and public health records of incidents had revealed that Wellingborough town centre was the third highest in Northamptonshire for alcohol related incidents. It was considered that an extra off-licence would not help the situation.

Mr Marks representing the Director of Public Health explained that public health had begun screening licensing application against a series of indicators relating to alcohol harm. Public health had identified a number of indicators using data in relation to:

- Alcohol liaison nurse service data;
- Presentations to A & E departments with a recorded link to alcohol;
- Violent crimes reported to the police involving alcohol with a link to a licensed premises;
- Children's social care data with alcohol misuse identified in relation to an adult in the household;
- Alcohol/substance misuse treatment client data, where alcohol misuse is identified;
- Extent of existing licensed premises the location of the area.

Based on the information obtained this location yielded a high level of alcohol related abuse and as such it was considered that another off-licence would only create further harm and as such public health were objecting to the grant of a licence.

The chairman thanked the objectors and asked if members wished to ask any questions.

Councillor Maguire asked about the presentations to A and E and whether these had been street drinkers or those coming from public houses? Mr Marks did not have this precise information with him.

Councillor Harrington referred to other licensed establishments in the area and suggested that there was an element of irresponsibility and that this didn't mean that Afroland would do likewise.

The Applicant then addressed the meeting.

He explained that he had owned the shop for two and a half years, though during this time he had not personally been working there. He would visit the shop in the evenings on his return from work and he knew the area well. In the evenings the car park to the rear of the premises was seldom used. The food he sold was predominately for the afro-Caribbean community and he had applied for the licence so that when people purchased food they could purchase alcohol to accompany it. The people from the Daylight Centre did not use his shop and would be unlikely to do so as he considered that they would use the Euro off-licence across the road.

He didn't believe that should a licence be granted, that there would be an increase in street drinking from the sale of alcohol from his premises. He was responsible and would ensure that his staff were also fully trained and would be prepared to refuse potential customers if he deemed it necessary. He was also surprised at some of the issues raised by neighbouring properties. He was leaving his current employment to concentrate on the business.

Councillor Harrington asked the applicant if he would be prepared to keep a register of refusals. The applicant confirmed that he would be happy to do so. He also confirmed that he would not be selling small bottles of spirits or wine it would be bottles to partake of with food.

The chairman thanked the applicant.

The chairman asked Public Health and the Police if they wished to respond.

PC Bryan asked the applicant some further points for clarification.

The chairman thanked everyone and said that a decision on this application would be made available within five working days of the meeting.

The meeting concluded at 2.55pm.

Subsequent to the meeting the councillors had discussed the findings and made the following decision:

Decision:

Resolved that the sub-committee grants the premises licence for the hours set out in the application and otherwise in accordance with its terms subject to the mandatory conditions and to the conditions set out on the last page of the representation from the public health director of Northamptonshire County Council with the report to the committee.

Evidence

In arriving at its decision the committee took into account the following evidence:

1. The representations from the police in the report to the committee and a statement from police officer Mark Jones;

2. A written representation from the Northamptonshire county council Director of Public Health;
3. Three representations from businesses near the site of the premises;
4. Oral representations from Police Constable David Bryan
5. Oral representations from Stephen Marks on behalf of the Director of Public Health;
6. Oral representations from the applicant Neville Etube.

Facts

The committee noted the view of the Police expressed in the unsigned copy of the statement of a police officer by the name of Mark Jones that the premises were situated in an area where there were problems of drink related anti-social behaviour. It also noted the photographic evidence of discarded drink cans in the report and the presence of another shop selling alcohol on the corner of the High Street and Church Street a short distance from the premises.

However it also noted:

1. that the Police had provided no signed first hand statement evidence of incidents of the alleged anti-social behaviour in the area where the premises were situated
2. There were no incident reports or any other written material of specific incidents of anti-social behaviour
3. No representations had been received from the Daylight centre adjacent to the property

The applicant in his representations accepted that occasionally there were persons drinking alcohol in the car park at the rear of his shop.

Taking these matters into account the committee concluded that there was some drinking in public places in the vicinity of the premises but not of a very serious nature. In arriving at that conclusion the committee had regard to paragraph 9.12 of the guidance under section 182 of the Licensing Act 2003 relating to accepting representations from the Police but considered that some more specific material was necessary for it to conclude that street drinking was serious and persistent.

The committee found no evidence of harm that might be caused to children or any evidence that persons visiting the Daylight Centre were perpetrators of anti-social behaviour, whether by reason of drink or otherwise.

Reasons for Decision:

1. In arriving at its decision the committee took account of the guidance under section 182 of the Licensing Act 2003, the council's statement of

licensing policy and the need only to take into account the 4 licensing objectives.

2. It did not consider that there was any evidence at all on which it could conclude that there was any material justifying action in relation to public safety or to protect children from harm.
3. There was also no material directly implicating the premises in issues of crime and disorder or public nuisance. The only matter for consideration was the possibility that the grant of the licence might increase public nuisance from drink related littering or crime and disorder in the area of the premises due to drink simply from the increase in the availability of drink for sale in the area.
4. The committee accepted the representation from Police Constable Bryan that the case of *Luminar Leisure Ltd v Wakefield Magistrates Court* ([2008] EWHC 1002 (Admin)) was relevant to the decision. In particular it was appropriate to take into account issues of crime and disorder away from the premises but the committee needed to consider whether the facts were such that it was reasonable to conclude that the grant of the licence would increase the level of anti-social drinking in the area. Furthermore even if it concluded that that was the case in need to decide whether the problems could be adequately addressed by appropriate conditions on the licence.
5. There were two reasons to conclude that there was a limited possibility of an increase of drink related anti-social behaviour away from the premises:
 - 5.1. The committee's decision on the facts of street drinking referred to above.
 - 5.2. The detailed statistics provided by the Northamptonshire Director of Public Health showed non-specific evidence that the area where the premises were situate were associated with one of the highest levels of hospital presentations relating to drink in the county. However this did not distinguish between incidents associated with premises where alcohol was consumed on the premises and shops selling alcohol.
6. However it did not consider that this warranted a refusal to grant the licence. The applicant had agreed in his representations to the conditions proposed by the Northamptonshire County Council Director of Public Health, and he had made specific representations:
 - 6.1. about the nature of his customers from a particular community and the likelihood that they would be purchasing alcohol for consumption at home
 - 6.2. His intention to give proper training to his staff authorised to sell alcohol
 - 6.3. The possibility that the additional custom drawn to his premises would increase the use of the car park at the rear and hence discourage anti-social drinking in the area
 - 6.4. He was not intending to be a shop for the sale of "bargain booze" and his pricing strategy would reflect that

- 6.5. That he intended to give his whole time and attention to the business of Afroland foods
7. Accordingly it was appropriate to grant the licence subject to the conditions proposed by the Northamptonshire Director of public health to uphold the crime and disorder and public nuisance licensing objectives in relation to cumulative impact in the area of the premises. If following grant of the licence it became apparent that the impact of the premises selling alcohol was having a considerably greater impact than anticipated a review could be instigated.

Chairman