



## LICENSING SUB-COMMITTEE

**MEETING** : Wednesday, 13th February 2013

**PRESENT** : Cllrs. C. Witts, Randle and Gilson

### **Officers**

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Tony Moseley, Licensing Enforcement Officer

Richard Barnett

Alexandra Reece

Tony Wisdom, Democratic Services Officer

### **Also in Attendance**

**APOLOGIES** : Cllrs.

### **21. ELECTION OF CHAIR**

Councillor Witts was elected Chair.

### **22. INTRODUCTIONS AND PROCEDURES**

The Chair introduced the Members of the sub-Committee and officers in attendance and asked the Applicant and other parties to introduce themselves. He then outlined the procedure that would be followed during the meeting which were also summarised in Appendix H to the report.

In addition to the Members of the Sub-Committee and Council officers in attendance the following were present;

Mr Tim Heal	representing the Applicant
Mr Zahid Waseem	the Applicant
Mr Asif *****	assisting the Applicant

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Mr Alex Mason	Environmental Protection Officer, Gloucester City Council
Mr David McFarlane	Senior Harm Prevention Officer, Gloucestershire Constabulary
Mr Kim Mowday	Gloucestershire Constabulary
*****	New County Hotel
*****	New County Hotel

**23. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**24. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 IN RESPECT OF THE FOOD JUNCTION, 42 SOUTHGATE STREET, GLOUCESTER, GL1 2DR**

The Licensing and Enforcement Officer presented a report detailing an application to vary a premises licence made under section 34 of the Licensing Act 2003 for 42 Southgate Street received from Mr Zahid Waseem. The application was to extend the hours for the provision of late night refreshment.

Details of the application are referred to in Appendix A to the report.

The Sub-Committee had also received the following information:-

- A plan of the premises – Appendix B
- A location map of 42 Southgate Street – Appendix C
- Planning restriction relating to the premises – Appendix D
- Representation from Gloucestershire Constabulary – Appendix E
- Representation from Environmental Protection – Appendix F
- Representation from New County Hotel – Appendix G
- Procedure to be followed at a hearing – Appendix H

The Licensing and Enforcement Officer referred Members to the representations from Gloucester City Council Environmental Protection, Gloucestershire Constabulary and the New County Hotel.

The Licensing and Enforcement Officer summarised the application and referred Members to the relevant sections of the City Council's Licensing Policy Statement.

Members were advised that having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, they had the following options as considered appropriate and proportionate to the promotion of the Licensing Objectives.

- (a) To accept the application and attach conditions as consistent with the operating schedule.

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- (b) To accept the application and modify the conditions of the license which includes altering, omitting and adding new conditions.
- (c) To reject the whole, or part of the application.

The Sub-Committee was reminded of the City Council's licensing objectives:-

- (a) The prevention of crime and disorder
- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

**Statement by the Applicant**

Mr Tim Heal representing the Applicant advised Members that his wife had owned the freehold of the premises for over 20 years and had found the Applicant to have been the best tenant to date. He was hardworking and diligent.

Mr Heal referred to the list of licensed and late night premises on Page 31 of the report and advised Members that they were much further along Southgate Street and not one was shown on the location plan on Page 27.

He advised that contrary to page 31 there were toilets available on the premises for customer use and noted that the seating area referred to on Page 36 was too small to be suitable for large groups.

The premises were located in a pedestrianised part of the historic area of the City and he noted that the list of incidents put forward by the police referred to the whole of Southgate Street which was one of the longest thoroughfares in the City.

He noted that the odour complaints referred to on Page 36 had been addressed and the situation was much improved although he accepted that there was some scope for disturbance.

He believed that the Applicant provided a service to the area as there was no other late night takeaway facility in this part of the City and the growth of the Applicant's business was linked to the night time economy.

Mr Heal indicated that the Applicant would accept some flexibility on opening hours and had agreed to work with the police. He had discussed the possibility of employing security staff to ensure customers did not drink on the premises and move away those who attempted to do so.

He did not believe that there were many residents in the immediate area other than staff and guests staying at the New County Hotel and the applicant was prepared to work with the hotel to mitigate any disturbance problems.

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Councillor Randle disputed the assertion that there were few residents in the area.

**Statement by Responsible Authority (Police)**

Mr David McFarlane, Senior Harm Reduction Officer, Gloucestershire Constabulary advised that the Police had objected to the application on the grounds of the prevention of crime and disorder and the prevention of public nuisance.

He advised that there were 500 incidents in the area every year and 170 incidents relating to disorder had been reported in Southgate Street in the last year. One incident was attributable to 42 Southgate Street.

He noted that late night takeaways operating after 23.00 hours lead to an increase in crime, assault, urinating and litter offences and noise.

As no other premises opened later than 01.00 hours the premises would become a magnet and with people competing for a scarce resource could become a flashpoint for disturbance. This could result in a diminished level of policing in other areas the City.

He advised Members that the Applicant conducted his business well.

Mr Heal noted that only one incident related to the premises and this had been a daytime dispute in June 2012 with the hotel over blocked drains.

Mr McFarlane advised that the Police were reviewing their computer system and in future would be able to provide more specific data.

**Statement by Responsible Authority (Environmental Protection)**

Mr Alex Mason, Environmental Protection Officer, Gloucester City Council advised Members that the requested opening hours could result in the premises being open for 19 hours on Fridays and Saturdays.

He noted that there had been complaints in respect of cooking odours and grease and the new extraction system had resulted in an increase in noise.

He strongly recommended refusal but, should the Committee be minded to vary the licence, he suggested opening hours of 010.00 – Midnight on Monday, Tuesday, Thursday and Sunday and 10.00 – 02.00 on Wednesday, Friday and Saturday together with the following conditions to prevent public nuisance:-.

- Prominent, clear and legible notices shall be displayed at all exits requesting that patrons respect the needs of local residents and to leave the premises and the area quietly.
- The movement of bins and waste outside the premises will not take place between the hours of 23.00hrs and 08.00hrs.

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- The delivery of goods is restricted to between the hours of 08.00hrs and 19.00hrs.
- The licence holder will arrange for litter dropped in the vicinity of the premises to be collected and removed at the licence holder's expense at a frequency of not less than sixty minute intervals during opening hours.
- the collection and removal of litter should be taken to include the satisfactory disposal of spilled food and similar materials as to leave the footway in a clean, safe and wholesome condition.
- Ventilation equipment will be regularly cleaned and maintained to control the levels of odour generated by the premises.
- The seating area should not be used after 00.00hrs.

In answer to a question Mr Mason stated that he was not aware of any current restrictions on noise and deliveries.

Councillor Randle noted that the New County Hotel served food until 21.30hrs and that the licence until 05.30 was for the benefit of hotel residents only. She was advised that complaints received by Environmental Protection had made around June 2012 and none had been received since.

**Statement by Interested Party (New County Hotel)**

The Chair read out the statement submitted by the New County Hotel and included at Appendix G to the report.

The hotel representatives indicated that they had nothing further to add. they acknowledged that the applicant was doing everything he could. there were minor problems but the premises were too small for large groups of people who had been drinking.

**Final Statements**

The responsible authorities and interested party had nothing further to add.

The Licensing and Enforcement Officer drew Members' attention to paragraph 7.2 of the report which detailed a case heard in the Court of Appeal. Daniel Thwaites v Wirral Borough Council concerned an appeal against a decision by Magistrates to impose restrictions on the hours of operation of a licensed premises without evidence and giving their own views excessive weight.

Mr Heal representing the Applicant noted that Members had heard from himself and others that Mr Waseem was diligent and working with the hotel and environmental Health. There had only been one complaint relating to the premises and that had concerned another matter. He confirmed that the applicant was prepared to be flexible and accepted in principle the proposed conditions. He was keen to extend and succeed in his business venture.

**The Decision**

The Members of the Sub-Committee withdrew to reach their decision.

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**RESOLVED** to grant the application for variation of hours between the following times:-

23.00 - 01.00	Monday to Thursday
23.00 - 02.00	Friday and Saturday
23.00 – 00.00	Sunday

Subject to the following additional conditions:-

- i) Prominent, clear and legible notices shall be displayed at all exits requesting that patrons respect the needs of local residents and to leave the premises and the area quietly.
- ii) The movement of bins and waste outside the premises will not take place between 23.00hrs and 08.00hrs.
- iii) The delivery of goods is restricted to between 08.00hrs and 19.00hrs.
- (iv) Ventilation equipment will be regularly cleaned and maintained to control the levels of odour and noise generated by the premises.
- (v) The seating area shall not be used after midnight.

Reason

To promote the licensing objectives, in particular, the prevention of public nuisance.

**Time of commencement: 18:30 hours**  
**Time of conclusion: 20:30 hours**

**Chair**