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LICENSING HEARINGS

Date and Time: Tuesday 30 November 2021 at 10.00 am

Place: Council Chamber

Present:

Councillors Butler, Delaney and Wildsmith (Chairman)

In attendance: Mr Hayirola Berkpinar, Applicants Agent
PC Dennett, Hampshire Police
Mr Metin Ozlen, Applicant
Councillor Tarbet Blackwater and Hawley Town Council

Officers: Debbie Berry, Shared Licensing Services
Angela Semowo, Shared Legal Services
Andrew Wake, Shared Licensing Services
Rebecca Borrett, Committee Services Officer

4 APPOINTMENT OF CHAIRMAN

Councillor Wildsmith had been appointed Chairman for this meeting.

5 DECLARATIONS OF INTEREST

None declared.

6 APPLICATION FOR A NEW PREMISES LICENCE

The Chairman welcomed everyone to the Hearing. All attendees introduced themselves, and their role within the meeting.

The Chairman asked if there were any declarations of interest, or if there were any objections to any panel members. There were none.

The Chairman explained the process and order for the Hearing in respect of a new premises licence for Grandma Buggins, 3 White Hart Parade, London Road, Blackwater, GU17 9AD having consideration of The Licensing Act 2003.

The Licensing Officer summarised the background to the application contained in her report and the role of the Licensing Team and the request being made to the Licensing Sub Committee.

PC Dennett explained the location of the premises. He referred to his report and the immediate concern regarding details in the application. This centred around:

- Crime and disorder and detailed violent incidents at the premises and offences committed in the local area.
- What providing alcohol with food deliveries only entailed

- The closing time on a Friday being missing
- Lack of engagement with the Police, before and during the application process

PC Dennett felt these details made the application unacceptable and recommended it be rejected.

Councillor Tarbet on behalf of Blackwater and Hawley Town Council stated he found it unacceptable and inappropriate for this licence to go ahead, having consideration to and fear for the public safety and prevention of crime and disorder. Councillor Tarbet further advised he lives nearby and the area experiences drunk people, noise and rubbish from there. The main concern was people who were already intoxicated from the two pubs in the locality would use the sale of alcohol after these times as an extension to this. Furthermore, he felt this would encourage a different demographic to the area, and for the residents living above this would fuel noise, arguments and more crime and disorder for the Town Council.

The Chairman offered the applicant's agent the opportunity to question any of the statements made. There were no questions at this time although he explained while he shared the concern of both parties when he had tried to engage with PC Dennett, he had not received a response.

Members asked PC Dennett had email's been received. PC Dennett advised no contact had been receive prior to the application. Members asked both PC Dennett and Councillor Tarbet if they had been in contact with residents above the premise. Both confirmed they had not.

Members asked PC Dennett if he could provide further details on the incidents he had referred to involving staff from the premise, PC Dennett stated it was not suggested the situation had been antagonised by the staff.

Members questioned the Licensing Officer is there had been any reported issues since new operator had taken over. They confirmed there had not.

The Chairman invited the applicant's agent to put forward their case.

He clarified the request was for a late-night refreshment licence, sale of alcohol with the same hours for food deliveries. The request was not for alcohol to be purchased from the premises.

Members questioned the applicant what his reason for the application was. He explained it was to help the business to generate extra income to help it survive after suffering during Covid.

Members questioned if he has worked in premises before where alcohol was sold. He confirmed it had and listed examples of timescales.

Members questioned the applicant regarding the police report of previous violent behaviour, how would he manage this. He responded the premise is not a

nightclub or pub, they are just requesting a licence to be able to deliver beer and wines with the food, so there should not be anything else to do as there will be security measures, but it will not be on sale.

Members observed it had not been stated what noise reduction measures would be in place and what would be done to ensure alcohol was not sold to underage people. He clarified they wished to withdraw the request for a recorded music licence.

Members asked for clarification of the requested closing time on a Friday as this was missing from the application. This was confirmed as 3am.

Members confirmed with the Licensing Officer that no complaints had been received since the new manager had been in post.

Members requested clarification if the application was granted what would happen to existing licence, and what is relationship between current and new management team. The applicant advised he has been working with new management since July. Since that time what was a 2* premise was now 5*. If the licence was granted the applicant would take over existing license himself as a business operator and taking control of business. The existing licence would then be surrendered.

Members questioned if PC Dennett could provide further details regarding the previous violent incident. PC Dennett confirmed two gentlemen had attempted to purchase using a counterfeit note. The situation moved outside of the premises. Since that time there had been no support from staff and no statements received, so the police had been unable to proceed.

Members asked the applicant how they would manage the situation if customer came in and want to purchase alcohol to takeaway with their order. The applicant's agent confirmed they would be informed the sale of alcohol on the premises is not authorised, for home delivery only. Measures they would put in place for that would be Challenge 25 and no ID no sale, and anyone delivered to, if the driver had any concerns they would return to the store.

Members questioned if someone had previously had a delivery including alcohol, and then came into the store, or if someone came in and was intoxicated, what would happen? The applicant's agent reiterated it would not be authorised and if it became a problem, they would be told they can go somewhere else to buy alcohol we only do for food delivery. There is a local shop and a 24-hour Tesco in the area. There would also be signs to advise of this.

Members asked the applicant what he would do to ensure a situation does not escalate between staff and public. He explained they would tell them of alternatives and defuse situation and he has enough experience to refuse nicely and calmly.

Members asked how he would make sure confrontation outside shop did not happen again. The applicant responded it would be reported to police.

The applicant was asked to clarify offering the sale of alcohol with food would be to 12.00 midnight every night. The applicant confirmed this.

It was explained to the applicant we expect our licensing premises to work with us and the police, and members of staff involved would be expected to follow up with statements to the police.

PC Dennett was given permission to question about delivery issue and vulnerability in society today:

PC Dennett: Who is the applicant going to use for delivery of food and alcohol?

Applicants Agent: Own drivers.

PC Dennett: The training drivers receive need to be different to those working on premises. So, as an example if a driver attended a house party and suspected there are minors there what training would they have had for that situation?

Applicants Agent: The training would be delivered to make sure someone over 18 ordered and had the alcohol handed over to them. Any suspected issue reported to police.

PC Dennett: Just because someone is over 18 does not mean they should be served if others in the area are under 18. How can this be prevented for an order taking place?

Applicants Agent: Alcohol for adult only, ordered by and received by adult. Report to police and if concern the driver will call back store to report and be told to return to store with the delivery.

PC Dennett: It does not even have to be underage, can be vulnerable for many reasons, so the person at point of delivery needs to recognise at point of delivery and process needs to be in place. Most premises have policies to prevent vulnerability issues. No further questions.

Cllr Tarbet added with reference to being directed to local amenities that sell alcohol, he did not believe any shop sells alcohol after midnight. He also expressed concern whether a confrontational situation at the door would be dealt with, even if the person was over 18.

The sub committee questioned the applicant several times regarding what measures/training they would put in place for delivering alcohol with orders and recognise vulnerable people and problems. The applicant stated if there were problems they would not deliver.

The Chairman confirmed if there were no further questions, the meeting would now be adjourned for deliberation and that all parties would be notified of the decision later that day or in writing.

The Chairman adjourned and closed the meeting at 11.03 am

DECISION NOTICE
OF THE LICENSING SUB COMMITTEE
AT
HART DISTRICT COUNCIL
ON 30 NOVEMBER 2021

21/00474/LAPRE: APPLICATION FOR NEW PREMISES LICENCE
FOR GRANDMA BUGGINS, 3 WHITE HART HOUSE, LONDON ROAD,
BLACKWATER, CAMBERLEY, GU17 9AD

The Licensing Sub Committee has carefully considered all the evidence and listened to the representations from the Applicant, his agent, the Police and Cllr Tarbet on behalf of Blackwater and Hawley Town Council. The Sub Committee has also shown regard to the written representations. The Sub Committee has decided after having regard to all the circumstances to **refuse** to grant the application for a new premises licence.

Prior to the hearing the parties entered into mediation. The applicant proposed to reduce the licensable hours to 1:00 am but the Police and the Town Council did not wish to withdraw their representations. At the hearing the applicant proposed to further reduce the hours of selling alcohol to 12:00 midnight for each day of the week. However, the police continued to have concerns regarding the delivery of alcohol with orders.

The Sub Committee consider that the application does not promote any of the four licensing objectives and therefore refuses the application for the following reasons:

Prevention of Crime and Disorder

- The police reports states the following - *that on 06/10/2021 there were three assaults relating to the premises which involved staff and customers. This was confirmed as 2 x Actual Bodily Harm and 1 x Common Assault. On 25/09/2021 there was a violent incident outside the premises..... It is important to note the following breakdown of police recorded violent incidents in the following areas*

related to this premises. GU17 9AD is the postcode of the premises and within this the following incidents have occurred:

12/10/2018 - 12/10/2019: 1 x public order offence 2 x assaults

13/10/2019 – 12/10/2020: 7 x public order offences 2 x assaults

13/10/2020 – 12/10/2021: 3 x assaults

To get a greater picture of violent crime within the area the following incidents have been recorded when the postcode is adjusted to GU17 9A. These will of course include the above postcode.*

12/10/2018 – 12/10/2019: 3 x public order offences 17 x assaults

13/10/2019 – 12/10/2020: 13 public order offences 16 x assaults

13/10/2020 – 12/10/2021 5 x public order offences 15 x assaults

- The Sub Committee noted that the police in their representation asked for this application to be rejected.
- It was also noted that the applicant failed to engage with the police before and during the application process.
- In their report of the incident of the 25/9/2021 the police noted that the CCTV was not working and had not been working for three months.
- The Sub Committee questioned the applicant regarding how staff on the premises would deal with and diffuse potentially explosive or violent situations, an example of which being on 6/10/2021, when there were three assaults relating to the premises involving staff and customers. Neither the applicant or his agent were able to give sufficient reassurance and demonstrate how this would be done. Committee members gave the applicant and his agent multiple opportunities to answer questions relating to this and they repeatedly failed to demonstrate a knowledge of the licensing objectives and their responsibilities under the licensing legislation.

Public Safety

- It was noted that the police reported during the incident of 25/9/2021 that the CCTV at the premises was not working and had not been working for three months. This demonstrates that the applicant does not take his licensing responsibilities seriously.
- The applicant failed to engage with the police during or prior to the application process.
- Following the incident on 6/10/2021 which involved staff and customers, members of staff on the premises failed to work with the police and provide witness statements so the police were unable to prosecute.
- When questioned by Sub Committee members on how delivery drivers would be trained to identify safeguarding issues, for example delivering alcohol to a vulnerable person, the applicant was unable to give sufficient reassurance and demonstrate adequate training or understanding of this.
- Delivery vehicle movement could potentially increase with the sale of alcohol. The premises are located in a narrow cul de sac with limited parking. There are likely to be many pedestrians leaving neighbouring public houses and/or visiting the premises and increased delivery vehicles could impact public safety.

Prevention of Public Nuisance

- Committee members considered that increased activities on these premises which are located on the ground floor of a large residential block will have a detrimental impact on residents in the form of increased litter and noise from delivery vehicles.
- When questioned by Sub Committee members about how staff on the premises would deal with and diffuse potentially explosive or violent situations, the applicant and his agent were unable to give sufficient reassurance and demonstrate how this would be done.

Protection of Children from Harm

- When questioned by Sub Committee members about how their delivery drivers would deal with the scenario such a number of under-age people at a delivery address, neither the applicant or his agent were able to give sufficient reassurance and demonstrate how they would deal with this. Committee members gave the applicant and his agent multiple opportunities to answer questions relating to this and they repeatedly failed to demonstrate a knowledge of the licensing objectives and their responsibilities under the licensing legislation.

The Sub Committee were mindful of the S182 Guidance paragraph 9.12 which states: *Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.*

Paragraph 7.5 of the Council's Statement of Licensing Policy also contains a similar provision and states that the Licensing Authority must give the appropriate amount of weight to the representations made by the Police on crime and disorder matters.

The Sub Committee considered that this application was primarily motivated by the potential to increase income without paying due regard to the importance of promoting the four licensing objectives.

- The prevention of crime and disorder
- The prevention of public nuisance
- Public Safety

- The protection of children from harm.

The applicant and his agent failed to demonstrate knowledge of the four licensing objectives and licensing legislation, particularly with regard to the sale of alcohol. The Sub Committee also gave significant weight to the representation made by Hampshire Constabulary.

In making this decision the Sub Committee have considered representations from all the parties, Guidance made under S182 of the Licensing Act 2003 and Hart District Council's Licensing Policy. The decision is considered proportionate and appropriate to promote the licensing objectives.

You have 21 days from the date of receipt of the decision notice to appeal this decision.

Chair: _____

Date: 30.11.21