

LICENSING SUB-COMMITTEE

Meeting - 16 January 2014

Present: Mr Clark (Chairman)
Mrs Royston and Mr Samson

1. **APPLICATION FOR A VARIATION OF A PREMISES LICENSE AT SUBWAY, 192 MAXWELL ROAD, BEACONSFIELD, BUCKINGHAMSHIRE, HP9 1QU**

Following introductions by all parties present, the Sub-Committee considered a report of the Director of Services on an application to vary the existing Premises Licence reference number 09/00045/LAPRE for Subway, 192 Maxwell Road, Beaconsfield, Bucks HP9 1QU.

The Variations sought could be summarised as seeking permission to extend the current permitted hours for late night refreshment, recorded music and opening hours on Friday and Saturday nights to 3am the following morning.

All parties had received prior to the hearing a copy of the Agenda, including a copy of the application and appendices and the Council's adopted Hearings Procedure.

The Sub-Committee conducted the Hearing in accordance with its adopted procedure. It was noted that the objections and representations received are listed in the Report at paragraph 5 - consisting of responses from the Chief Officer of Police, the Fire and Rescue Authority and the Local Planning Authority (Head of Sustainable Development) - none of which raise any objection; a letter of objection from the Local Authority (Head of Environment - Environmental Health Officer) who attended the Hearing and three letters of objection from individuals who did not attend the Hearing. A copy of these objections was appended to the Report at Appendix 4. The written objections from the individuals, who did not attend the hearing, related mainly to concerns regarding public safety and that if granted the application would lead to an increase in public nuisance and crime and disorder.

The Council's Licensing Officer addressed the Hearing, summarising the report presented and the options available to the Sub-Committee to determine the application. The Licensing Officer informed the Sub-Committee that one of the objector's addresses did not include the number of the premises nor was it shown on the location plan due to concerns raised by that objector. The Licensing Officer confirmed that the premises did not open in the evening as currently permitted and that no complaints had been made to the Licensing Team or Environmental Health during the two trial periods of opening later during December 2012 and December 2013. The Licensing Officer, after explaining that an error had been made on the current license regarding the opening hours on Christmas Eve and New Year's Eve, also asked the Sub-Committee to confirm the permitted opening hours of 7am on Christmas Eve and New Year's Eve as granted by a Licensing Sub-Committee on 26th January 2009.

The Environmental Health Officer addressed the Hearing and outlined the reasons for the objection from the Local Authority (Head of Environment - Environmental Health Officer). Environmental Health was concerned that by extending the opening hours, patrons from Revolution would be encouraged to remain in the near vicinity for much longer, resulting in the potential to create noise disturbances and anti-social behaviour. The Environmental Health Officer explained that the current premises licence was not being used to its full permitted hours and that therefore at this time the impact of the variation could not be assessed. The Environmental Health Officer added that whilst no complaints had been received by Environmental Health about the later opening hours, which had been permitted by the Temporary Event Notices, this was not considered to be a true test of what impact opening later regularly at weekends would have on residents living nearby.

The Applicant (Mr Baker) addressed the Hearing and outlined the reasons for the application. He emphasised that, although Subway was a worldwide brand, the premises in Beaconsfield was a small family business run by himself and his Dad for the past 3 years, which provided a service to the local community and employed 7 members of staff. Mr Baker stated that there was no evidence to suggest that extending the opening hours would result in an increase in noise disturbances and anti-social behaviour. He referred to the fact that there had been no incidents or complaints received by

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the Council following the two trial periods of opening later which had been undertaken under Temporary Event Notices during December 2012 and December 2013. Mr Baker stated that the issues with Revolutions already existed and that there was no evidence to suggest that extending his hours would create any additional issues.

Mr Baker confirmed that he lived in Beaconsfield attending the Rotary Club, Roundtable and local business events and ran the premises in the most professional way he could. Mr Baker stated that he had taken the time to carefully consider the licensing objectives and confirmed that he had attended Security Training and held a S.I.A Licence. He confirmed that if the variation application was granted there would be a Licensed Door Supervisor on the premises at all times after midnight on a Friday and Saturday which would help keep noise to a minimum and ensure that patrons move on after using the premises. Extra security, he added, would make the area safer for residents. Mr Baker confirmed that he would be encouraging people to eat inside the premises and then go home quietly.

In responding to the objections, Mr Baker explained that whilst there had been an incidence with a group of youths aged 13-16 in the past, they had worked effectively with the Police to resolve this issue. He was not aware of any recent issues.

In response to the objections by the neighbouring shop owner, Mr Baker explained that there was an awning attached to the neighbouring shop which people tended to take shelter under but that the presence of the door supervisor would help encourage people to move away. Mr Baker stated that his premises was not open during the incidence involving the pot plants and therefore could not be held responsible. With regards to the shop owner's concern regarding the dumping of cigarettes and bottles outside the shop, Mr Baker explained that there was no evidence to suggest that this was the actions of Subway's patrons.

Mr Baker explained that he had taken into consideration the impact of his application on local residents, hence the application to extend the hours only on Friday and Saturday bearing in mind the earlier starts which residents were likely to have Monday to Thursday.

Mr Baker referred to the use of the service road and that the application for later opening would address the issues regarding the use thereof.

Regarding the concerns from the Head of Environment, Mr Baker stated that in the past the premises had on occasion opened later between 8pm and midnight by the previous licence holder and that there had been no recorded impact. Mr Baker confirmed that he had also opened later at first but that this had not been very often. He explained that he had undertaken the two trial periods in December as these would be busy periods rather than in January and that the police had been present in Maxwell Road during these times and there had been no issues reported.

Mr Baker concluded by questioning why, considering that there were other options available in Beaconsfield from which to purchase food from (including Revolutions), his Premises should not be able to offer the same service.

The parties were given the opportunity to ask and be asked questions, having made submissions, including questions about the closing time of Revolutions and the presence of a licensed kebab van which attracted people. The Licensing Officer confirmed that the closing time being applied for was the same time that Revolutions closed and therefore it would not encourage patrons who were leaving Revolutions to stay in the area past 3am. In response to a question regarding demand, Mr Baker stated that the trial periods had shown that there would be a demand for the service if the hours were extended. Mr Baker confirmed that there were 5 members of staff working during the trial period; 3 members of staff in the store, himself and a doorman. Mr Baker also confirmed that procedures were in place to ensure the safety of staff, including CCTV cameras. Finally, Mr Baker stated that he had written to and spoken with residents regarding their concerns.

The Sub-Committee then turned to consider the without prejudice list of additional special conditions set out in the Schedule to the Report, all of which the Applicant had offered and agreed as proposed in the Schedule. It was noted that condition 4 was already an existing special condition and therefore did not need to be considered.

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The parties were given the opportunity to make closing submissions but confirmed that they did not wish to add to the submissions already made and then the Sub-Committee retired to make its Decision.

After considering all the evidence, the Sub Committee:-

RESOLVED that the application to further vary the existing Premise Licence (09/00045/LAPRE) for Subway, 192 Maxwell Road, Beaconsfield, Bucks HP9 1QU be allowed in full, subject to the new and existing Special and the Mandatory Conditions which are imposed on the Premises Licence, as set out in in full in the Decision Notice attached to and forming part of these minutes.

The meeting terminated at 11.45 am

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APPLICATION BY: ADJ SUBS LTD.

FOR A VARIATION OF A PREMISES LICENCE

DECISION OF THE LICENSING SUB-COMMITTEE SITTING ON 16TH JANUARY 2014.

The Licensing Sub-Committee has before it an application from ADJ SUBS LTD to vary the existing Premises Licence reference number 09/00045/LAPRE for Subway, 192 Maxwell Road, Beaconsfield, Bucks HP9 1QU.

The Variations applied for are as set out in the Application Form appended to the Licensing Officer's report at Appendix 3 ("the Report") a copy of which all the Sub-Committee Members and Relevant Parties have received.

The Variations sought can be summarised as seeking permission to extend the current permitted hours for late night refreshment, recorded music and opening hours on Friday and Saturday nights to 3am the following morning.

The Licensing Sub-Committee is also asked to confirm the permitted opening hours on Xmas Eve and New Years Eve.

No other variation to the current Premises Licence is sought.

The Sub-Committee has listened to all the evidence, submissions and responses thereto and has read all the material before it including the Report.

The objections and representations received are listed in the Report at paragraph 5 - these consist of responses from the Chief Officer of Police, the Fire and Rescue Authority and the Local Planning Authority (Head of Sustainable Development) - none of which raise any objection; a letter of objection from the Local Authority (Head of Environment - Environmental Health Officer) who attended the Hearing and three letters of objection from individuals who did not attend the Hearing. A copy of the objections are appended to the Report at Appendix 4.

The Licensing Sub-Committee is satisfied on balance that in all the circumstances and for the Reasons given below that this Application should be:

Allowed in full, the permitted hours now being -

Recorded Music - Indoors -

Monday to Thursday - 7am to 11pm

Friday and Saturday - 7am to 3am the following morning

Sunday - 7am to 6pm

Christmas Eve and New Years Eve -7am to 3am the following morning.

Late Night Refreshment - Indoors -

Friday and Saturday - 11pm to 3am the following morning

Christmas Eve and New Years Eve - 11pm to 3am the following morning.

Hours premises are open to the public -

Monday to Thursday - 7am to 11pm

Friday and Saturday - 7am to 3am the following morning

Sunday - 7am to 6pm

Christmas Eve and New Years Eve -7am to 3am the following morning.

Subject to the additional Conditions set out in the Schedule to the Report - except Condition 4 - being imposed on the Premises Licence (in addition to the existing Conditions and Informative) which the Sub-Committee considers to be appropriate, proportionate and relevant in terms of promoting the Licensing Objectives.

REASONS.

The Licensing Sub-Committee has considered very carefully the Objectors representations and concerns including those of the Local Authority (Head of Environment) regarding the application to extend the current permitted hours to 3am on a Friday and Saturday night. However, it also took into consideration that no representations had been made by the Chief Officer of Police in respect of this application to vary the Premises Licence granted in 2009 and these premises generally and that the Police do have a presence in Maxwell Road.

The Licensing Sub-Committee took into account that the Objectors had experienced some disturbances, nuisance and noise and also the location of the premises near to the Objectors premises but also that some of the representations and concerns were based on what might happen if the application was allowed. In considering this the Licensing Sub-Committee had regard to the Home Office Guidance and in particular paragraphs 9.38 and 9.39 and that decisions should be evidence based.

It was also noted that the Applicant had undertaken two trial periods of opening later under Temporary Event Notices during December 2012 and December 2013 and that there had been no incidents or complaints received by the Council in respect thereof.

Having listened to the detailed submissions made by the Applicant and taking into consideration all the representations and concerns, the Licensing Sub-Committee felt on balance that the hours applied for were reasonable for this type of premises and that the existing Conditions together with the new Conditions now imposed on the Premises Licence which make further provisions regarding door supervision, the serving of under 16 year olds, and staff training would be sufficient and appropriate measures if properly implemented to address the licensing objectives and the Objectors concerns.

The Sub-Committee, whilst making this decision, also took into account the ability of the Objectors to make representations in the future which will lead, where evidence shows the premises is the cause of crime and disorder, public nuisance and/or public safety issues, to a review of the Premises Licence where steps could be taken to address the issues. Accordingly the Objectors should be reassured that the Licensing Authority does have significant powers when dealing with a premises on review if appropriate and proportionate in all circumstances.

This decision is considered to be justified as being appropriate for the promotion of the following Licensing Objectives

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance

- Protection of children from harm

and proportionate in consideration of representations made, the operating schedule submitted and matters heard today.

I confirm that the Licensing Sub-Committee has also had regard to:

National Guidance;
The Council's Licensing Policy;
The Human Rights Act 1998, as amended and
The individual merits of this case

before reaching this decision.

The Sub-Committee also confirms that the permitted opening hours on Christmas Eve and New Year's Eve commence at **7am** in accordance with the Licensing Sub-Committee's decision and Minute both dated 26th January 2009.

The Rights of Appeal will be sent out with the Decision Notice.

DATED 16th JANUARY 2014.

Cllr Damon Clark - Chair
Cllr Maureen Royston
Cllr Alan Samson

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