

LICENSING SUB COMMITTEE

6 February 2024

Present: Councillor R Wenham (Chair)
Councillors M Devonish and G Saffery

Also present: Mr Leslie Gili-Ross, Applicant's Representative

Officers: Senior Solicitor (CN)
Licensing Officer (PS)
Democratic Services Officer (IS)

28 **Committee membership/ election of a Chair**

The Democratic Services Officer (IS) confirmed that the sub-committee would comprise of Councillors M Devonish, G Saffery and R Wenham.

The sub-committee was asked to elect a Chair for the hearing.

RESOLVED –

That Councillor Wenham be elected Chair for this hearing.

29 **Disclosure of interests (if any)**

Councillor Devonish explained that Woody Express was situated within her Ward, but that she had not had any discussions or made any prior decisions pertaining to the matter in question.

30 **New premises licence application - Woody Express 103-105 The Parade Watford**

In response to the Chair asking if there were any preliminary matters, the Licensing Officer explained that Mr Gili-Ross had sent some additional documents the previous day, which due to the time, had only been able to be circulated this morning. She asked for confirmation that all parties had received and had a chance to read these. This was confirmed.

The sub-committee received the Licensing Officer's report in relation to a premises licence application for Woody Express, 103-105 The Parade, Watford, WD17 1LU.

The Chair thanked The Licensing Officer and invited questions in turn from all parties present. There being none, he invited the Responsible Authority, Catherine Williams, Environmental Health Officer to address the sub-committee.

Ms Williams opened her presentation by explaining the agreement that had been reached with the police, pointing out that whilst the hours agreed might be acceptable from a crime and disorder perspective, this might not be the same from the point of view of noise and public nuisance.

The officer moved on to describe her methodology when considering at the suitability of an application, namely, to look at the nature, area, and type of operation of the premises. She went on to point out that Woody Express had significantly increased in size with an inside seating area for 26 and an outside seating area for 40 people. The operation was to encompass both indoor and outdoor late-night refreshment, accompanied by a takeaway services and delivery, by independent contractors.

The officer pointed out that there were many residential properties in the immediate vicinity of the premises, including flats directly above the premises. She went on to further list other residences in the immediate area.

The officer stated that she was content that the noise from within the premises would be contained. Also, the ventilation system that had to operate throughout the times cooking was taking place, had been specified to an acceptable level of noise attenuation. However, she was very concerned that the proposed extended hours would cause Woody Express to become a focal point and generate unacceptable noise and public nuisance, both from the outside area of the premises, and as people dispersed in the early hours.

She pointed out the police dispersal policy which encouraged people to leave the town centre and clearly a seated area was at odds with that.

Ms Williams referenced a spreadsheet that formed part of her representation. This indicated the various licenced premises in The Parade, their hours the outside seating facilities they offered and any residential properties directly above. She drew special attention to Walkabout and pointed out that this was a very different situation to Woody Express.

The officer highlighted paragraph 14 of her representation, pointing out that residents had a gradually decreasing noise from the late-night economy as the night progressed, as outside tables and chairs were removed. She stated that if

the application were to be granted Woody Express would become a focal point and noise complaints would result.

Ms Williams asked that if the sub-committee were minded to grant the application, then she asked for certain conditions to be applied to the licence. In particular, she asked for the outdoor seating to be removed at 10pm, which was in line with other premises nearby.

The officer concluded by urging the sub-committee to refuse the application, or to curtail the hours on the basis that the premises would become a focal point for noise and nuisance and lead to multiple complaints.

The Chair thanked Ms Williams and invited questions from the sub-committee.

In response to a question as to whether complaints had been received about the premises thus far, the officer acknowledged there had not been any received. She also stated that there had not been direct communications from the living spaces above the premises. The officer pointed out that currently there was a noise lobby and that her concern was for the outside space.

There followed a short discussion about noise levels and the proposed 10pm finish to outside seating. The officer pointed out that just asking people to be quiet would not work. The only to reduce outside noise nuisance was to reduce the numbers or reduce the hours.

A question was asked if there had been any consultation with the nearby residents. The Licensing Officer explained that the 15 nearest properties had all been written to.

The Environmental Health Officer added that she felt it was her duty to represent the interests of residents.

The Chair thanked Ms Williams and invited MR Gili-Ross to address the sub-committee.

Mr Gili-Ross explained that his client had operated the premises for some years and in 2022, the two units combined. He admitted that his client had failed to apply for the necessary licence and as a result, had been prosecuted.

He then directed the members to his conclusions at paragraph 6 of his submission and stated that whilst he understood the points raised by the Environmental Health Officer, noise in The Parade was nothing to do with his client's premises. He added that his client had a considerable security presence

after midnight on every night and asserted that his client offered a social service to people leaving late night bars and wanting something to eat.

Mr Gili-Ross explained that the noise lobby offered a 45dB reduction in noise and pointed out the noise from inside was not in contention.

In relation to the concerns about the delivery service creating noise nuisance, he explained that the independent delivery drivers were paid on results and so would not be around any longer that necessary. Additionally, the rear yard was to be chained shut signs would be placed to ask drivers to arrive and leave quietly.

Mr Gili-Ross assured the sub-committee that his client was responsible and following his prosecution, he now understands his responsibilities. He readily calls the police to deal with any issues.

Mr Gili-Ross reminded the sub-committee that he had agreed a reduction in the originally proposed hours with the police, to 4am and he recommended that these hours be accepted by the sub-committee.

The Chair thanked Mr Gili-Ross and invited questions from the sub-committee.

In reply to a question as to whether the operating policy of the premises would be to fill the inside first and then use the outside, Mr Gili-Ross explained that there was no such restriction and people were welcome to sit where they wished, although obviously smokers would have to use the outside.

He was then asked if his client appreciated that the hours he was proposing (4am or 5am) would mean that the noise would be constant for the residents living above the premises.

Mr Gili-Ross stated that his client's main concern was parity of trading hours with other nearby premises, and he suggested that the applicant felt discriminated against.

Mr Gili-Ross was asked if the premises he was referring to were the ones without residences above them.

At this point the council's Senior Solicitor interjected that the sub-committee should consider each case on its own merits.

Mr Gili-Ross asserted that there had been no complaints from the residents of Woody Express, as the building contained the noise. As for outside seating, he pointed out that there had been no evidence put before the committee that the

noise from outside the building had caused problems. He did acknowledge that his client allowing the premises to remain open beyond the licensed time, had generated a complaint.

The Environmental Health Officer then provided a breakdown of premises nearby that did not have residences above, naming Walkabout and Slug and Lettuce. She also made the point that these premises should not be compared as similar because they used outside spaces under the pavement licence regime and so were reviewed and renewed annually. This was not the case if the sub-committee were to grant the application for Woody Express, which would be in perpetuity. She also pointed out that as this was a new application, there could not be any evidence brought to indicate nuisance noise levels, and so questioned the validity of the argument that there had been no noise nuisance evidence provided.

There followed a discussion regarding the applicant's offer to chain the rear yard to prevent delivery drivers accessing via that route. There was a thought that this might be conditioned, but after discussion, this idea was rejected, but there was the requirement for a sign asking delivery drivers to be as quiet as possible.

The Environmental Health Officer asked Mr Gili-Ross how the applied for hours assisted the police dispersal strategy. He replied that a young relative of his advised him that it could take up to two hours to get a cab, so there was a built-in delay to leaving the town.

The point was made that whilst planning and licensing were separate regimes, the proposed hours would breach planning legislation. Mr Gili-Ross suggested that the applicant might not be aware of the planning constraints of 10pm.

The Environmental Health Officer made the point that the history of non-compliance to legislation hinted at the applicant's conviction to be responsible.

The Chair then invited each of the parties to sum up.

The Environmental Health Officer expressed her concern that if the sub-committee were to grant the agreed hours (with the police), this would cause Woody Express to become a late-night focal point and result in a public nuisance.

Councillor Devonish challenged Mr Gili-Ross on an earlier comment he had made, where he suggested that the applicant was being discriminated against. Mr Gili-Ross apologised and assured the sub-committee that he had not intended to infer that the applicant was the subject of any personal discrimination.

She stressed again her concerns over the noise from the delivery drivers.

Following this, the Sub-committee retired to consider its decision.

Decision

RESOLVED –

Having considered all the evidence, the Sub-committee has decided to grant the application for a new premises Licence made by Woody Express, 103- 105 The Parade, Watford WD17 1LU.

The Sub-committee found that the licensing objective of prevention of public nuisance is relevant to this application.

At the hearing, the Sub-committee heard the Police, during the consultation period, secured an agreement with the applicant to amend their application and attach specified conditions.

The Sub-committee read all the information before them, viz; representations against this application received from a resident and Environmental Health opposing the application.

Catherine Williams representing Environmental Health, raised concerns about nuisance that would ensue with the increased size of the seating area and the outside seating area, considering the considerable number of residential properties in and around the premises. Allowing deliveries and collections is likely to generate nuisance from customers and delivery drivers at this location. Delivery drivers were independent, and the owner would be unable to control the delivery drivers. She believed if the application were granted this premises would become a focal point, as people from other premises with earlier closing time rather than dispersing would gather at the premises. The resulting noise would impact on residents and lead to public nuisance.

Mr Leslie Gili-Ross representing the Applicant, informed the Sub-committee the aim of the Applicant was to provide a service, to be a source of nourishment for late night workers. The Applicant had been in business for several years and there were no noise complaints or reports. He had collaborated with the Police to reduce hours applied for; conditions had also been agreed to promote the licensing objectives. One of the conditions agreed with the Police was that one SIA licensed door supervisor shall be on duty at the entrance of the premises on any day from 23:00 hours until close. Mediation had also been attempted with Environmental Health, which led to the creation of a noise suppression lobby, amongst other measures.

He was of the view that the conditions contained in the operating schedule, the robust conditions agreed with the Police as well as the conditions proposed by Environmental Health would deal appropriately with concerns and objections raised by Environmental Health and resident.

There was no history of enforcement visits and action against the premises, as it was not currently licensed.

In determining the application, the Sub-committee were mindful that their concern here is to be confident on the balance of probabilities that the licensing objective of the prevention of crime and disorder, protection of children from harm, the prevention of public nuisance, and public safety will be safeguarded and promoted if the application was granted.

The Sub-committee has therefore decided to grant the application, attaching the conditions agreed with Police, the conditions proposed by Environmental Health, of which condition 4 shall be amended to read "All windows and doors shall be closed and remain closed from 22:00 until the business reopens the following day, except for the immediate access or egress of staff, delivery drivers and customers".

The insertion of Condition 9, "Notices shall be prominently displayed in the rear yard directing delivery drivers/agents not to park at the rear yard area while collecting orders or waiting to collect orders".

The reasoning behind the decision is, the Applicant has signalled from the conditions on the operating schedule and conditions agreed with the Police that it will be a responsible operator. The Applicant has shown a clear understanding of the licensing legislation, objectives, and requirements of licensing. In addition, the conditions proposed by Environmental Health to be attached to the Licence, would ensure the licensing objective of prevention of public nuisance would not be undermined.

The Sub-committee is of the view that granting the application with the conditions agreed with the Police and Environmental Health would ensure that the four licensing objectives would not be undermined.

The Sub-committee is aware of and considered any implications that may arise from the Human Rights Act 1998.

The Sub-committee had due regard for its public sector equality duty under section 149 of the Equality Act 2010 and consider that in reaching their decision they have fulfilled their duty under the Equality Act 2010.

In reaching their decision the Sub-committee had due regard for all that they had read, seen, and heard. They took into account the provisions of the Licensing Act 2003, the Licensing objectives, s182 Guidance, and the Council's Statement of Licensing Policy.

Chair

The Meeting started at 10.30 am
and finished at 11.50 am