

LICENSING SUB COMMITTEE - LICENSING ACT 2003

12th May 2022

Present: Cllr Lawrance in the Chair
Councillors Ditta, Lawrance and Udall

Officers: Vanessa Brown – Solicitor
Niall McMenamin – Senior Practitioner – Licensing, Worcestershire Regulatory Services
Lucy Robson-Cropper – Democratic Services

7 Election of Chair

RESOLVED: That Councillor Lawrance be appointed Chair.

COUNCILLOR LAWRENCE IN THE CHAIR

8 Declarations of Interest

None.

9 APPLICATION FOR A GRANT OF PREMISES LICENCE

The Sub-Committee considered an application for a Premises Licence in respect of Groszek European Market, 36 Lowesmoor, Worcester WR1 2SG.

At the start of the meeting, the Chair made the following statement:

“Presentations to the Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee.”

All parties at the hearing were introduced. The applicant, Ms Kwiatek confirmed she was aware of her right to have legal representation at the meeting but had chosen not to. She was represented by a Licensing Consultant, June Clarke. Ms Kwiatek confirmed she was satisfied with the proposed procedure.

The Senior Practitioner – Licensing presented the report on behalf of Worcestershire Regulatory Services. The Senior Practitioner – Licensing explained that WRS received an application for a premises licence on 21 March 2022 from Ms Kwiatek, in respect of Groszek European Market. The applicant applied for the following licensable activities:

Activity	Days	From	To
Sale of Alcohol (Off sales only)	Everyday	07:00	- 23:00

Ms Kwiatek was the designated premises supervisor identified in the application.

Responsible authorities had been consulted regarding the application. No objections were received. Two representations were received from other persons. The representations related to concerns around crime and disorder and litter as a public nuisance.

In summary, the Senior Practitioner – Licensing explained that in considering the application, the Sub-Committee should have regard to the Council’s Statement of Licensing Policy under the Licensing Act 2003. The Sub-Committee is obliged to determine the application with a view to the promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

All parties were offered the opportunity to ask questions of the Senior Practitioner – Licensing.

The applicant’s Licensing Consultant explained that measures to address issues raised by the two objectors would be undertaken, if the licence was granted. This included CCTV monitoring and compliance registers, which could be shared with authorities where necessary. The ‘Challenge 25’ initiative would be adopted with staff asking to see customers’ ID when in doubt, before allowing them to purchase alcohol.

In response to specific comments from the objectors, Ms Clarke commented that the owner of the premises could not be held responsible if customers chose to abuse alcohol. She further explained that local shops such as Ms Kwiatek’s served as ‘top up’ shops rather than sources of regular purchasing since their offer was more limited and more expensive than larger local supermarkets.

It was further noted that the responsible authorities, including Police, contacted during the consultation period had raised no concerns regarding anti-social behaviour or public nuisance.

Sub-Committee members asked further questions regarding staff training and sought clarification about staff intervention in the event of anti-social behaviour taking place outside the premises. Ms Clarke confirmed this would be monitored from inside the premises by CCTV and reported to the relevant authority where appropriate.

Sub-Committee members enquired whether staff would sign the log books on beginning work for the day. Ms Clarke clarified that this was not the case and that the books were for logging specific incidents, e.g. refusal to serve a customer.

Ms Clarke advised the Sub-Committee that if the licence was granted, one-off staff training would be provided, with self-guided learning to follow. Support would be available remotely, thereafter. Ms Clarke confirmed there were no employees at the premises under the age of 18.

Ms Clarke was given the opportunity to provide a final statement. She reiterated the fact that none of the responsible authorities had raised any objections to the licence application, and that she believed the application addressed all four of the Licensing Authority's licensing objectives.

The Legal Advisor asked for clarification on the Sub-Committee Members' behalf from the Senior Practitioner – Licensing, with the Chair's permission, regarding whether any adverse feedback had been received during the 23 day period alcohol had been sold under a Temporary Event Notice (TEN). Further clarification was also sought on the issue of litter, which had been raised by one of the objectors.

The Senior Practitioner – Licensing confirmed no adverse feedback had been received regarding alcohol sales under the TEN, and further advised that a public litter bin was available in close proximity to the premises.

The Senior Practitioner – Licensing then summarized the options open to Sub-Committee members in arriving at their decision:

- (a) Grant the application as requested
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.
- (c) Reject the application in whole or in part.

In considering the decision, the following legal advice was given:

- That the Licensing Objectives must be the paramount consideration.
- That the Sub-Committee may only have regard to the representations which promote the four licensing objectives.
- In considering the objections, the Sub-Committee should have regard to only matters that related to the licensing objectives.
- The Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fall under the licensing committee's jurisdiction.
- The Sub-Committee must only impose additional conditions if they considered that they are reasonable and necessary.

All parties with the exception of the Members of the Sub-Committee and representatives of Legal and Democratic Services then withdrew to enable to the Sub-Committee to consider its decision.

In reaching a decision, the Sub-Committee had regard to the following points in their deliberation:

- The licensing objectives set out on the Licensing Act 2003.
- The Council's Statement of Licensing Policy.
- The guidance issued under section 182 of the Act.
- The Report presented by the Senior Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the applicant's agent Ms June Clarke and the applicant Ms Kwiatek
- The two written representations submitted by residents

All parties were recalled and the Chair announced the decision of the Sub-Committee.

RESOLVED: That the Sub-Committee has decided to grant a licence as applied for.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee was advised that the premises has operated as a food store for two months and has recently sold alcohol for 23 days under a Temporary Event Notice. The Senior Licensing Officer confirmed that there had not been any concerns raised during the period of the Temporary Event Notice.
- The Sub-Committee noted the representations made by and on behalf of the applicant with regards to the operation of the business and considered that the conditions included in the Operating Schedule demonstrated the applicant's understanding of the licensing objectives. The Sub-Committee gave weight to the steps taken by the applicant who had appointed the Licensing Consultant, Ms Clarke, to prepare bespoke documents for recording incidents, refused sales and training and to provide face to face staff training to include all aspects of alcohol sales.
- In considering the objections raised the Sub-Committee noted that the comments related to concerns around crime and disorder and litter as a public nuisance.
- With regards to crime and disorder, the Sub-Committee noted the S182 Guidance which states that when considering the Crime and Disorder licensing objective that "Licensing authorities should look to the police as the main source of advice on crime and disorder." The Senior Licensing Officer confirmed that the police had expressly said that they did not object to the application.
- The Sub-Committee considered that the objections around alcohol abuse related to the Lowesmoor area rather than evidence that the applicant's premises was the source of concern.

- With regards to litter, the Sub-Committee did not consider that there was evidence that this business would generate excessive litter.
- The Sub-Committee noted that there were no objections from any of the Responsible Authorities.
- The Sub-Committee was of the view that Ms Kwiatek was a responsible business operator who had shown understanding of the impact that this business would have on the local community and had put in place strategies and policies such as CCTV, staff training and signage that would promote the licensing objective.
- The Sub-Committee would remind all parties that at any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision is received by the Applicant.

Duration of the meeting: 10:00 to 11:15

Chair at the meeting on Thursday 12 May 2022