

## REGULATORY SUB COMMITTEE

*At a meeting of the Regulatory Sub-Committee on Monday, 22 April 2024 at the Town Hall, Runcorn*

Present: Councillors Wallace (Chair), Fry and K. Loftus

Apologies for Absence: None

Absence declared on Council business: None

Officers Present: K. Hesketh (Licensing Manager) and A. Strickland (Legal Advisor)

### ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

#### EXB6 MINUTES FROM THE LAST MEETING

The minutes of the meeting held on 22 November 2023, having been circulated were signed as a correct record.

#### EXB7 APPLICATION FOR A PREMISES LICENCE - ESPOSITOS, HIGHLANDS ROAD, RUNCORN, WA7 4PT

The Committee met to consider an application which has been made under Section 17 of the Licensing Act 2003 to grant the above premises licence. The hearing was held in accordance with the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005.

#### **PREAMBLE**

A meeting of the Regulatory Sub-Committee (acting as Licensing Committee under the Licensing Act 2003) of Halton Borough Council, was held at Runcorn Town Hall on Monday 22 April 2024 commencing at 3.30pm.

The meeting was held to hear an application made under section 17 of the Licensing Act 2003 for the grant of a Premises Licence for Espositos Deli Limited, Runcorn. The application was amended twice prior to the hearing. Once to

*Action*

reduce proposed hours of operation and a second time following discussions between the Applicant and Cheshire Police (following which the Applicant and Police had reached agreement on conditions). Following the reduction in hours, three objectors withdrew their objection, leaving just two relevant objections from local residents – namely Janet Waine and Mrs Broady. It was this amended application that was determined.

In attendance were:-

1. Members of the Regulatory Sub-Committee comprising Cllr Pamela Wallace (Chair), Cllr Mike Fry and Cllr Kath Loftus ('the Sub-Committee')
2. Danny and Lisa Esposito (the Applicant)
3. Mrs Broady (the Objector)
4. Kim Hesketh (Licensing Manager)
5. Alex Strickland (Legal Adviser)

Janet Waine, who had made relevant representations did not attend, but the Sub-Committee took account of her written representation and was content to proceed in her absence.

After the Chair of the Sub-Committee had introduced the parties, the Legal Adviser, outlined the procedure to be followed. The Licensing Manager presented the Licensing Report with appendices including Location Plan (Appendix A), Application (Appendix B), Original objection from Cheshire Police (Appendix C), Remaining Objections (Appendix D) and extracts from policy and guidance (Appendix E) - setting out the nature of the application and the relevant representations that had been made. The Sub-Committee was advised that two relevant representations remained, with three having been withdrawn prior to the hearing. The Sub-Committee did not have regard to any representations that were withdrawn.

#### **1. Details of the application (as amended before the hearing)**

The application as amended following agreement with the Police is for the following:- the grant of a Premises Licence as follows:-

Supply of Alcohol (off premises)

Monday to Sunday 11.00 to 17:00

Hours open to the public

Monday to Sunday 09.00 to 17:00

Operating Schedule – the conditions as set out in the Operating Schedule to the Application dated 28/2/2024, (set out in Appendix B to the Licensing Report), mandatory conditions under the Licensing Act 2003 and additional conditions agreed between the applicant and Cheshire Police (leading to the withdrawal of objections originally set out at Appendix C to the Licensing Report) as follows:-

- *To protect the cafe/deli nature of the venue as proposed in the application and to prevent it from becoming a vertical drinking establishment:*
- *Alcohol will only served to customers who are seated in the inside or outside area that falls within the parameters of the premises licence.*
- *The Licensee shall ensure that no drinks shall be sold by staff service or otherwise to be consumed in the 'outside area' of the premises other than in a container made from non-splintering plastic, paper, shatterproof glass, polycarbonate, toughened, laminated or a similar standard of safety glass.*
- *No glass bottles to be permitted in the outside area, drinks must be decanted into an appropriate drinking vessel.*
- *Staff members will conduct regular walkthroughs to monitor all areas to ensure that no problems arise.*
- *Staff will regularly remove bottles, glasses and remove any breakages immediately to reduce risk of injury.*
- *Unaccompanied children will only be permitted to purchase non-alcoholic beverages, snacks or ice-cream to take away from the premises.*
- *Any children using the seating area inside or outside that falls within the parameters of the premises licence must be accompanied by an appropriate adult and they must be supervised at all times.*

## **2. The Hearing**

The Applicant and the Objector were allowed a maximum of 20 minutes each to present their case.

Mr Danny Esposito (Applicant) confirmed that the proposed alcohol offering was to be supplementary to the general café business, making clear it was regarded as a 'small addition', so that customers could enjoy a 'pizza slice with a drink in the sun' and that there was no intention to turn the premises into 'a bar where people stay for hours'. Mr Esposito made clear that the business environment had been 'really tough' since COVID with lots of operators

finding the market difficult. The proposal here was seen as a chance to make up some revenue. It was claimed that there was lots of support from customers. The Applicant made clear that he was a responsible operator and that he ran other sites in the Liverpool City Region. These sites are now linked to a security firm which can be on the site in 15 minutes in case of any anti-social behaviour difficulties. Mr Esposito has a business history of 25 years within the Borough of Halton and he made the point that the supply of alcohol would be a trial operation to see if it worked. He referred to another premises in the area (Bakehouse) and indicated there were no problems with the licence that operated there. They undertook to engage a security company (which they used at another outlet and have not yet had to call upon) and indicated deliveries would only take place on Tuesday and Friday. Challenge 25 would be operated, the amount of alcohol on site would be small and would be stored safely. If there were difficulties with customers, they would be asked to leave. Mr Esposito made clear he understood the need to clear the premises by 5pm and therefore would be open to an additional condition to restrict alcohol sales from 4.30pm to allow for drinking up time prior to the premises being cleared by 5pm.

Mrs Broady (Objector) made clear that she was there in support of the written representations (Appendix D in the Licensing Report) of herself and Janet Waine, her only concern was the protection of children. She accepted that Mr Esposito ran a good business and was a responsible operator, but her concerns were when alcohol was introduced into a scenario and 'everyone was in party mood'. This could make it difficult to 'keep an eye' on children, and a potential danger that fake ID could be used. Mrs Broady made clear that often the premises were busy and it was not fair to put staff under more pressure that alcohol sales would bring.

Mrs Broady summed up her concerns were for the safety of children, about how conditions could be enforced when staff were under pressure and about the need to maintain staff welfare.

The Applicant summed up making clear that he wanted to continue to run a responsible operation and that if he thought that alcohol sales was preventing that he would stop them.

The Sub-Committee asked questions for clarification of Mr Esposito and he offered an extra condition to govern drinking up time from 4.30pm. He also underlined the point

(which was contained in the Application) that if the alcohol sales were giving rise to problems that were undermining his good business reputation that he would not continue it.

Mrs Broady acknowledged that Mr Esposito had answered some of her concerns and had engaged in a positive way with the issues she had raised, both in writing and during the hearing.

### **3. The Determination**

The Sub-Committee resolved on a unanimous basis to grant the application (as amended) subject to the hours set out below, the additional conditions agreed with the Police as detailed in section 2 above and the conditions in the Operating Schedule (and any mandatory conditions under the Licensing Act 2003).

Supply of Alcohol (off premises)

Monday to Sunday 11:00 to 17:00

Hours open to the public

Monday to Sunday 09:00 to 17:00

PLUS – an additional condition to be placed on the Operating Schedule to state that last alcohol sales shall take place at 4.30pm to allow 30 minutes drinking up time before the premises close.

### **4. Specific reasons for the determination**

In making its determination, the sub-committee had regard to the licensing objectives, the statutory guidance and Halton Council's own Statement of Licensing Policy.

The Sub-Committee found that: -

1. The Applicant had improved the prospects of being granted a licence by reducing substantially the hours from what was originally applied for, so that all alcohol sales would stop by the evening.
2. The Applicant was an experienced operator with several sites and a history of positive trading within the Borough of Halton, who had expressed a wish to run a responsible operation fully in line with the promotion of the licencing objectives.
3. As set out in the statutory guidance, the Sub-Committee looks to the Police as the main source of advice on crime and disorder. Significantly, the Police have removed their original objections (at Appendix C

of the Licensing Report) having reached an agreement on the amended hours of opening and agreed conditions of operation covering a range of issues from CCTV to Challenge 25 and measures to protect Children.

4. The Sub-Committee gave substantial weight to the offering of the extra condition to allow 30 minutes drinking up time from the last alcohol sales at 4.30pm, taking some comfort that this will mean that as all alcohol sales are completed by early evening, there is less chance of anti-social behaviour undermining the crime and disorder licensing objective.
5. The Sub-Committee noted that the concerns expressed by Mrs Broady were important and a genuine expression of concern to uphold the important Licensing objective which is designed to protect children from harm. The Sub-Committee also made clear that such concerns were very important to them, being an expression of community-minded concern and noting that the Council took the issue of protecting children seriously. On balance though, this had to be weighed against the specifics of this application, and mindful of the court decision in Daniel Thwaites Plc v Wirral Borough Council, the Sub-Committee was not minded to impose additional regulation/conditions unless there were specific circumstances that warranted it. Although the two objections raised valid issues generally, the Sub-Committee were not convinced they were sufficient to impose additional conditions in this case. The Chair directed the Legal Adviser to relay the thanks of the Sub-Committee to Mrs Broady (and fellow objector, Janet Waine, who lodged the written objection) for raising such important issues and the Sub-Committee were grateful for the co-operative spirit that was present between all parties.
6. On balance, it therefore finds that application does not undermine the licensing objectives.

The Sub-Committee recommended that the premises and residents engage in dialogue should there be any concerns in future. Those present were also reminded that in the event that the proposed operation of the premises does lead to problems, residents are strongly advised to report matters to the Police and Environmental Health, where appropriate.

It was also noted that there are powers to deal with

premises if a licence leads to the licensing objectives being undermined. Options included reports to Environmental Health in relation to statutory noise nuisance, if reported and the possibility of a formal review of the Premises Licence should that be necessary. The Sub-Committee hoped that this brings some reassurance to the residents and the Sub-Committee made clear they wished the Applicant continued success in their business venture.

**5. Time that the determination shall take effect**

Forthwith

*Meeting ended at 4.35 p.m.*