

MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub Committee

MINUTES OF THE MEETING HELD ON THURSDAY 22 JULY 2021

Present: Councillors Brindle, Naghi (Chairman) and Mrs Robertson

1. APOLOGIES FOR ABSENCE

There were no apologies.

2. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

3. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Naghi be elected as Chairman for the duration of the meeting.

4. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

5. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

6. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

7. WILDWOODS, EARL STREET - PAVEMENT LICENCE

The persons participating in the hearing were identified as follows:

Chairman – Councillor Naghi
Committee Member – Councillor Mrs Robertson
Committee Member – Councillor Brindle

Legal Advisor – Mr Robin Harris

Democratic Services Officer – Miss Oliviya Parfitt

Applicant – Mr Roy Pereira, represented by Mr Johnny Plant (in attendance virtually)

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Sub-Committee agreed to proceed in the absence of the objector and confirmed that they had read the papers.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant messaging facilitating any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Senior Licensing Officer introduced the report, referencing the objection received from Kent County Council (KCC) as the Highways Authority in Appendix 5 to the report. The objection concerned public safety due to the applicant's proposed seating area on a road which experienced a flow of traffic despite having been pedestrianised. The pavement outside the premises was not wide enough to accommodate tables and chairs.

As the objector was unable to attend, they submitted additional comments which had been distributed to all parties.

The applicant's representative was invited to make their opening statement and stated that the application would assist in ensuring the business's viability following the Covid-19 pandemic. The business had adapted through providing a takeaway service but had reduced the number of staff employed nationally and placed many on furlough. During the easing of the lockdown measures, other local businesses had been able to have outside seating which was something the applicant wished to provide.

The safety of the business's employees and customers was important with outside seating preferred given the rising number of Covid-19 cases. Mr Plant stated that the planters within the road provided shielding to the public and that there was no perceived threat to public safety by having

the seating as proposed in the application. It was felt that by having other businesses provide outside seating, a precedent had been set. The importance of health and safety was reiterated.

In response to questions from the panel, the Senior Licensing Officer confirmed that the authority responsible for the road was Kent County Council, but that the Council would likely be liable in the event of an accident at the proposed site. This was confirmed by the legal advisor.

In response to questions from the legal advisor, Mr Plant confirmed that he had recently contacted KCC Highways but had not received a response. Mr Plant had experienced problems in trying to find out which local authority to contact in the first instance. The protection provided by the planters and the other outside seating within the street was reiterated.

The legal advisor highlighted the proximity of the business and proposed seating area to the nearest junction, which directly contravened the relevant licensing policy. Further, the Traffic Regulation Order implemented was not actively enforced. As the applicant and objector had not been able to reach an agreement on a suitable seating arrangement, the Council was unlikely to be able to confirm that the application did not detrimentally impact public safety.

In response, Mr Plant reiterated the difficulties experienced in discussing the application with the relevant authority and that the business had suffered financially due to the Covid-19 pandemic.

The Sub-Committee responded to Mr Plant's statement in stating that they had visited the proposed seating site, noting the presence of vehicles along the road. As the Council was not the relevant Highways Authority, the Sub-Committee suggested adjourning the meeting to provide Mr Plant with further opportunities to discuss the application with the objector to try and find a suitable solution.

The legal advisor stated that if an alternative proposal was accepted by the Highways Authority, the decision to grant the application would be taken under officer delegations as the original objections would have been withdrawn. If a scheme could not be agreed upon, then the Sub-Committee would be reconvened to determine the application.

Mr Plant thanked the Committee for the adjournment.

The meeting closed at 10.56 a.m.

RESOLVED: That the meeting be adjourned to allow the applicant and their representative to converse further with the Highways Authority, in an effort to produce a proposal suitable to all parties.