

## Licensing Committee Minutes

The minutes of the Licensing Sub-Committee meeting of Wyre Borough Council held on Tuesday, 6 August 2019 at the Civic Centre, Poulton-le-Fylde.

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**Licensing Committee members present:**

Councillors Robinson, Cartridge and Smith

**Apologies for absence:**

None.

**Other councillors present:**

Councillor Baxter (as an observer).

**Officers present:**

Niky Barrett, Licensing Manager

Carmel White, Solicitor

Roy Saunders, Democratic Services and Scrutiny Manager

No members of the public or press attended the meeting.

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**13 Election of Chairman**

**Agreed** that Cllr Robinson be elected as Chairman for this meeting of the Sub-Committee.

**14 Declarations of Interest**

None.

**15 Application for a new Premises Licence - 25 Breck Road, Poulton le Fylde, FY6 7AA**

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Sub-Committee with information to assist them at a hearing to determine an application for a new Premises Licence – 25 Breck Road, Poulton le Fylde, FY6 7AA.

One of the joint applicants, Mr Roberto Biviano was present to speak in support of the application. He said that the other applicant, his wife Mrs Lisa Biviano was not able to be present because she was managing the couple's

other premises in Cleveleys.

The Senior Licensing Officer said that this matter was before the Sub-Committee because one representation of objection to the new premises license application had been received from a neighbourhood resident of a flat above the neighbouring commercial premises (the "Representor"), relating primarily to noise from the venue, as set out in emails included in the report. She said that the Representor had been given the opportunity to attend this meeting to speak in support the email of 9 July and the Representor was not present.

The Sub-Committee considered whether or not to proceed in the absence of the Representor. It was satisfied that the Representor had been given appropriate notice of the hearing as required by Regulations 6 and 7 of The Licensing Act 2003 (Hearings) Regulations 2005 and that there had been no response thereto from the Representor. The Committee considered in accordance with Regulation 20 whether it was necessary to adjourn the hearing in the public interest and decided, having regard to all the circumstances that it was appropriate to proceed.

The Senior Licensing Officer informed the Sub-Committee that an application for change of use of the premises to a delicatessen/wine bar had been submitted to the Council as Planning Authority, but was not due to be determined until the end of August. She pointed out that the planning application referred to a closing time of 11pm, which was inconsistent with the Premises License application which specified a closing time of 11.30pm.

The Senior Licensing Officer stated that, following discussions with Police and Environmental Health Officers during the consultation period, the applicant had agreed to a number of additional conditions to be included in the operating schedule if the licence was granted. A full list of conditions to be applied was set out in Appendix 3 of the report.

The applicant, Mr Biviano, spoke briefly in support of the application. He confirmed, in response to the previous comment made by the Senior Licensing Officer that the proposed closing time for the premises was 11.30pm as stated in the application, not 11pm as mistakenly indicated on the planning application for change of use. He said he would contact the Planning Department in the morning to correct the change of use application. He confirmed that 11pm was the time at which alcohol would stop being served.

Mr Biviano said that it was intended that the new business would be an Italian style deli. It would primarily be an eatery, with wine, beer and aperitifs served, rather than just a dinking place.

Mr Biviano responded to questioning by members of the Sub-Committee including on the issues that had been raised by the Representor.

Members retired to consider the application in closed session. The Licensing Sub-Committee then reconvened and the Chairman announced the Committee's decision, as follows:

**AGREED** that a New Premises Licence relating to 25 Breck Road, Poulton-le-Fylde FY6 7AAb granted for the licensable activities as set out in the application and subject to the following conditions set out outlined in Appendix 3 of the report to the Sub-Committee.

The opening times and conditions are outlined below:

**Licensable activities/Opening times:**

Activity	Mon - Sun
Sale of alcohol (on and off)	12:00 – 23:00
Open to the Public	10:00 – 23:30

**Conditions consistent with the operating schedule**

1. The primary purpose of the premise will be that of a restaurant deli/bistro/ café serving food. The sale of alcohol will be ancillary to these uses. Food will be available at all times when alcohol is supplied on the premises.
2. If no suitable identification is provided the sale of alcohol will be refused. Suitable signage will be displayed to specify the Challenge 25 policy is in place.
3. All staff involved in the sale of alcohol shall receive suitable training in relation to proof of age scheme to be applied upon the premises. Records to evidence this will be made available to officers upon request.
4. Seating shall be provided for a minimum of 70% of the maximum floor area.
5. Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by an authorised officer.
6. The premises shall have a documented drugs prevention policy on which all members of staff shall be trained
7. Security/staff arrangements will be sufficient to discourage the sale and consumption of drugs and shall ensure such arrangements include regular checks of toilet areas at least every 30minutes.
8. After 17:00 hours persons under the age of 18 shall only be admitted onto the premises in the company of an adult. Except for pre-arranged private functions and ticketed events, children under 18 shall vacate the premises by 21:00.
9. An adequate number of licensed door supervisors will be on duty as appropriate to any risk assessment.

10. CD1 The Designated Premises Supervisor, when present, and all members of staff shall ensure that all lawful instructions and /or directions given by the Police are complied with.
11. CD6 No person in possession of a drink in a sealed or unsealed container shall be allowed to enter the premises except for the purposes of delivery.
12. CD8 No drink shall be removed from the premises in an unsealed container.
13. CD10 A CCTV camera shall be installed at the locations marked, "CCTV CAMERA" on the plan of the premises.
14. CD11 Where CCTV equipment is fitted, it shall be maintained in good working order in accordance with the manufacturer's instructions. Training should be provided for staff members in the usage of the CCTV equipment. This will enable staff to assist officers should they request information to be provided from the system.
15. CD13 The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days.
16. CD16 There shall be in place for the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 25 years to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available a photo driving licence indicating that they are over 18 years of age. Armed Forces ID are also acceptable).
17. CD18 There shall be displayed on the premises notice(s) to warn members of the public visiting the premises of the incidence of crime, which may affect them. The notice(s) shall be displayed in a position where it is clearly visible to members of the public.
18. CD25 A personal licence holder shall be on the premises at all times during which intoxicating liquor is being sold or supplied to customers, except in the case of an emergency.
19. CD26 When a crime prevention survey has been carried out by the Police their recommendations are to be fully complied with by the Premises Licence Holder, prior to the opening/variation taking effect.
20. CD28 Whenever the designated premises supervisor is not at the premises another personal licence holder will be nominated by the designated premises supervisor as being the responsible person to manage the premises and will have the contact details of the designated premises supervisor. The details of such person to be on prominent display on the premises.

21. CD37 Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises
22. CD43 A personal licence holder shall be on the premises at all times during which intoxicating liquor is being sold or supplied to customers, except in the case of an emergency. This person should be employed by the premises licence holder and must be act in a responsible manner during this time.
23. PS2 When disabled persons are present on the premises there shall be in place arrangements for their safe evacuation in the case of an emergency or other reason. Details of those arrangements shall be recorded in writing and all staff employed on the premises shall be aware of those arrangements
24. PS4 All exits and escape routes to those exits (including external escape routes) from the premises shall be provided with non-slip even surfaces and shall be maintained in good repair, correct working order and kept free from all obstructions when the public are on the premises. External escape routes shall also be kept free from ice and snow.
25. PS6 All doors or gates both inside and outside the premises which are on an escape route shall be fitted only with approved fasteners and shall at all times be properly maintained, free from obstruction and be capable of being opened easily and fully so that they do not restrict the public leaving the premises and shall open in the direction of the escape route.
26. PS8 All exit doors and gates from premises or enclosure(s) surrounding it shall be capable of being opened by any person without the use of a key, card, code or other similar means and be kept free from all fastening devices when the premises are open to the public.
27. PS9 All exit routes and doors on such routes shall be checked on every occasion before the premises is used for purposes of a licensable activity and at regular occasions when the premises are open to the public to ensure that they are free from defect, obstruction, trip hazards and surfaces are not slippery. A record of such inspections, any defects discovered and the remedial action taken shall be made in writing in a logbook kept for that purpose. That logbook shall be made available for inspection on demand to an Authorised Officer of the Council, a Fire Officer or a Police Constable.
28. PS10 The method of opening any exit door or gate from the premises or enclosure(s) surrounding it shall be clearly displayed immediately above or below the fastening in white block lettering on a green background in letters not less than 50 mm high.
29. PS12 Where a fire-resisting door is fitted within the premises and that door is required to be kept closed at all times then the door shall be

clearly marked on both sides with a sign bearing the words "FIRE DOOR KEEP CLOSED" in block letters not less than 50mm high and clearly visible when the premises are open to the public.

30. PS14 Any door or gate in the premises which is not an exit door or gate shall have a sign bearing the word "PRIVATE" in block letters not less than 50 mm high.
31. PS16 The furniture or seating in premises shall be arranged so that it does not obstruct any exit, route to any exit or to any facility within the premises.
32. PS19 A person who is nominated for the purpose of taking control in the event of a fire, fire alarm, emergency or event which may affect the safety of persons attending the premises shall be on and in charge of the premises at all times when any licensable activity is being provided. That person shall be responsible for calling the Fire Service in the event of any fire and that person shall also be responsible for meeting the Fire Service and guiding them to the fire.
33. PS20 Clear and unobstructed access shall be available to the premises for use by the emergency services and emergency service vehicles at all times.
34. PS21 There shall be maintained on the premises at all times an adequate and appropriate supply of first aid equipment and materials.
35. PPN1 The designated premises supervisor or the personal licence holder for the premises who is supervising the sale or supply of alcohol at that time shall not permit customers to congregate and consume alcohol sold or supplied by that premises in a public place within the immediate vicinity of the premises and in an area not so licensed for consumption to the annoyance or obstruction of others and shall prevent the removal of alcohol if it is intended for such a purpose.
36. PPN10 No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.
37. PPN11 All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency
38. PPN13 The licence holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.

39. PPN14 There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, (or member and their guests) notices requiring customers to leave the premises and the area quietly. (Note, this may also include a reference to vehicles).
40. PPN15 Refuse such as bottles shall be disposed of from the premises at a time when it is not likely to cause a disturbance to residents in the vicinity of the premises.
41. PPN16 There shall be no emission from the premises of any offensive smells, which are likely to cause a nuisance.
42. PPN18 There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.
43. PPN21 No light from or on the premises and any other light under the control of the premises shall be provided where that light causes a nuisance to any nearby premises.
44. PPN23 The Licensee shall ensure that staff departing late at night when the business has ceased trading, conduct themselves in such a manner to avoid disturbance to nearby residents
45. PPN24 The premise licence holder will arrange for litter and cigarette debris dropped in the vicinity of the licensed premise to be collected and removed at the end of operating hours each night.

### **Reasons for the Decision**

The Sub-Committee had regard to the nature of the proposal, namely as a restaurant delicatessen/ bistro/café serving delicatessen-type food licensed to sell alcohol, including off sales, between 12 noon and 11pm closing to the public at 11.30pm at times when food is available.

The Sub-Committee gave careful consideration to the issues raised by the Representor. It noted that a specific concern raised was that the grant of a premises licence would give rise to disturbance in her home from a proposed roof terrace bar area. The Sub-Committee noted that the Application related to the ground floor of the premises only and thus was satisfied that the licensable area did not provide for the possibility of licensed use of a roof terrace bar. Further, the Applicant confirmed that the Applicants did not have access to the first floor of 25 Breck Road and hence to the roof. In these circumstances, this particular issue required no further consideration.

The Sub-Committee considered the general concern of the Representor regarding possible noise and disturbance arising from the premises, including people entering and departing from them, particularly after 10pm. It

acknowledged that parking in itself is not a relevant consideration.

The Applicant confirmed that the intention was to play background music only and the Sub-Committee noted that the Application did not seek licensing of regulated musical entertainment. The Applicant informed the Sub-Committee that there was unlikely to be sufficient space for kegged beer and so the provision of bottled beer was most likely, whilst wine was expected to be the primary alcohol sold. He also stated that it was expected that there would be 50 – 60 covers with 70% table/counter provision. In refitting the premises, the Applicant indicated that there may be some insulation installed.

The Sub-Committee had careful regard to the terms of the Application and the location of the premises in relation to those of the Representor. The Sub-Committee considered further the conditions which the Applicants had agreed to be imposed upon a licence, if granted. It noted the proposed conditions, including in particular proposed conditions 1, 9, 36, 39, 40 and 44 and considered that they would promote the licensing objective. The Sub-Committee noted also that there was no objection to the Application from any responsible authority.

The Sub-Committee considered the Representor's concern that there could be further licensing developments at the premises but acknowledged that its role was to determine the application that was actually before it and on its own merits.

The Sub-Committee considered carefully all the conditions that had been proposed by the Applicants to promote the four licensing objectives. It was of the view that the granting the Application with these conditions would support the licensing objectives. In all the circumstances the Sub-Committee was of the view that granting the Application with these conditions would be proportionate and appropriate in the circumstances of this case. Therefore, the Sub-Committee resolved that the Application should be granted subject to the conditions set out above and attached as an Appendix to the Decision Notice.

The meeting started at 6.00 pm and finished at 6.25 pm.

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