

Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Thursday, 1 August 2024 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

Licensing Committee members present:

Councillors Birch, Baxter, Moliner, Nicholls, Rushforth, Smith and B Stephenson

Absent- apologies received:

Councillors Ellison, Leigh, Minto, Swift and C Stephenson

Other councillors present:

Councillors Beavers

Officers present:

George Ratcliffe, Democratic Services Officer

Jack Tickle, Democratic Services Officer

Lisa Dodd, Legal Services Manager

Catherine Greener, Legal Executive

Jenette Hicks, Senior Licensing Officer

Mandy Seddon, Manager of Food Health and Safety and Licensing

Sharon Davies, Senior Solicitor

Jonathan Faill, Environmental Health Officer

Two members of the public attended the meeting.

13 Declarations of Interest

Councillor Smith announced that the application was located within her ward.

14 Confirmation of minutes

The minutes of the meeting of the Licensing Committee held on Tuesday 25 June 2024 were **confirmed** as a correct record.

15 Application for a new Premises Licence - Topsy Frog Ltd, 1 Meadow Avenue, Fleetwood, FY7 7PL

The Director of Environment submitted a report to provide members of the Licensing Committee with information to assist them at a hearing to determine an application submitted under section 17 of the Licensing Act 2003 by Topsy

Frog Ltd, 1 Meadow Avenue, Fleetwood, FY7 7PL.

The applicant, agent representing the applicant, 'other persons' who had made a representation and Councillor Lorraine Beavers introduced themselves. The Chair ensured that they had received all necessary information and paperwork required for the hearing.

The Senior Licensing Officer introduced the report. She explained that the application as submitted was for the applicant to be authorised to provide the following licensable activities:

The sale of alcohol for consumption on and off the premises, and the provision of recorded music to be played inside the premises between 12.00 – 23.00 hours Sunday to Thursday, between 12 – midnight Friday and Saturday and with additional non-standard timings sought for from the terminal hour on New Years Eve to the opening hour of New Years Day.

It was highlighted that the Licensing Act 2003 automatically permits that Live and Recorded music can take place on alcohol licensed premises between 08:00 hours and 23:00 hours on any day, if the audience does not exceed a capacity of 500.

The application was before the Committee due to representations, which were concerned that the possible effect of granting the licence would undermine the licensing objective 'prevention of public nuisance' within this location. Representations had been received from three residents who were local to the area and the Environmental Health Officer.

Councillor Baxter queried why the doors of the premises would be open until 10pm when the outside area would cease to be used from 9pm. It was suggested that this was to allow customers and staff who were still inside the building to leave.

The applicant's agent spoke on behalf of the applicant, with the following arguments made in favour of the application.

Staff would be trained to ensure that no public nuisance would occur and would instruct the public to respect neighbours whilst enjoying the venue. The level of music would be managed by staff so that it did not exceed conversational level and regular noise assessments would be conducted.

The applicant's agent highlighted that a maximum of three staff would be present onsite at any one time. Regular sweeps of the street would be undertaken within the vicinity of the bar if the application was approved, and regular collection of bottles would be organised by staff to comply with environmental legislation. Additionally, customers would always be seated when outside the premises, and only smoking would be permitted outside beyond 10pm.

Any resident who was concerned with noise disturbances would be able to review the licence if it was granted and could consult the Environmental

Health Act if the level of noise disturbance was deemed as significant.

The applicant's agent then answered questions from members of the Committee and the Environmental Health Officer.

The Chair then invited the 'the other people' who had made a representation to speak. They highlighted concerns relating to the impact of the business on daily living and how busy the premises may become during certain times. Residents stated that there had been a lack of communication over planned construction of the premises and the accompanying noise levels.

It was noted that the business may have a negative impact on the health of the resident who would live next door to the premises. Additionally, there was concern over the potential for noise while transporting barrels from the inside of the premises to an external storage container during business hours.

The Committee were reminded by the Senior Licensing Officer that any refusal of the application would only take place based on the Licensing Objectives set out under the Licensing Act 2003.

The applicant's agent, the Environmental Health Officer and the other people who had each made a representation were then invited to summarise their cases.

The Senior Licensing Officer, the Manager of Food, Health and Safety and Licensing, the applicant, the applicant's agent, the Environmental Health Officer, other people who had made a representation and members of the public left the chamber. The Committee then considered the application in private.

In reaching their decision, the Committee considered:

- The Council's own statement of Licensing Policy, particularly the following sections: 7.1 Planning, 9.3 Conditions imposed at a hearing, 13.1 Prevention of crime and disorder, 13.3 Prevention of public nuisance and 17 Need for licensed premises;
- The Statutory Guidance issued under section 182 of the Licensing Act 2003 and the following sections: 1.16, 9.3, 9.4, 9.26-9.30, 9.37-9.40, 9.42-9.44 and 10.8-10.10.
- The representations, and;
- The Licensing Act 2003.

After the Committee had deliberated and reached a decision, the Senior Licensing Officer, the Manager of Food, Health and Safety and Licensing, the applicant, the applicant's agent, the Environmental Health Officer, other people who had made a representation and members of the public returned to the chamber and the Chair delivered the decision and the reasons for it as below.

Decision

The Committee did not grant approval of the application and the reasons were summarised as follows:

Reasons for the decision

The committee understood that their decision should be evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it was intended to achieve (9.43 of the Guidance). The committee disregarded any representations that there was no need for such a premises or that the residents did not want such a premises nearby as these are matters that may not be taken into account when determining an application.

Whilst the application was described as a family friendly café bar, children would not be admitted onto the premises after 8pm and permission was sought to trade until 11pm, midnight at weekends. They were relying on local food businesses to provide any food customers may wish to order. The applicant sought to assure the Committee that with the measures offered in the operating schedule and the further conditions agreed with the police that they could operate this venue without causing nuisance to nearby residents. It appears to the Committee that limited soundproofing had taken place, yet Mrs Fairbairn indicated that she could hear the workmen talking to each other. This gave cause for concern as to the impact on her and other close residents when a number of people using the premises at any one time even if they were well behaved, people go out to socialise and to speak to each other so there would inevitably be some noise. Even if it was possible to manage the noise from inside the premises, there was the outside noise to consider. The proposal was for seven tables of four to be available for use on the decking area at the front of the premises. Noise outside would be more difficult to control. This area would be available for use until 9pm and was directly adjacent to the lounge window of the adjoining neighbour. Up to twenty-eight well-behaved sober people, talking would generate a level of noise that would not ordinarily be expected in a quiet residential street.

13.1 Council's statement of licensing policy recognises that licensed premises have the potential to impact adversely on local communities. When considering applications the authority will make a judgment as to whether the effect of the licensable activities on those living or working in the surrounding area is unreasonable. In this case, the immediate area was a quiet residential street with bungalows, which tend to attract older generations.

Having considered the representations, the committee concluded that the proposed conditions and any they had discussed as a committee would not be enough to prevent public nuisance. The licensing committee was of the view that the licensing objectives would be undermined if this application were granted. For this reason, the licensing committee refuse this application.

The meeting started at 6.01 pm and finished at 7.58 pm.

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