

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON FRIDAY 15 OCTOBER 2021,
AT 10.00 AM

PRESENT: Councillor D Andrews (Chairman)
Councillors A Hall and C Wilson

ALSO PRESENT:

Councillor J Goodeve

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Katie Mogan	- Democratic Services Manager
Dimple Roopchand	- Litigation and Advisory Lawyer
Brad Wheeler	- Senior Licensing and Enforcement Officer

ALSO IN ATTENDANCE:

Adem Altunatmaz	- Premises Licence Holder (PLH)
Navin Shah	- Friend of the PLH

34 APPOINTMENT OF CHAIRMAN

It was moved by Councillor Hall and seconded by Councillor Wilson, that Councillor Andrews be appointed Chairman for the meeting. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Councillor Andrews be appointed Chairman for the meeting.

35 APOLOGIES

There were no apologies for absence.

36 CHAIRMAN'S ANNOUNCEMENTS

There were no Chairman's announcements.

37 DECLARATIONS OF INTEREST

There were no Declarations on Interest.

38 MINUTES - 17 AUGUST 2021

It was moved by Councillor Wilson and seconded by Councillor Hall that the Minutes of the meeting held on 17 August 2021 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meetings held on 17 August 2021 be confirmed as a correct record and signed by the Chairman.

39 APPLICATION FOR A VARIATION OF A PREMISES LICENCE
FOR TOWN EXPRESS, 9 RAILWAY STREET, HERTFORD,
HERTFORDSHIRE, SG14 1BG

The Chairman summarised the procedure that would be followed during the meeting and all those present were introduced or introduced themselves. The Senior Licensing and Enforcement Officer presented his full report covering an application that had been made under Section 34 of the Licensing Act 2003.

The Sub-Committee was advised that the application for the variation of a premises licence had been made on 21 August 2021 for the premises known as Town Express, 9 Railway Street, Hertford. The application sought to vary the licence by extending the hours for the supply of alcohol on Monday to Sunday from 08:00 to 01:00.

The Senior Licensing and Enforcement Officer said that the applicant had since further amended the application to extend the hours from 08:00 to Midnight Monday to Sunday. The Sub-Committee was advised that the current licence was for the supply of alcohol from 08:00 and 23:00.

The Sub-Committee was also advised that the application sought to remove condition 10, which restricted the sale of beer and cider in single containers and the application also covered the amendment of condition 11 to read that the alcohol content of all beer, lager and cider should be not higher than 7.5%.

The Senior Licensing and Enforcement Officer said that the applicant had not offered any additional conditions other than those contained within the current licence. The Sub-Committee was advised that two representations had been received during the 28 day consultation period, one from Hertfordshire Constabulary and other from the local ward Member who was present at the hearing.

The Senior Licensing and Enforcement Officer said that the police had withdrawn their representation following the reduction in the timings to 08:00 to midnight and the remaining representation could be seen at Appendix B. This representation engaged the prevention of public nuisance and prevention of crime and disorder licensing objectives.

The Senior Licensing and Enforcement Officer said that the report covered the East Herts Statement of Licensing Policy and the revised guidance under Section 182 of the Licensing Act 2003 and the Sub-Committee should be aware that the site was within a sensitive licensing area in the East Herts Licensing Policy.

The Senior Licensing and Enforcement Officer said that the report contained information submitted by the applicant and the interested party. The Sub-Committee should determine the application with a view to promoting the four licensing objectives. Members should also consider if the applicant had provided evidence that the variation application, if granted, would promote and not undermine the four licensing

objectives.

The Sub-Committee was advised that the applicant's evidence should be balanced against the evidence received from those making representations. The Senior Licensing and Enforcement Officer said that if Members believed that the application would not undermine the licensing objectives then the application should be granted as requested.

The Senior Licensing and Licensing Officer said that if Members believed that there was evidence that granting the variation would not promote the licensing objectives, then it was within the remit of the Sub-Committee to take any action that was appropriate and proportionate to address any concerns. The Sub-Committee could attach conditions or take any steps that were appropriate and proportionate and this included limiting the hours or if there were no steps then the application could be refused in its entirety, but this should always be the last resort.

The Senior Licensing and Enforcement Officer said that the Members' decision should be evidence based and justified as being appropriate for the promotion of the four licensing objectives and proportionate to what the Sub-Committee intended to be achieved.

Councillor Andrews asked for an explanation of what was meant by a sensitive licensing area in the context of this particular application. The Senior Licensing and Enforcement Officer said that the sensitive area meant that the Sub-Committee could consider a pool of licensing conditions when looking at this variation

application.

The applicant's friend asked in what respect was this area sensitive under the terms of the Licensing Act 2003 and when was the designation applied to this particular area. The Senior Licensing and Enforcement Officer said that the latest version of the Licensing Policy was adopted in July 2021, following a full consultation.

The Sub-Committee and all parties present were provided with a summary of the criteria that had been applied to make the area a sensitive area. The Senior Licensing and Enforcement Officer referred in particular to evidence from the police and local ward Members.

The applicant's friend sought and was given further clarification as to the extent of the sensitive licensing area. He asked why the policy in respect of a sensitive licensing area was applied to this variation application when other off licences sold much higher strengths of alcohol in single units and were open much later. The Senior Licensing and Enforcement Officer said that the policy was adopted in July 2021 and each case was considered on its own merits and this application had been submitted after the adoption of this policy.

Councillor Andrews made the point that any change in licensing policy was not retrospective and any previous licences were not to be reviewed unless a specific review application was made in line with the current policy.

The applicant's friend asked in what way would the sale of multiple units of alcohol impact on the Licensing objectives. He said that there was no evidence that there would be an increase in alcohol consumption. He stressed that Hertford was a small town and the influx of people due to the night time economy was not increasing and there must be evidence to back up any hearsay about such an increase.

The applicant's friend that said that the applicant had evidence of having lost trade due to not being licensed to sell alcohol above certain strengths. He said that the applicant was seeking an equal playing field with rival licensed premises in the vicinity of Town Express.

Councillor Wilson asked about the original licence and the conditions that had been applied. The applicant's friend explained that this application had been made as the applicant was now losing trade to rival licensed premises that were selling higher strength alcohol products. The applicant was now seeking to compete on an equal footing.

Councillor Goodeve questioned the applicant as to whether he realised that the Statement of Licensing Policy had been updated and there were now different guidelines around which policy now operated in response to problems in Hertford Town Centre due to anti-social behaviour. Councillor Andrews interjected to explain that the Authority was required to reconsider its Licensing policy on a regular basis and the factors mentioned by Councillor Goodeve were included in this review.

Councillor Goodeve asked the applicant why no additional conditions were being offered to promote the four licensing objectives. The applicant's friend said that the applicant believed that what was on offer was already more than adequate. He emphasised that if there were any breaches of conditions then these could be addressed.

Councillor Goodeve asked if the applicant was aware of increased crime levels in relation to the night time economy in Hertford. The applicant's friend posed the question as to whether any increase was alcohol fuelled and he made the point that the police had withdrawn their objection as there was no supporting evidence.

The applicant's friend said that the applicant was not contributing to the problems and he was acting responsibly and it was for the police to prove that he was not by submitting evidence to the Sub-Committee. He referred to other factors such as drug use and wider social problems.

Councillor Goodeve questioned the applicant as to whether he was aware of cumulative impact. The applicant's friend commented on whether there was any evidence of increased numbers of people coming into town at a level equal to or above the levels seen before the COVID-19 pandemic.

Councillor Goodeve said that these premises were located in an area that had been classified by paragraph 7.2 of the Statement of Licensing Policy as a

sensitive licensing area. She therefore believed that it would be most unwise to do anything that would be detrimental to public safety.

Councillor Goodeve said that the selling of single cans of beer or cider could contribute to further public nuisance by encouraging people to loiter in the town centre whilst behaving in an anti-social manner. She expressed concern about the desire to increase the alcoholic strength of sales and she emphasised that she did not feel there had been any change for the better since conditions were imposed.

Councillor Goodeve said that the applicant had not offered any additional conditions to promote the four licensing objectives. She said that the night time economy remained a concern for Hertfordshire Constabulary and the suggestion of adding SIA door staff would seem to be prudent if the Sub-Committee was minded to approve the variation. She had also noted the sensible suggestion of not selling alcohol in glass containers.

Councillor Goodeve asked the Sub-Committee to consider that the number of residents in the town centre continued to rise due to office and retail to residential conversions that were taking place under permitted development rights. She said that local ward Members and Council Officers were already receiving complaints about noise, fighting and other undesirable behaviours in the town.

Councillor Wilson asked if any residents had complained about this licensed premises or any

activities connected to it. Councillor Goodeve said that she had not been notified of any concerns relating to this premise but residents were concerned about the cumulative impact of having so many venues and premises selling alcohol and contributing to problems as a whole. She acknowledged that it was always going to be difficult to attribute problems to a particular establishment.

Councillor Wilson asked if any residents had indicated that they objected to this particular application. Councillor Goodeve said that people were often reticent to put verbal concerns into formal written complaints due to being fearful of some kind of retribution.

The applicant's friend asked what significant impact would there be from an extra hour of trading. Councillor Goodeve said there was an updated Statement of Licensing Policy and Hertford was the worst affected town in East Herts terms of anti-social behaviour.

The applicant's friend asked what the impact would really be of a small increase to 7.5% ABV from 5.5% ABV for a small number of beverages. Councillor Goodeve said that selling single units of this strength ABV would encourage people to have an extra one or two and get inebriated or further inebriated that bit more quickly. She talked about small steps in the wrong direction that were not helpful.

At the conclusion of the closing submissions, the Sub-Committee, the Litigation and Advisory Lawyer and

Democratic Services Officer retired to a separate room to allow Members to consider the evidence.

Following this, Members and Officers returned and the Chairman announced that the Sub-Committee had listened to the comments of the Senior Licensing and Enforcement Officer, the applicant's friend and the local ward Member and had decided to grant the variation of the premises licence that had been sought for:

1. The supply of alcohol (for consumption off the premises) Monday to Sunday 08:00 to 00:00.
2. Opening hours of Monday to Sunday 08:00 to 00:00
3. The approval of Annex 2 condition 10, which prohibited the sale or supply of beer or cider in single containers.
4. The amendment of Annex 2 condition 11 allowing alcohol content of all beer, lager and cider sold to be higher than 7.5 % ABV.

Reasons for Decision:

1. The Licensing Sub-Committee considered all of the evidence before it including the written representations made by the interested party. Members had regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and the guidance promulgated pursuant to Section 182 of that act.

2. The Licensing Sub-Committee was required to adopt a presumption in favour of granting a variation to a licence unless there is clear evidence upon which to base a refusal or modification. There was insufficient evidence before the Sub-Committee to rebut that presumption.
3. In reaching this decision, Members has regard to the objections received and noted that whilst there was a perception of public disorder in the night time economy around the Town Centre, the concerns were speculative which could not be directly attributed to these premises and were there outside the scope of the Sub-Committee to consider.

RESOLVED – that the application for a the variation of a Premises Licence for Town Express, 9 Railway Street, Hertford be granted, for the following reasons:

1. The Licensing Sub-Committee considered all of the evidence before it including the written representations made by the interested party. Members had regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and the guidance promulgated pursuant to Section 182 of that act.
2. The Licensing Sub-Committee was required to adopt a presumption in favour of

granting a variation to a licence unless there is clear evidence upon which to base a refusal or modification. There was insufficient evidence before the Sub-Committee to rebut that presumption.

- 3. In reaching this decision, Members has regard to the objections received and noted that whilst there was a perception of public disorder in the night time economy around the Town Centre, the concerns were speculative which could not be directly attributed to these premises and were there outside the scope of the Sub-Committee to consider.

Those present were advised that the decision would be issued in writing and there was the right of appeal within 21 days to the Magistrate’s court.

40 URGENT BUSINESS

There was no urgent business.

The meeting closed at 11.24 am

Chairman
Date