

LICENSING COMMITTEE HEARING

TUESDAY, 23 JULY 2019 - 1.45 PM



PRESENT: Councillor M Humphrey (Chairman), Councillor N Meekins, Councillor M Tanfield and Councillor R Skoulding (Substitute)

OFFICERS IN ATTENDANCE: Linda Albon (Member Services & Governance Officer), Michelle Bishop (Licensing Manager) and Colin Miles (Legal Representative)

LH3/19 **DETERMINATION OF AN APPLICATION FOR A VARIATION TO A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - NENE SUPERMARKET, 12 LYNN ROAD, WISBECH PE13 3DJ**

Members considered an application for a variation to a premises licence in respect of Nene Supermarket, 12 Lynn Road, Wisbech.

The Chairman introduced the Panel and others present were:

- Ayad Ali Saied, Applicant
- Hemen Saied, Nene Supermarket
- Duncan Craig, Legal Representative for Applicant
- Joseph Keegan, Public Health for Cambridgeshire County Council

The Licensing Officer, Michelle Bishop, outlined her report.

The Chairman invited the applicant's representative, Mr Duncan Craig, to state his case for the applicant.

Mr Craig apologised for the short notice but said he had only just had the opportunity to speak to his client immediately before the hearing. Clearly these premises are situated in the Cumulative Impact Area (CIA) and he appreciates this is a challenging area from the perspective of street drinking. With that in mind his client has accordingly instructed him to revise the scope of the application significantly to allay concerns, namely to rescind the request for sale by retail of alcohol between 8am to midnight and keep to the original hours of 8am to 9pm. Also, in recognition of the challenges all premises face in that area, to rescind the request to increase the strength of beer sold from 6.0% to 6.5%. There is a request for the premises to be able to sell cans of alcohol, which is not presently permitted, but this will be amended further so that they can only be purchased as a minimum of four cans and not as single cans.

Mr Craig pointed out that there had been no representations from the police or Trading Standards. These revisions have been made because Mr Saied is keen to show he runs his business responsibly and is aware of the concerns of being situated within the CIA. He also takes the issue of staff training seriously, which is one of the reasons why Mr Saied wants the condition around personal licence holders removed because the difficulty he has with that condition is he has a transient workforce, whereas he is constantly there. If he needs to leave the premises for an hour or two, he is currently limited in doing that. Therefore to mitigate the absence of that condition he undertakes regular and rigorous staff training to meet the licensing objectives.

Mr Craig added that in respect of the increase in shelf space, this is still a very low amount in terms of the percentage space taken up by alcohol within the store and cannot see how this would undermine the licensing objectives. He also stated that, whilst not minimising the importance of public health's role, the objections within their representation tends to be generic and not linked to this store. They do not state that these premises are poorly or irresponsibly run. He acknowledged that street drinking is prevalent in the area but these are people that buy single cans; anti-social behaviour related to street drinking is rightly a concern for the community but reiterated that the police, being the main source of advice for crime and disorder in the area, did not make a representation. Also, there is no evidence that this premises has added to any of these issues since being granted their licence in 2017. The changes this premises seeks are both modest and proportionate; the store will continue to be run responsibly and it is unlikely that the licensing objectives will be compromised.

The Chairman thanked Mr Craig and invited questions.

Councillor Tanfield stated that on the site visit, she found the store to be very well laid out with very good staff. However, she had noticed single bottles of beer on sale but did not see a sign advising customers must buy more than one. Mr Saied stated that all staff are aware they are not allowed to sell single bottles, and there is a sign but it gets covered when the doors of the cigarette unit are slid apart.

Councillor Tanfield said she understood that Mr Saied cannot be on the premises all the time but as all staff seemed very well trained, why could one of them not be named as personal licence holder? Mr Saied explained that they work part-time and have little interest in that level of responsibility; also staff turnover is quite high. Mr Craig added that there are occasions when Mr Saied is the only person in the shop therefore he cannot leave it, and that demonstrates that he takes his responsibilities seriously.

Councillor Meekins said he did not see signage stating alcohol will not be served to known street drinkers, which is one of the licence conditions. Mr Saied said there is no signage but all staff recognise them, they are not allowed in and would not be served if they did, but it is rare that they do enter. Councillor Meekins stated that his point was that it is part of the existing licence and part of the proposed amendment that signage be on display. Mr Craig apologised, he said this should have been addressed and whatever the outcome of today's hearing, he will ensure the signage condition will be adhered to.

Councillor Humphrey asked who trained the staff, was it done in-house or by a professional? Mr Saied stated he did this and explained that his training covers not selling to alcoholics or drunks, requesting ID if persons are suspected to be under-age, and the importance of completing a refusal book. Staff will also refuse to sell if they see an individual leave the store and give money to someone else to come in on their behalf. Mr Saied added that this training takes place when employees first join and he keeps a record of all training.

Councillor Humphrey agreed with Councillor Tanfield that he found the shop to be well laid out and that the business is impressive. He asked, with regard to the increase in floor space from 5% to 10%, where that additional space will be created. Mr Saied advised that there is a 2 metre space next to the beers and soft drinks where he will put the cans and cider. He will move the soft drinks into another fridge.

Councillor Tanfield asked who runs Mr Saied's other shop in Kings Lynn. Mr Saied advised he has a manager there. Councillor Tanfield suggested he consider finding a manager run the Wisbech shop. Mr Saied said the shop in Kings Lynn has been running since 2012, he has long-term, well trained staff there, whereas Wisbech is a newer store and the turnover of staff is very high so he needs to be there to look after the business.

The Chairman invited Joseph Keegan to make his representation on behalf of the Director of Public Health.

Mr Keegan highlighted the evidence regarding local public health issues, in particular alcohol and its misuse, the consequences and destructive impact. The original store application did not make any reference to the CIA. He understands that the business is here to make money, but his role is to help protect the public. Public Health are concerned about Wisbech and increasing the density of premises selling alcohol will exacerbate local issues.

The Chairman thanked Mr Keegan and invited questions.

Mr Craig asked Mr Keegan if the 17 other licensed premises in the area selling alcohol have the same level of conditions imposed. Mr Keegan replied that may be the case but he is looking at the overall cumulative impact and consequences.

Mr Craig asked if it was the case that street drinkers were drinking 4% alcohol. Mr Keegan responded that a recent litter survey found over 1000 alcohol-related items shows the consequences of alcohol misuse in the town. Mr Craig asked Mr Keegan if the revisions to the application as mentioned at the start of the hearing would more readily address his concerns. Mr Keegan responded that the changes were helpful but still thinks that there is already enough alcohol available.

Councillor Tanfield said she could not disagree with the impact of alcohol as described in Mr Keegan's statement but her concern is that the report seems to be very generic and therefore she is not sure that restriction is the cure. She would like to see more specific information regarding the local area, and what is being done for people to take more responsibility for what they do locally. Mr Keegan agreed that it would be better to be able to engage locally and this is something they will try to do in order to provide data more relevant to the area. In terms of education, there has been a lot of work done in Wisbech over the last five years, including public displays, campaigns and direct work with street drinkers, including the engagement of two outreach workers working specifically with people of different cultures.

Councillor Meekins noted the shop already had a licence to sell alcohol up to 9pm. If this change is granted, he wondered if one shop opening for those extra hours is really going to have that much of an impact when there is a 24-hr garage next door and other nearby shops selling alcohol. He had noted the demographic of the shoppers on the site visit and he did not have concerns. He got the impression that this was a very well run business. Mr Keegan stated that it was important to consider the point of having a CIA in the first place. If there is already a large number of premises selling alcohol, it is not a massive inconvenience for shoppers to have to go elsewhere. Mr Craig pointed out that the amended hours being applied for are consistent with the hours the store are open.

Councillor Meekins said if a customer has completed their food shopping it seems an anomaly to then have to go to a different store to purchase alcohol, for example if the weather is nice for a barbecue, then he could see that would be an inconvenience. Mr Keegan pointed out that may well be, but he is looking at the overall impact on public health. The application went to magistrates before, and his concern is that if alcohol is made more readily and easily available, the evidence is that the negative impact of alcohol will increase.

The Chairman invited both Mr Keegan and Mr Craig to make any concluding remarks.

Mr Keegan reiterated that Public Health are here to protect the public, they have no problem with the shop and understands its desire to make money but there is a consequence of the impact; the CIA is in place to reduce that and he is trying to ensure consistency.

Mr Craig concluded that the original application was for a 24-hour licence and to remove all conditions; modest changes have been made to a well-run business and other mitigation matters will remain in place for potential concerns. The application as it now stands will not have an impact other than on existing customers who will be able to purchase their alcohol as part of their weekly shop.

The panel withdrew from the hearing at 14.45pm to deliberate the application, returning at 15.15pm.

The premise lies within the Cumulative Impact Zone. The licence was granted on 22 May 2017 following a successful appeal to the magistrates. The sub-committee visited the premises earlier today.

The Applicant now applies to vary this licence.

Public Health have made representations against the variation.

There are no other representations against this application.

The variations sought are within the sub-committee documents before us.

We have heard today from:

- **Public Health, who raised concerns relating to:**
 - **Consequences of alcohol misuse in Wisbech**
 - **Street drinking**
 - **Public protection**
 - **Anti-social behaviour such as litter**
 - **Significant number of premises selling alcohol in the Wisbech area**
 - **Increasing shop floor sales area will add to the issues.**
- **The Applicant's legal representative, who offered various amendments to the variation application.**

In our own deliberations we were referred to:

- **Our own statement of licensing policy**
- **The Government Guidance**

We also considered the Applicant's Operating Schedule and how the business has been operated since May 2017.

We are not aware of any issues directly linked to these premises, and note that there have been no representations from the police or other Responsible Authority.

We have taken this opportunity to revisit the Operating Schedule and in particular the conditions imposed by the Court.

We therefore grant this variation subject to the following terms and conditions, to be incorporated into the Operating Schedule:

- **Sale of alcohol Monday through to Sunday – 8am to 9pm**
- **No beer, lager or cider can be sold above 6% ABV**
- **Cans of beer, lager and cider can be sold, minimum of four**

- **Maximum are used for the sale of alcohol can increase from 5% to 10% of the overall area of shop floor footage**
- **A personal licence holder must be present on the premises if alcohol is to be sold**

We remove or amend from the operating schedule:

- **Annex 2 Condition 1 – All references to specialist, craft, microbreweries, seasonal product sales, and any reference to policy or local authority discretion.**
- **Annex 2 Condition 9 – All references to ‘known street drinkers’ and ‘loitering’ to be removed, therefore no such signage is required. Single bottles of alcohol can be sold.**
- **Annex 4 Condition 5 – Remove in its entirety. (scheme imposed)**

We are reminded that conditions must be reasonable, proportionate and enforceable.

Any person aggrieved by this decision can appeal to the Magistrates’ Court. There may be a fee payable.

3.22 pm

Chairman