

# **LICENSING SUB-COMMITTEE**

## **MINUTES OF THE MEETING HELD ON MONDAY, 17 DECEMBER 2012**

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant and Manohar Gopal

**Substitute:** Billy Drummond

**Also Present:** Sarah Clarke (Team Leader - Solicitor), Denise Anns (Strategic Support)

### **PART I**

#### **1. Declarations of Interest**

There were no declarations of interest received.

#### **2. Application No. 12/01798/LQN - MAC's Cafe, Bath Road, Padworth, Reading RG7 5HR**

Councillor Jeff Beck advised that this morning, additional documentation had been received from Mr Raffaele Vigliotti, and asked the objector's representative and the Licensing Officer if they agreed to this information being submitted before the panel.

Cllr Mayes (on behalf of Mr & Mrs Savage the objectors) and Mr Chris Ellerington (Licensing Officer) responded that they were in agreement to the information being submitted before the Panel.

Councillor Jeff Beck then asked the Panel if they were willing to take the additional information into account for this Licensing Hearing. The Panel advised that they were willing to take the additional information into account for this Licensing Hearing.

Additional documents from Rosemary Green (Environmental Health Officer) relating to the representation and subsequent withdrawal (due to mediation) were also circulated to all attendees at the hearing.

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 12/01798/LQN in respect of Mac's Café, Bath Road, Padworth, Reading RG7 5HR.

In accordance with the Council's Constitution, Chris Ellerington (Licensing Officer, West Berkshire Council), Mr Raffaele Vigliotti (Applicant) and Councillor Geoff Mayes (speaking on behalf of the Objectors Mr & Mrs Savage) addressed the Sub-Committee on this application.

Mr Ellerington, in addressing the Sub-Committee, raised the following points:

On the 01 November 2012 West Berkshire Council Licensing Department received a full application for a premise licence to be granted under the Licensing Act 2003 from Mr Raffaele Vigliotti, The Hedges, Bath Road, Padworth, Reading RG7 5QS. An application had been received for Mac's Café, Bath Road, Padworth, Reading RG7 5HR.

The consultation period for the above named premise ran from 02 November 2012 to 29 November 2012. Within the prescribed 28 day consulting period the Licensing Department received two representations.

1. Rosemary Green, Environmental Health Officer, West Berks and Wokingham Environmental Health & Licensing – representation – concerns about the application for Live Music – Outdoors.

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2. Mr & Mrs Savage, Hartwell, Bath Road, Padworth, Reading RG7 5HR – representation – concerns about the application in relation to noise in general and other nuisance issues.

Documents received regarding the above representations were an email from Rosemary Green on the 13 November 2012 regarding outside live music and a letter from Mr & Mrs Savage on 12 November 2012 that raised several concerns including noise in general, namely from generators running from early morning to late evening, lorries starting up in the morning with engines running (this would be to build up the pressure in the air tanks for the braking system), rubbish being deposited that in turn could provide a source of food for rodents and vermin, motorbike meetings in the evening and rallies for historic vehicles and vehicles parking over access areas for private residences.

In relation to the email received from Rosemary Green, Environmental Health and Licensing, correspondence took place between both parties and had been mediated out. Part E on the Licensing Application for Live Music, both indoors and outdoors had been withdrawn. As a result the objection was withdrawn.

In relation to Mr & Mrs Savages' letter it would appear that this had not been discussed between both parties and therefore still lay on the application for the Sub Committee to adjudicate over.

Councillor Jeff Beck asked Mr Vigliotti (Applicant) to address the Sub-Committee.

Mr Vigliotti, asked the Sub-Committee to read the document that had been submitted at the beginning of the hearing. He went on to say that it was very important as the representations made were inaccurate and in most cases they were lies with no relevance to the application. Councillor Beck asked for time for the Panel to read the paper.

*The meeting was adjourned at 10.31am and was re-instated at 10.37am.*

Councillor Beck asked Mr Vigliotti if there was anything else he wished to add. Mr Vigliotti responded that he had nothing further to add. Councillor Beck asked Mr Vigliotti how far along the process of reverting to mains electricity he currently had got as it seemed strange to rely on a generator with mains electricity being available. Mr Vigliotti said that he was in the process of reverting, but that he had been running on a generator for the past three years, it was a silent generator and to date he had received no complaints. He used the generator when electricity was expensive and red diesel was cheap, it was now the other way round and that was why he was reverting to mains electricity. Councillor Beck asked Mr Vigliotti how Mr Simon Kelly (the Designated Premise Supervisor) proposed to share his time between the Bladebone and Mac's Café. Mr Vigliotti advised that Mr Kelly had sold the Bladebone and was joining him in developing Mac's Café so there would be no sharing of time. Councillor Beck asked what level of training would be completed by staff at the premise. Mr Vigliotti said that all relevant training would be completed. Councillor Gopal asked what sort of live music was played. Mr Vigliotti said that three years ago it had been a nice summer and that on Thursdays between 7.00 and 9.00pm whilst they had a barbeque a father and son played live blues music. These sessions were very popular with his patrons. Mrs Green from Environmental Health had showed concerns and therefore the option proposed by her was accepted and therefore there would be no live music. It was more than three years ago that these meetings were held and he was running a business and could not afford to turn business away.

No further questions were asked.

Councillor Beck drew the meeting's attention to the copy of Rosemary Green's representation and subsequent mediation and advised that the issue of outside music was not now part of the application.

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Councillor Beck asked Councillor Geoff Mayes to speak on behalf of Mr & Mrs Savage to present their objections to the application.

Councillor Mayes advised the hearing that he was there representing Mr & Mrs Savage the objectors to the Application for a Premise Licence at Mac's Café, which was next to their home at Hartwell, Bath Road, Padworth, Reading RG7 5HR. The Savage's were unaware of any pre existing Premise Licence for Mac's Café when he first met them both on the 11 December 2012 and they therefore understood that:

- This was a new application for the indoor showing of films; and
- For the playing of live, recorded music and for dancing both indoors and outdoors, and for the supply of alcohol from as early as 07.00hrs until 23.00hrs Monday to Saturday and to 22.00hrs on Sundays. As detailed in the operating schedule B, E, F, H and J.

The area was predominantly residential on the south side of the busy A4 in Padworth with a service road or accommodation road fronting the residential properties to the west. On page one of the Agenda Item 2(2) the Plan referred to was assumed to be that on page 21 Item 2(3) but no red line is shown.

The main concerns were Public Nuisance, noise and vibration coming from the Café, inconsiderate parking on the service road, public safety, windblown litter and the disposal of waste from lands surround the Café buildings.

The noise and vibrations were generated by a generator that presumably supplied electric power to the Café and from the parking Lorries/Trucks and other vehicles that disturbed the area from early morning (often before 7.00am) until late at night (10.00pm and later). The daily use of a generator when a mains grid supply was available in the area was an unnecessary noise and vibration creator. Manoeuvring truck alarms when reversing also caused unnecessary invasive noise especially early in the morning and after local children had gone to bed.

Noise from live or recorded music would also disturb the area until 23.00hrs most nights (except Sundays 22.00hrs) if the licence was granted as currently requested in the application.

Inconsiderate parking on the service road occurred when private cars could not be accommodated within the café grounds during special events. This prevented residents leaving or entering their own driveways and emergency vehicles accessing private homes.

Waste disposal and windblown litter had been a problem which would get worse if plastic glasses were used out of doors and if the refuse from the café and trucks was not regularly collected from bins with lids. Open containers and polypropylene sacks, had been used in recent months and were not rodent proof nor hygienic. The savage's were of the opinion that if Members were minded to approve the application an approved collection system for food waste from the café should form part of the licence conditions.

The need for an Alcohol Licence and encouragement of alcohol consumption at a traditional transport café during drivers rest periods should be of concern to the District Council and the Police.

Mr and Mrs Savage asked that the terms, conditions and timings be debated by the sub committee bearing in mind that the café was sited adjacent to residential properties. They requested that the application be either refused or drastically amended.

Councillor Mayes wished to add a couple of additional points, firstly, although he appreciated that the use of a generator was a question of economics, when he visited Mr & Mrs Savage's home on the 11 December 2012 the generator was noisy. he also noted

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that lorries have changed over the years and it was now common for there to be just one driver and that driver might want to have a beer or two during his rest period.

Councillor Paul Bryant said that a lot of the case put forward by Mr & Mrs Savage rested on nuisance issues and he queried whether they had they supplied any evidence of these nuisances e.g. Environmental Health or the Police complaints. Councillor Mayes advised that no other evidence had been given to him and if there were no other representations on file in Environmental Health or the Police then that was the case. Councillor Bryant asked Mr Ellerington if Environmental Health had any record of previous complaints. Mr Ellerington replied that there had been concerns two to three years ago when biker meetings were advertised. He personally had visited on two or three occasions. The meetings were very orderly and there had been only one incident when a lorry driver had turned his cab radio up to full volume. No issues had been raised with Environmental Health since then. Councillor Bryant asked Councillor Mayes about the claim by Mr & Mrs Savage of regular meetings of bikers and classic cars and queried whether any evidence of these events existed. Councillor Mayes advised that it was a general statement from Mr & Mrs Savage and he had not been given further evidence to substantiate the statement.

No further questions were asked.

Councillor Beck asked Mr Vigliotti if he would like to address any of the comments made. Mr Vigliotti responded to say that they (Mr & Mrs Savage) kept referring to the sale of alcohol as encouraging lorry drivers to drink. HGV drivers were responsible professional people and he did not propose a watering hole or discothèque. Councillor Bryant asked Mr Vigliotti if it was usual in his trade (transport café) for alcohol to be on sale. Mr Vigliotti said that most transport cafés were now closed and his was one of the original ones. He did not think that having a beer or wine with a meal was posed a problem. He said that all walks of life came into the café not just lorry drivers and at weekends local people frequented the café. Road works had destroyed his business and he hoped that by offering an enhanced menu in the evenings with wine or beer it would help his situation.

Sarah Clarke (Solicitor for West Berkshire Council) asked Mr Vigliotti if he could confirm that the information in the email from Rosemary Green (Environmental Health) regarding the removal of live music from Mr Vigliotti's application and the revision of recorded music to indoors only, Monday – Saturday 07.00 till 23.00 and Sunday 08.00 till 22.00 hrs was correct and he agreed with those amendments. Mr Vigliotti confirmed that he was willing to accept this condition.

The Sub-Committee retired at 11.00am to make its decision.

*(The meeting commenced at 10.00 am and closed at 11.00 am)*

**Name** Cllr Jeff Beck (Chairman).....

**Date of Signature** .....

**Name** Cllr Paul Bryant.....

**Date of Signature** .....

**Name** Cllr Manohar Gopal.....

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**Date of Signature** .....