

HUSTLE, 2 SPRING GARDEN STREET, LANCASTER

APPLICATION FOR VARIATION OF PREMISE LICENCE

DECISION NOTICE OF LICENSING ACT SUB-COMMITTEE

WEDNESDAY 14TH SEPTEMBER 2016

The Sub-Committee comprised of Councillor Terrie Metcalfe (Chairman), Councillor Sylvia Rogerson and Councillor Roger Sherlock

The Legal Adviser was Luke Gorst, Solicitor.

The Democratic Support Officer was Jane Glenton.

An application for variation had been made under Section 34 of the Licensing Act 2003 by SJ Leisure Lancaster Ltd in respect of Hustle, 2 Spring Garden Street, Lancaster.

The hearing was held in light of relevant representations received from Environmental Health and other persons as defined under the 2003 Act.

The applicant was represented by Malcolm Ireland of Napthens solicitors who was accompanied by Samuel Jones, the managing director of the applicant, Scott Pilkington, the designated premises supervisor, and Eve Smith.

Rachel Stainton, Senior Environmental Health Officer, who had made a representation as a responsible authority was also present.

Of the other persons Nick Wilkinson, Georgina Edwards, and Ruth Gossage, Travelodge Hotels Ltd, who had made relevant representations, were present.

Kevin Walton, Consulting Engineer, was present to give evidence on behalf of Mrs Edwards.

The Legal Adviser explained the procedure to those present, and stated that the hearing would be a discussion led by the licensing authority.

David Eglin, Licensing Enforcement Officer, introduced the report stating that the application for a variation had been made to add the provision of various regulated entertainment categories 10:00 hours until 04:00 hours the following day Sunday to Thursday, 10:00 hours until 05:00 hours the following day Friday and 10:00 hours until 06:00 hours the following day on Saturday. The application also sought to increase the terminable time for all other activities on Friday from 10:00 hours until 05:00 hours the following day and on Saturday from 10:00 hours until 06:00 hours the following day on Saturday.

Mr Ireland then presented the applicant's case and helped answer questions.

The other persons present then presented their objections.

Following summing up by the parties the Sub-Committee withdrew to make its decision,

and sought advice from its legal adviser as to the appropriate phraseology of the decision.

DECISION

The Sub-Committee carefully considered all the written information before it, and the representations and views expressed at the hearing by the responsible authority, the other persons and the applicant's solicitor.

The Sub-Committee noted that the objections from other persons related mainly to the public nuisance licensing objective as they believed the application would lead to an increase in noise and disturbance that they say they already experience from the premises.

The Sub-Committee noted however that, following the representations received, the applicant had been in negotiation with Environmental Health and had agreed, subject to the licensing authority's approval, to a number of conditions being added to their licence. The application had also been amended to bring the terminable hours for licensable activities on Saturday morning to 04:30 hours and on Sunday morning until 05:30 hours and remove some of the regulated entertainment that had been applied for.

The Sub-Committee welcomed these amendments and are satisfied that the conditions, as agreed, are appropriate for upholding the licensing objective of prevention of public nuisance. The Sub-Committee has treated the original objection from Environmental Health as withdrawn.

The Sub-Committee took into account the fact that Hustle is in a city centre location and cannot be held responsible for all noise and disturbance coming from Lancaster in the early hours. It is of the opinion that the conditions agreed with Environmental Health are appropriate for a city centre.

The Sub-Committee considered the case of Daniel Thwaites v Wirral Borough Magistrates Court and were mindful that the hearing in hand was not a review of the licence, but a variation application. They were of the opinion that there was insufficient evidence provided to show that the licensing objectives would be undermined if the variation, as amended by the applicant, was granted.

Had the complainants had concerns that the licensing objectives were not being upheld in relation to the premises the review mechanism was open to them.

In light of the above the Sub-Committee was of the opinion that it was appropriate for the application for the variation to be granted, as amended, with immediate effect.

In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal against this decision.

Whilst not a condition on the licence the Sub-Committee hopes that the venue now fosters close relationships with residents and businesses in the vicinity to address any problems should they arise. This would be particularly relevant in relation to customers congregating in the street in front of the premises.

Signed.....Dated.....

Councillor Terrie Metcalfe (Chairman)

**Any queries regarding these Minutes, please contact
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