

**LICENSING PANEL
30 AUGUST 2017
10.00 - 11.09 AM**



Present:

Councillors Allen (Chairman), Brossard and Mrs McKenzie

Also present:

Lizzie Rich, Clerk

Donald Adams, Legal Advisor

Laura Driscoll, Licensing Officer

Gail Siddall, Environmental Health representative

Craig Strugnall, Fenwick Bracknell representative

Jon Wallsgrove, Applicant's agent

4. Declarations of Interest

In the interests of openness, the chairman declared that all members of the Council had been offered a discount at Fenwick's opening event.

There were no other declarations of interest.

5. The Procedure for Hearings at Licensing Panels

All parties noted the procedure for hearings at Licensing Panels.

6. Application for a new premises licence for Fenwicks, The Avenue, Bracknell

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant,
- the Environmental Health Officer;

together with reference to the appropriate Licensing objectives, the Council's own Statement of Licensing Policy and the Home Office's April 2017 revised guidance issued under section 182 of the Licensing Act 2003. At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that there had been no representations made by the Police, or any of the other Responsible Authorities. The Panel bore in mind the promotion of the four licensing objectives under the Licensing Act 2003, the relevant objective in this case being the prevention of public nuisance, with particular concern to the potential for noise nuisance.

The Panel decided that granting the licence would not have an adverse impact on the promotion of the four licensing objectives, and agreed to grant the Licence, with additional conditions relating to the outdoor terrace. The Panel agreed that the

outdoor roof terrace should only be available to customers until 23:00, Monday to Sunday, and that noise and vibration resulting from outdoor dining should be monitored by the applicant.

Reasons

The Panel took no issue with the granting of the alcohol licence for the premises, and discussed only the conditions to mediate against noise nuisance arising from the rooftop terrace of the restaurant.

The Panel found no evidence to suggest that the applicant's proposal of terrace opening time until 23:00 Monday to Sunday (as opposed to it closing any earlier on those days as proposed by Environmental Health) would result in noise nuisance, and noted that, with a new night time economy due to open in the town, there was likely to be more ambient noise in the evening in Bracknell town centre to a certain degree in any event. Whilst the Panel recognised concerns from Environmental Health regarding a likely change from the historic lower ambient noise during the evening in Bracknell as a result of the opening of the new town centre on the 7th September 2017, they did not consider that in itself would be reason to refuse the licence application.

In reaching its decision, the Panel was mindful to strike a balance between the legitimate business interests of the applicant retailer in wishing to operate licensable activity in a town centre environment, with the interest and rights of inhabitants of nearby residential premises not to have to endure noise nuisance caused by such activity.

The Panel took into consideration the proposed layout of the terrace, and noted that the restaurant was unlikely to attract large, rowdy groups of people to what appeared to be an upmarket eatery with seated table service only.

The Panel also took into account the applicant's stated intention to have a glass balustrade surrounding the terrace restaurant, with planters positioned on the terrace and a canvas canopy hung above customer's heads, all of which were hoped to shield the terrace from view of nearby inhabitants of residential properties and also serve to help reduce potential for noise nuisance emanating from the premises.

The Panel accepted the applicant's proposal that waiting staff would be constantly monitoring the outdoor space by nature of table service, and the Panel wished to remind the applicant of the duty on table staff to remind customers of the need to respect neighbours if any rowdy behaviour was witnessed.

The Panel took into account the applicant's agreement to engage with and work alongside the Council and its Environmental Health Officers in the future in order to address any issues that may arise following receipt of complaint or otherwise as to noise nuisance emanating from the licensed premises in question, albeit the Panel was aware that no representations from residents, expressing any such potential concerns, had been received as at the time of the Hearing.

The Panel also recognised the power of the licensing authority to be able to review the granted licence and/or its conditions should any issue arise at the premises in connection with any of the licensing objectives or if otherwise requested to do so by the Police, Magistrates' Court or other responsible authority.

In conclusion, the Panel granted the licensing application with the following conditions, in addition to the mandatory conditions under the licence:

- The terrace shall not be used by customers from 23:00 until the closure of the premises on Monday to Sunday.
- Signage shall be displayed asking customers to keep noise to a minimum to ensure no disturbance to the inhabitants of nearby residential properties
- Noise and vibration shall not be permitted to emanate from the premises to such an extent that it would cause a nuisance to the inhabitants of nearby residential properties.

The Panel's decision is binding upon the applicant and the Licensing Authority.

CHAIRMAN