

In attendance on behalf of the objectors were Mr R McManus (Essex Police County Licensing Officer) and Councillor B Holmes (Waltham Abbey Town Council).

Councillor H Kane and Ms A Taylor were present as observers.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, Ms H Gould introduced the application for a variation to the premises licence at J26 Diner, Skillet Hill Farm, Honey Lane, Waltham Abbey, Essex, EN9 3QU.

The proposed variation was as followed;

- Removal of the condition imposed on the current premises licence under Annex 2, which restricted the number of customers to 40 at any one time; and
- To increase the limit of people to 150 sitting both inside and out.

The application had been received on the 18 March 2021 and the Operating Schedule set out conditions which were already and would be attached to the licence, if this application was granted.

The Responsible Authorities had received a copy of the application and it had been advertised at the premises and in the local newspaper.

The authority had received one objection from Essex Police which related to the Prevention of Crime and Disorder and the Public Safety objectives and an objection from Waltham Abbey Town Council which related to the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance objectives. The Essex County Fire & Rescue Service had made recommendations concerning the occupancy numbers inside the premises and that the premises should be restricted to a maximum of 60 persons at any one time (including staff and customers).

(b) Presentation from the Applicant/Representative

Ms Glover introduced the application and highlighted that this was a permanent variation to the licence. She gave some context to the submission, advising that following this an application there was a Temporary Event Notice(TEN) application for the same premises, which had previously been refused by the Licensing Sub-Committee for health and safety concerns. It was noted that the Police had made very similar objections to that previous TEN application and the decision was being appealed.

The Sub-Committee were advised that the original application had been granted in 2010, following an appeal to the magistrates which established the principal of a licence on this premises with a capacity of 40 diners. The variation looked to increase this capacity to 150. It was noted the fire regulations determined that inside capacity of the diner and the Fire Service had confirmed the limit of 60 persons. Therefore the proposed 150 capacity would allow the remaining capacity to be seated outside the diner. The premises was primarily a truck stop throughout the week, with the occasional one-off events held at weekends.

It was noted that both the Police and Waltham Abbey Town Council had raised objections in relation to a one-off event in August 2020, where a misunderstanding over the conditions on the licence had resulted in alcohol being served off the premises and music being played outside. The attendance of the Police on that

occasion had been because of a report to them regarding illegal immigrants getting off a lorry. This had been proven not to be the case and the Police issued a warning letter in regards to the above mention issues which had been outside the premises licence. Furthermore, the Police had referred to drugs in their objection, although no evidence had been provided to support the allegations and reports of illegal raves were also incorrect. The applicant had run a number of successful events since 2019 and had previously applied for a TEN for 26 June 2021, which was currently being appealed.

The variation application being considered by the Sub-Committee had received the following objections and responses;

1. Conflict between pedestrians and vehicles either in relation to the increased number of diners or an event being held. The concerns had been addressed within the Event Safety Plan, which stated that the movement of HGV's would stop two hours before and after an event. Other vehicles dropping people off or parking at the event had been allocated in a different area of the site. It was noted that there had been no incidents or accidents since 2010, therefore it would not be a reason to refuse the application on a health and safety basis;
2. The number of persons inside the premises. This had been determined by the Fire Regulations;
3. The creation of disorder hotspot and licensing compliance. This would be resolved by the variation;
4. The reference to drug use. No evidence had been provided.
5. The creation of congestion at the motorway junction. It was not expected that all 150 diners would attend at one time, but the business had grown overtime, although the site was big enough to accommodate the HGV's ; and
6. Not enough parking. This was not an issue because of the size of the site and for events there would be marshalling in place.

It was noted that the Police had offered to agree the conditions, but the offer had been rescinded when the TEN application had been submitted.

(c) Questions to the Applicant/Representative

The Sub-Committee asked the following questions;

- Would the upstairs be included in the licenced area? Yes and it would be included within the 60 capacity set out by the Fire Service;
- Would the veranda area be included as a inside or outside area? It would be included in the outside area and was shown within the red outline area marked on page 26 of the agenda.
- Was the outside area outlined in the TEN application much bigger than what was being requested for the variation application? Yes.
- Did the upstairs area have a maximum capacity? No the capacity related to the entire premises and fire risks were a matter for the Fire Authority which came under separate regulations.

The Legal Officer asked for clarification on the area which the variation application applied. It was noted that the area's outlined in red on page 25, 26 and the whole area of the first floor on page 27 were to be included in the variation application.

(d) Presentation from the Objector's

Mr R McManus advised that he had been in contact with the applicant on 23 April 2021 in regards to the TEN application, following a general review of the original licence and to advise what further conditions should be added to the application to bring it up to date. Following this, he would consult with the community police to determine whether there were any other issues of concern.

He advised that the site was five-acres, predominately used in the week by HGV's and this use reduced at weekends. It was understandable that the applicant was trying to make a more profitable business.

He informed the Sub-Committee of the following concerns;

- The premises would become a regular meeting of groups of up to 150 people every weekend;
- That pedestrian and vehicle use on this site was not similar to other examples, especially in relation to alcohol consumption and that the safeguards put into place for the TEN application would not be carried out for the variation application;
- The incident referred to in August 2020 regarding drug use and illegal immigrants at the premises.

At that moment, Ms Glover interjected with a legal point stating that Mr McManus was entitled to amplify but not raise new evidence in the middle the application. Furthermore, the applicant had asked for evidence to substantiate the claims and had not received anything before either, the applications presented to the Sub-Committee today or at the previous TEN application.

The Legal Officer advised that if Mr McManus wanted to introduce new evidence at this late stage, it would need to be submitted to the applicant and objectors and then everyone would need to agree to the submission of new evidence. If not, then the evidence could not be included. The Sub-Committee were advised that Mr Manus comments were in relation to page 30 of the agenda and that this was not new evidence.

Mr McManus advised that he had further evidence that he had become aware of this morning, but both the applicant and Sub-Committee agreed that it was too late to except any new information at this stage in the proceedings, particularly as it was in relation to the same allegations mentioned at the previous TEN application in March 2021. Therefore the Sub-Committee agreed that any new information would not be submitted or taken into consideration.

Councillor Holmes presented Waltham Abbey Town Council objections as follows;

- There were concerns about the large car park attracting anti-social behaviour;
- that currently lorries queued to enter the site which blocked pavements; and
- access to the motorway and bus stops were being blocked by HGV's in the area because of the diner.

The Legal Officer advised that evidence was required to support any statements made by the objectors that were either made in writing or verbally reported at the meeting.

(e) Questions to the Objectors

The Sub-Committee made the following comments regarding Mr McManus presentation;

- Mr Manus had advised the Sub-Committee that applicant had stated there had been no drug use on the site but what Ms Glover had actually said was that there had been no evidence provided to confirm this statement;
- The word 'clear' had been added when referring to the Police report about drug use, which was not in police email included in the agenda.

Comments made by the Applicant/Representative

Ms Glover advised that premises could evolve from what it originally had been licensed for, as long as it had been done in the proper manner. The applicant had invested in the business by undertaking professional advice and legal representation for the applications and there were no reasons for the safety measures set out in the TEN application not to be used in the variation application. It was also pointed out applicant had no intention of hold events every weekend and if previous events had been managed successfully there was no reason to believe there would be issues going forward.

Ms Glover commented that it was for the applicant to mitigation dangers on the site and for both drivers and pedestrians to be responsible for their own behaviour.

(f) Closing Statements from the Applicant/Representative

Ms Glover pointed out there was a difference between the day to day operation of the diner and a weekend event. She commented that the Police had not pursued the allegations of the incident in August 2020 and no evidence had be produced before this meeting. It was pointed out that if any issues did occur, then the licence could be reviewed, and this could be enacted by residents, members or other relevant authorities.

(g) Further Questions from the Sub-Committee

The Sub-Committee asked the following further questions;

- Would the attendees be dancing at the events; and as mentioned in the TEN application, would all HGV movements for other events held under the variation application be stopped two hours before and after the event as well? Ms Glover advised that if required, following the event on 26 June 2021 she could see no reason why these measurements would not be used for future events. The applicant advised that the 150 capacity was intended for the regular business Monday- Thursday, due to the increased demand. Other events would be separated from this activity and the movement of HGV vehicles at the weekend did not normally occur. It was noted that the purpose of the variation application was solely for the day to day activity for the truck stop.
- Concerns had been raised regarding the risk assessment; that the licensing hours did not included the weekends; prevention of underage drinking and the challenge 25 requirements. The Chairman advised on page 22 of the agenda, it clarified the protection of children from harm and that photographic evidence would be required. Ms Glover advised that the application was a variation, therefore all the previous conditions and policies would apply to this application in conjunction with any new conditions imposed.
- Should a condition be added to reduce the outside capacity so the total onsite would be 150 people. Ms Glover advised that this was not necessary because the outside area would be restricted by the amount of seating that could be provided.

(h) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application. During their deliberations the Sub-Committee received no further advice from the Legal Officer present. The Sub-Committee noted all of the submissions and representations, both oral and written which had been made in relation to the application and considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

That the application to vary the premises licence in respect of **J26 Diner, Skillet Hill Farm, Honey Lane, Waltham Abbey, Essex EN9 3QU** be **GRANTED** subject to the following conditions which in the opinion of this Sub Committee were reasonable, proportionate and in the public interest for the promotion of the licensing objectives:

1. Subject to the existing conditions on the licence with the variation to the number of people from 40 to 150 together with the additional steps to support the four licensing objectives as set out in section M on page 21 of the agenda.

The applicants and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

112. PANEL REPORT FOR TEMPORARY EVENT - JUNCTION 26 DINER, SKILLET HILL FARM, HONEY LANE, WALTHAM ABBEY, EN9 3QU

The three Councillors that presided over this application were Councillors M Sartin (Chairman), P Stalker and A Lion.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the application.

In attendance on behalf of J26 Diner were Ms S Glover (Legal Representative), Mr N Thompson (Applicant), Ms H Rogerson (Applicant) and Mr A Grimsey (Solicitor).

In attendance on behalf of the objectors were Mr R McManus (Essex Police County Licensing Officer) and Councillor B Holmes (Waltham Abbey Town Council).

Councillor H Kane and Ms A Taylor were present as observers.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, Ms D Bastick introduced the application for a Temporary Event at J26 Diner, Skillet Hill Farm, Honey Lane, Waltham Abbey, Essex, EN9 3QU.

The application had been made by Mr N Thompson for a new Temporary Event Notice, for a music event outside to include live music, food and drink on Saturday 26 June 2021 at Junction 26 Diner, Skillet Hill Farm, Honey Lane, Waltham Abbey, EN9 3QU. The application was for the sale by retail of alcohol and provision of regulated entertainment and had been received on the 28 April 2021.

A Temporary Event Notice for the event had been previously submitted on 31 March 2021 and had been refused at a hearing held on 14 April 2021. It was noted that all applications were to be considered on their own merits.

The Responsible Authorities for the Police, the Environment and Neighbourhood Team and Public Health Unit had been consulted.

The authority had received a representation from Essex Police.

(b) Presentation from the Applicant/Representative

Ms Glover reiterated that the Sub-Committee had just considered the application to vary the licence for Junction 26 Diner, Skillet Hill Farm, Honey Lane, Waltham Abbey, EN9 3QU, and they were asked to bear those considerations in mind when considering this application.

It was stated that the Sub-Committee should consider the risks associated with the TEN that had been identified by the objectors alongside all the pertinent information that had been supplied by the applicant in the supplementary agenda. From the previous application, it had become clear that the day to day business of the diner and the TEN application were for different purposes.

The two concerns which had previously resulted in the TEN application being refused were;

1. the conflict between pedestrians and HGV's; and
2. people wandering onto the road.

Ms Glover advised that the conflict between pedestrians' and HGV's had been mitigated by the condition to ground all HGV's two hours before and after the event and the Sub-Committee needed to balance the risk of pedestrians wandering into the road, as there had been no evidence to support this concern. The applicant had taken on the recommendations set out in the Risk Assessment which had been independently produce.

This TEN application included the following changes to the previously submitted application;

- The applicant's name had been changed; and
- The inclusion of the provision of regulated entertainment (music) at the premises.

(c) Questions to the Applicant/Representative

The Legal Officer asked for clarification on when the HGV's would be grounded. Ms Glover confirmed that movement of HGV's would stop at 12:00 and would not occur again until 01:00 the following day, which was in line with the conditions set in the application.

The Sub-Committee asked the following questions;

- What risk assessments had been made in relation to the movement of people. Ms Glover advised that a professional company had provided a Risk Assessment for the event and the prevention of crowding, falling or tripping would be managed by the staff on site. The applicant would ensure that training, signage and the position of staff would be in place.

- Had a Risk Assessor attended the site? Mr Thompson advised that they had spent half a day onsite, which had been followed up by various conversations with Ms Rogerson to clarify any information required.
- Had the disabled access been considered, and would the gravel be removed to assist access if required? Mr Thompson advised that the disabled access had been included in the Risk Assessment and Event Safety Plan and if required the gravel would be removed. Ms Glover also commented that customers had the facility when purchasing the tickets to indicate any needs or requirements prior to attendance, which could be taken into account.
- Did 'on the premises' refer to the area outlined in green on page 13 of the supplement agenda? Mr Grimsey advised that this was correct, and the dimensions of this area had been included.
- What was meant by 'details of the venue would only be supplied once tickets have been purchased'? Mr Thompson advised that it was common practise in the event industry for venues to only supply the address once payment and details of the attendees had been obtained. Ms Glover also added that it was to prevent people turning up to the premises speculatively.
- How robust were the barriers being erected for the event? Mr Thompson advised that they were specifically designed for these types of events.
- Had a Safety Advisory Group (SAG) taken place? Ms Rogerson advised that it had.
- Would catering vehicles be in attendance? Ms Rogerson advised that catering vehicles would not be attending, and catering would be provided onsite.
- What was the target age group of the attendees? Mr Thompson advised 25-40 year old.

Mr McManus asked the following questions;

- What were the security measures for the event? Ms Rogerson advised that there were ten security staff with a total of thirteen staff.
- How many first aiders would be in attendance? Ms Rogerson advised that two of their current staff were first aid trained and an additional first aider would be employed from an agency.
- Would any of the staff cover multiple tasks? Ms Rogerson advised that the banksman were trained first aiders, although an agency first aider would be employed and stationed within the café area of the premises.
- Would there be enough provisions in the local area for attendees requiring taxis at the end of event? Ms Rogerson advised that she had contacted local taxi firms in Loughton, who could provide around 50 if required, as well as Uber. Mr Thompson advised that there were two exits from the site, and it was expected that not all attendees would be exiting the site at the same time due to the type of event.

(d) Presentation from the Objector's

Mr McManus advised that the objections remained the same, as the previous application but reiterated the various points;

- the Police incident from August 2020;
- the proximity of the M25 and the potential for pedestrians under the influence of alcohol to wonder near or onto this road;
- concerns about vehicle movements and the safety of pedestrians had been addressed by the restriction to HGV's before and after the event
- that the security measures were satisfactory.

- That staff would be trained and in place;
- Availability of taxi had been investigated; and
- There was limited public transport available near the site.

(e) Questions to the Objectors

There were no questions.

(f) Closing Statements from the Applicant/Representative

Ms Glover concluded that the majority of the Police concerns had been mitigated by the Risk Assessment and Event Plan. There had been no evidence produced to substantiate the claims from August 2020 and the only issue that remained was the potential of pedestrians wandering onto the M25, which required a balance judgement of the risks, of this issue against the comprehensive Event Plan that had been produced for this application.

(g) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application. During their deliberations the Sub-Committee received no further advice from the Legal Officer present. The Sub-Committee noted all of the submissions and representations, both oral and written which had been made in relation to the application and considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

That the application for a Temporary Event Notice (TEN) for **JUNCTION 26 DINER, SKILLET HILL FARM, HONEY LANE, WALTHAM ABBEY, EN9 3QU** between 14:00 until 23:00 on 26 June 2021 be **GRANTED** for the sale of alcohol and the provision of regulated entertainment.

The Sub-Committee had taken into account the four licensing objectives, the relevant written and oral representations, the Council's Licensing Policy and the Secretary of State's Guidance and resolved that it was not appropriate for the promotion of the licensing objectives to serve a counter notice.

The Sub-Committee gave full consideration to the objection from the Essex Police Licensing Unit with regards to the prevention of crime and disorder, public safety and the prevention of public nuisance but had decided that the licensing objectives were not sufficiently undermined by the holding of the proposed event.

However, in order to minimise the potential for the prevention of crime and disorder, public safety and protection of children from harm we have also determined to attach conditions as per the variation of the existing Premises licence as agreed on 13 May 2021.

CHAIRMAN