

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 9th September, 2014, 10.00 am

Councillors: Manda Rigby (Chair), Roger Symonds and Anthony Clarke

Officers in attendance: Enfys Hughes, Alan Bartlett (Principal Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor)

69 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

70 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

71 DECLARATIONS OF INTEREST

There were none.

72 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

73 MINUTES - 19TH AUGUST 2014

RESOLVED that the minutes of 19th August 2014 be approved as a correct record and signed by the Chair(person).

74 LICENSING PROCEDURE FOR A NEW PREMISES LICENCE OR FOR A VARIATION OF A PREMISES LICENCE

The procedure for the meeting was explained.

75 APPLICATION FOR A PREMISES LICENCE ROSH LTD 5-6 SEVEN DIALS MONMOUTH STREET BATH BA1 1EN

Applicant: Rosh Ltd, Kambiz Shayegan.

Agent: David Holley.

Other persons present: Martin Grant (Gascoyne Place), Charlie Digney (Garrick's Head).

The procedure for the meeting was explained.

The Chair made introductions and explained that the application would be determined on its merits. The Public Protection Officer outlined the application.

The applicant's agent David Holley presented the case and introduced Mr Shayegan of Rosh Ltd. He explained that Mr Shayegan was experienced in the trade in Bath,

had a good reputation and wanted to open the premises as a wine bar for fine wines by the glass, coffees, soft drinks with cheese, olives and small platters of meats. The food would be brought in from his other restaurants and there would be waiter service. The area outside would have tables and chairs. There were no other similar premises in the vicinity, though there were many selling alcohol and restaurants.

He had read through the representations received and felt there was a possibility they were vexatious. The Chair stated that having taken legal advice the Sub-Committee deemed all the representations to be relevant.

In response to questions from Mr Holley, Mr Shayegan explained that most places near the theatre were booked up pre-theatre and he felt it would be nice to have somewhere to enjoy a fine wine with cheese, olives or cold meat. He had looked around London and seen similar places. He had lost one of his licensed premises with the casino development and felt a wine bar would suit the area with the redevelopment. All his staff were trained but this type of operation would not attract a 'bad' crowd. Mr Holley commented that they had discussed the proposal with the responsible authorities who had made no comment.

The following responses were given to questions:-

- The late night food would be cheese, olives, cold meats and other light foods;
- A condition had been agreed with the applicant that there would be no use of the outdoor area after 22:00 hours;
- There would be approximately 8-10 tables;
- It was confirmed that there would only be one cask of beer/lager as in the operating schedule;
- The target customers would be theatre goers and wine lovers;
- This type of wine bar was in response to demand in the locality;
- With regard to the premises being in the cumulative impact zone, the agent explained the application had been discussed with the police who had not made representations, the others did not want the premises at all so the applicant had been unable to offer any conditions to satisfy them;
- The applicant could only operate the premises according to the operating schedule and if he wished to change anything would need to apply for a variation;
- Details in the operating schedules would form conditions on the licence.

Representations:

Mr Martin Grant made his representation, he stressed that there were too many licensed premises in Bath and particularly in the Sawclose area where he had premises and where he lived. Lots of people walked passed and there was a lot of noise, drink related behaviour and anti-social behaviour. There was an over saturation of licensed premises and local people should not suffer more nuisance, crime and disorder. He disagreed with the applicant's point that there were no similar premises to a wine bar in the area, as he sold approximately 100 wines and provided cheese and meat platters. He also disagreed with the point that most places in the area were fully booked and stated that many were struggling in the current economic climate. He believed there was a need for more shops in the area

not licensed premises and thought a change from A1 to A3 use was optimistic. The casino development would change the fabric of the area in the future.

Mr Charles Digney made his representation. He stated that there were too many businesses in the licensed sector in the area and public safety was a real issue in Bath on Friday and Saturday night. He said that this site was unsuitable for the purpose, it was not a restaurant but a clothes shop and had no kitchen and no smoking area. Providing food would not be sustainable without a kitchen. There was no guarantee that the wine and cheese idea would go ahead once licensed. He already provided wine with cheese boards and they were not full but struggling. There were two new licences with the casino development.

He referred to several points which were not considered relevant – planning and other premises the applicant managed.

The following responses were given to questions and specific evidence to address the licensing objectives:-

- Change of use was a planning issue not licensing.
- There was no facility to cook food;
- The operation would be drinks-lead with the problems associated with that anti-social behaviour and crime and disorder;
- With no smoking area the nearby alleyway would be used for smoking and cause congestion;
- No extractor and the provision of salty foods would encourage more drinking.

The Legal Adviser stated that a number of issues raised in the written representations and mentioned at the Sub-Committee were covered by separate statutory processes and were not considered relevant to the licensing regime. Other issues that could not be taken account of were previous premises the applicant owned and whether the applicant was a fit and proper person. In relation to the premises changing from a wine bar a variation to the licence would need to be applied for.

Summing up

The objectors summed up by saying that the premises were unsuitable due to safety and nuisance, in an area where there were already lots of licensed premises, in Bath where many people lived in the city centre. The operation would be drink-lead with the associated problems of anti-social behaviour, crime and disorder and public safety.

The applicant's agent summed up stating this was an opportunity to provide food and wine. They had had discussions with responsible authorities to discuss what could be applied for and no representations had been received from the responsible authorities. Representations should address issues affecting the licensing objectives and what he had heard were more general comments rather than specific. There was no similar operation in the area.

The Sub-Committee adjourned to consider the application.

Following an adjournment it was

RESOLVED that the application for a new premises licence under s17 of the Licensing Act 2003 in respect of Rosh Ltd. 5-6 Seven Dials, Monmouth Street, Bath BA1 1EN be granted. The conditions consistent with the operating schedule were imposed.

Reasons for decision

Members have today determined an application for a new premises licence for Rosh Ltd at Monmouth Street, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. In this case Members noted the premises are in the Cumulative Impact Area and accordingly a rebuttable presumption is raised that such applications should be refused unless the applicant demonstrates that the application if granted will not add to the Cumulative Impact being experienced.

The applicant

The applicant stated he had operated a number of highly respected restaurants in the city for the last 35 years. It was proposed that the premises will operate as a wine bar selling fine wine by the glass with food such as cheese, meat and quiche rather than a full meal. It will have one draft ale/lager and a wide range of non-alcoholic hot and cold drinks. It was stated that the premises share an outside area with neighbouring premises and there will be waiter service at tables. With regard to cumulative impact this was discussed with the police and the idea put forward that the general use of the premises was not the same as the type in the area. Accordingly conditions such as CCTV covering both the inside and outside of the premises and staff keeping a record of incidents and a refusal register for inspection by police could address cumulative impact. With regard to outside areas all empty glasses would be collected, tables and chairs secured when not in use and any alcohol purchased for consumption off the premises would be provided in sealed containers only. It was stated that these premises will compliment what is in the area at present and also feed into the restaurants in the area.

The objectors

The objections were based on the crime and disorder and public nuisance objectives. It was stated that there was concern that the area would see an increase in antisocial behaviour caused by excessive drinking for example vomit, urine and noise from smokers and drinkers congregating in the outside areas. It was also stated that the premises were unsuitable as a licensed premises and given the over saturation of licensed premises in the area this could lead to Sawclose becoming a heavy drinking no go area.

Members

Members took account of the relevant oral and written representations and were careful to balance their competing interests. Members were also mindful to take into account all relevant matters and disregard the irrelevant such as any need for licensed premises, health and safety of the public in the vicinity, assertions about the character of the applicant and any planning approval given for other premises.

With regard to the Cumulative Impact area Members found, with conditions consistent with the operating schedule and the mandatory conditions, these premises were unlikely to add significantly to the cumulative impact experienced and therefore granted the application as applied for.

Authority was delegated to issue the licence.

The meeting ended at 11.25 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services