

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 16th December, 2014, 10.00 am

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

Officers in attendance: Enfys Hughes, Michael Dando (Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

101 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

102 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

103 DECLARATIONS OF INTEREST

Councillor Manda Rigby declared an interest in that she had spoken to the person making representations on the Nest (item 12 on the agenda) in regard to a planning matter. She remained in the meeting as this did not prejudice her view in any way.

104 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

105 MINUTES: 18 NOVEMBER 2014

RESOLVED that the minutes of the meeting on 18th November 2014 be approved as a correct record and signed by the Chair.

106 TAXI DRIVER'S LICENCE PROCEDURE

The Chair explained the procedure to be followed for that part of the meeting.

107 EXCLUSION OF THE PUBLIC

RESOLVED that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

108 CONSIDERATION OF MEDICAL CONDITION - MR MM

The Sub-Committee considered the report which sought determination of Mr MM's suitability to continue to hold a combined Hackney Carriage/Private Hire Driver's licence.

The Licensee had phoned the office stating he was unable to attend due to illness.

The Sub-Committee adjourned to consider their decision.

Following an adjournment it was

RESOLVED that consideration of Mr MM be deferred until the next meeting on 6th January 2015.

Reasons for decision

Members heard that the licensee was ill and would not attend the meeting. Members resolved to defer the matter until the next meeting putting the licensee on notice that should he fail to attend the matter may be determined in his absence.

109 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR G J L

The Sub-Committee considered the report which sought determination of an application by Mr GJL for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

Mr GJL was present and confirmed he had read the procedure for the meeting.

The Public Protection Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken, which had revealed a previous caution. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr GJL. The applicant and Public Protection Officer withdrew from the meeting while Members took some time to consider these documents.

Mr GJL put his case, explained the circumstances of the caution and reasons he wanted the licence. Then he was questioned and then made a closing statement.

Following an adjournment it was

RESOLVED that Mr GJL be granted a combined Hackney Carriage/Private Hire Driver's licence subject to the standard terms and conditions.

Reasons for decision

Members have had to determine an application for a Hackney Carriage/Private Hire Drivers' Licence. In doing so they have taken account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, Council's Policy, case law and the DVLA current medical guidelines for professional drivers.

Members heard that Mr GJL had received a formal police caution in 2009 for an offence of common assault. This caution falls outside the policy. The applicant said he had never been in trouble with the police before and this was an out of character one off incident. Members found the applicant to be a fit and proper person having considered the matter was unlikely to occur in the future.

110 RETURN TO OPEN SESSION

RESOLVED that the meeting return to open session.

111 LICENSING ACT 2003 PROCEDURE FOR HEARING AN APPLICATION FOR A NEW PREMISES LICENCE OR FOR A VARIATION OF A PREMISES LICENCE

The Chair explained the procedure to be followed for that part of the meeting.

112 APPLICATION TO VARY A PREMISES LICENCE FOR THE NEST, 7 BLADUD BUILDINGS, BATH BA1 5LS

The Sub-Committee considered the report which sought determination of an application for the variation of an existing Premises Licence under Section 34 of the Licensing Act 2003 in respect of The Nest, 7 Bladud Buildings, Bath.

Rod Johnson (Licensee and Designated Premises Supervisor) was present and Amanda Habisrittinger (representation) was present.

The Public Protection Officer presented that report and stated that the variation sought to extend the opening hours, extend the sale of alcohol timings and extend the provision of recorded music, by one hour. She stated that one representation had been received from a neighbour.

The Licensee put his case for the variation. He stated that they had applied for a variation before and it had been refused. Since that time they had made improvements and had spoken with the police – for example in respect of drugs they now did toilet checks and had CCTV. They had also had discussions with Nigel Shire (Environmental Health) about some improvements:- all recorded music through a noise limiter; live bands to finish at 23:00 hours; no entry to the club or re-entry after 2am; smoking area to be closed at 2pm. There was also a dispersal policy which had resulted in a more gradual flow of people leaving the club instead of a mass exit.

The Licensee had met with Ian Perkins (Circus Residents Association) and he had visited the club. They had agreed to have quarterly meeting to discuss issues and he had provided him with his email and telephone number. He was happy with the dispersal policy and closing the smoking area earlier. The Licensee said that they swept the area at the end of the day to clear up litter.

The Licensee explained that currently they had a minimum of two doorstaff on Monday to Thursday and Friday and Saturday this could go up to four or five depending how busy it was. It was their job to ensure glasses were not taken outside and customers kept quieter to respect the neighbours.

During questions the following points were made:-

- The only evidence of the improvements made was the lack of representations;
- The police had visited the club to see the improvements;

- There had been 11 Temporary Event Notices during the year and the Licensee stated there had not been any complaints;
- The Licensee tried to be proactive in light of previous issues at the club and did the following things;
 - provided sand buckets for the cigarette butts;
 - had a system of sweeping up outside the club at the end of the night;
 - the doorstaff reminded customers to respect the neighbours and keep the noise down;
- There was a charge to enter the club after 11pm and no re-entry after 2pm;
- The Licensee confirmed there were a minimum of 2 doorstaff Monday to Wednesday, 3 on Thursday with more, possibly 4 or 5 on Friday and Saturday when it was really busy.

Amanda Habisrittinger who had made representations put her case as follows. She stated that she was a near neighbour and appreciated the improvements that had been made and the fact that the Licensee was liaising with the police, environmental health and residents. However for them there was no change to the litter, broken glass and vomit outside their property and the disturbance by noise, specifically from people queueing. The Nest attracted a younger clientele who created more of a public nuisance. She read out a number of dates when she had noted there had been problems. She concluded by stating she recognised they lived in an urban area and the Licensee was trying to run his business. She believed the dispersal policy should be agreed with the police and the whole of Bladud Buildings should be checked for cleanliness at the end of the night.

During questions the following questions were raised:-

- She did not know if the disturbances were when a Temporary Event was taking place;
- Since The Nest had opened there was more noise;
- She acknowledged there were other premises nearby but believed The Nest was isolated and the public nuisance was caused from their customers;
- She acknowledged the Licensee stated he had a cleaning regime but stated on occasion she had to clear up vomit off her steps;
- She had not complained to Environmental Health about the noise but had made a representation here;
- She was surprised that other residents had not complained but was aware that some had moved away.

In summing up the Licensee stated he took on board the points made. There was no further summing up.

RESOLVED that the application for the variation of an existing Premises Licence for The Nest, 7 Bladud Buildings be granted:-

- extend the opening hours on Fridays and Saturdays by an hour, to show:
 Fridays and Saturdays: 10:00 – 03:30
- extend the sale of alcohol timings on Fridays and Saturdays by one hour, to show:

Fridays and Saturdays: 10:00 – 03:00

- extend the provision of recorded music on Fridays and Saturdays by one hour, to show:

Fridays and Saturdays: 10:00 – 03:00.

Reasons for decision

Members have determined an application to vary a premises licence at The Nest. 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 and must only do what is appropriate and proportionate in the promotion of the licensing objectives. In this case, however, Members noted the premises are in the Cumulative Impact Area. As the Council has a Cumulative Impact Policy a rebuttable presumption is raised that such applications should be refused unless the applicant demonstrates the variation will not undermine the licensing objective and add to the Cumulative Impact experienced

In reaching a decision Members took account of all the relevant oral and written representations, disregarded the irrelevant and were careful to balance the competing interests of the applicant and interested party.

Members heard the applicant sought to extend the opening hours, sale of alcohol and provision of recorded music on Fridays and Saturdays by one hour. The applicant stated they have worked with responsible authorities and resident groups to ensure satisfactory management of the premises since the last application was refused. They had and taken steps with regards to drugs, public safety and crime to the satisfaction of the Police and had agreed a noise limit with Environmental Health. In consultation with the CARA they had taken steps to reduce the impact customers were having on neighbours when queuing and leaving the premises and had closed the smoking area at 2am and introduced a no re-entry policy.

With regard to Cumulative Impact it was suggested the proposed conditions and the no re-entry policy would ensure no additional cumulative impact would be experienced. This was evidenced during the Temporary Event Notices which did not attract any complaint from neighbours or responsible authorities. The applicant stated that, with regard to the objector, they had a policy of sweeping the street outside but could not be held accountable for customers from other premises in the vicinity. With regard to a dispersal policy it was stated that this is a working document being produced in consultation with the Police.

The objector stated she lived near the premises and experienced noise and litter from customers of the premises. There is frequently litter and vomit on the pavement together with broken glass which she had to cleaned up. A variation would exacerbate these problems as there had been no measurable improvement in the running of the premises. The objector suggested the dispersal policy should be agreed with responsible authorities and the premises should be made to clear the length of Bladud Buildings.

Members had regard to the Cumulative Impact policy and considered the premises were unlikely to have a significant detrimental effect on the licensing objectives. In light of the steps proposed Members grant the application with conditions consistent with the operating schedule and the following additional conditions to ensure the licensing objective of the prevention of public nuisance is promoted.

A minimum of 4 SIA door staff shall be on duty on Friday and Saturday after 23:00hrs until closing time.

The pavement frontage of the premises shall be swept and cleaned at the end of each trading day.

A dispersal policy shall be written and implemented on Fridays and Saturdays at a minimum and the policy shall be agreed by the Police and available on request.

Delegated authority to the public protection officer to issue the licence.

The meeting ended at 11.45 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services