

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Tuesday, 6th January, 2015, 10.00 am

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

**Officers in attendance:** Carrie-Ann Evans (Senior Legal Adviser), Michael Dando (Public Protection Officer) and Kirsty Morgan (Public Protection Officer)

#### **113 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **114 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **115 DECLARATIONS OF INTEREST**

There were none.

#### **116 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **117 MINUTES: 16 DECEMBER 2014**

**RESOLVED** that the minutes of the meeting of 16<sup>th</sup> December 2014 should be approved as a correct record and signed by the Chair.

#### **118 TAXI PROCEDURE**

The Chair drew attention to the procedure to be followed for the next item of business.

#### **119 EXCLUSION OF THE PUBLIC**

**RESOLVED** that, the Sub-Committee 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 of business, because of the likely disclosure of exempt information as defined by paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act as amended.

#### **120 CONSIDERATION OF MEDICAL CONDITION - MR MM**

This item had been deferred from the meeting of 16<sup>th</sup> December 2014.

Mr MM was not present and had not contacted the office since the previous hearing. The Sub-Committee decided to consider the report in his absence.

The Public Protection Officer presented the report. He reminded Members that the issue was Mr MM's fitness to continue to hold a combined Hackney Carriage/Private Hire licence in view of his medical condition. Mr MM had voluntarily surrendered his licence on 24<sup>th</sup> November 2014. There was no clear diagnosis of Mr MM's condition or of when he might be fit to resume driving. He circulated a copy of an email received from Mr MM's GP. Members adjourned to consider this document. After they reconvened, they **RESOLVED** to revoke Mr MM's licence.

### Decision and reasons

Members have had to determine whether to take any action against a licensee having disclosed a medical condition. 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 were due to determine this issue on 16 December 2014, however Mr MM's sister was ill and could not attend the meeting of the LSC on that day. As such Members deferred their decision but put Mr MM on notice that should he fail to attend this meeting the matter may be determined in his absence.

In deciding whether to proceed in Mr MM's absence today Members took into account the fact that he was notified by letter dated 16 December 2014 that if he did not attend today's meeting, it may be heard in his absence. Members also had regard to the fact that no messages had been received by the taxi licensing office or the Guildhall reception in relation to his non-attendance today. In fact no contact has been made by Mr MM since the last hearing, although his sister did write to the Council to apologise for her non-attendance at the last hearing due to illness.

Members heard that the licensee's GP informed the office on 21 November 2014 that the licensee has a chronic relapsing psychotic illness. Whilst this illness has been stable for several years at the present time, it is not under control and he is not fit to drive, nor will he be for some time. Members noted that on 24 November 2014 the licensee attended the office and voluntarily surrendered his combined Hackney Carriage/Private Hire driver's badges and agreed to stop driving.

Members had regard to the DVLA's Group 2 vocational drivers' current medical guidelines. In relation to acute psychotic disorders of any type the guidance states "driving must cease pending the outcome of medical enquiry and that it is normally a requirement that the person should be well and stable for 3 years before driving can be resumed." Further, that 'the DVLA will normally require a consultant's report that specifically addresses the relevant issues before the licence can be considered.' Members noted that the GP had informed the office that he was 'struggling to get him [the licensee] treatment'.

Members noted the DVLA guidance, and having heard nothing further from the GP or consultant to satisfy them that the licensee was not a danger to the public if he were to continue to drive, have determined to revoke the licence with immediate effect in the interests of public safety.

The Sub-Committee returned to open session.

## **122 LICENSING PROCEDURE**

Members noted the procedure to be followed for the next item of business.

## **123 APPLICATION FOR A PREMISES LICENCE FOR FARRINGTON'S FARM SHOP, HOME FARM, MAIN STREET, FARRINGTON GURNEY, BRISTOL BS39 6UB**

Applicant: Farrington Farm, represented by Tish Jeffery (owner) and Paul Castle (Business Manager)

The Public Protection Officer summarised the report and noted the additional information that had been received from the applicant, Parish Council and 'other person', which had been circulated to Members before the meeting.

Mr Castle stated the case for the applicant. He said that part of Farrington Farm already had a premises licence. Since October 2014 a new section of the Farm had been developed and a function room and play centre had been established. Patrons using these facilities who wished to have an alcoholic drink had to cross the road to the café to do so. Customers had asked why this was necessary. The main business of the farm was food; it was not and would not be a drinking establishment. However, it had been decided to apply for an additional licensed area, which included places where children played. He was convinced that it was possible to meet the needs of adult customers while keeping the exemplary operating record that they had achieved with the existing licence. They also wished to be able to provide quiet times for children during which they would be entertained with suitable films. Mr Castle indicated on the plan the two areas where it was intended to screen films, one of which was near the car park and the other near the farm building. He said films would be back-projected so that there would not be a great deal of ambient light.

In reply to questions from Member, Mr Castle and Mrs Jeffery stated:

- staff worked on every part of the site according to the roster and so they all had training in and experience of alcohol sales
- there would be parking spaces for 60-70 vehicles on the site
- there would always be senior people in attendance to ensure the business was being operated properly; they were proud of being a professionally-run business
- films shown would always be appropriate to the age group of the children concerned; the reputation of the business was important

The Senior Legal Adviser pointed out the discrepancy between the Sunday opening hour of 09:00 and the start time for the showing of films of 08:00 on Sundays. Mr Castle said that they would be happy for it to be 09:00 for both.

The applicants were invited to sum up.

Mr Castle said that Farrington Farm was a business with a reputation to maintain. The vast majority of alcohol sales accompanied food. He did not think traffic would be a problem.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the application as applied for.

### Decision and reasons

Members have determined an application for a new premises licence at Farrington's Farm Shop, Home Farm, Main Street, Farrington Gurney, Bristol. 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 reaching a decision Members took account of all the relevant oral and written representations, disregarding the irrelevant and were careful to balance the competing interests of the applicant and interested parties. Members noted that Licensing and Planning are separate regimes and only had regard to representations relevant to licensing.

The applicant emphasised that they are not seeking to promote the premises as a drinking only venue; they merely wish to offer alcohol, primarily wine and beer, to be served with food. The applicant explained that he has carried out a great deal of research in relation to alcohol being consumed in areas where children are and believes they can ensure harmony between the needs of children, needs of customers and maintain the exemplary track record of Farrington's Farm Shop. In the additional information submitted by the applicant an additional condition relating to the exhibition of films was offered, namely, that there shall be a maximum of 3 outdoors screenings per annum. The applicant informed Members that there have been no reported accidents at the junction and entrance to the premises and that traffic flow is well managed. Members were also informed by the applicant that the premises has a clean health and safety record and that as far as the applicant is aware there have been no complaints regarding the sale of alcohol or of disturbance in relation to the premises.

The interested parties made written representations in relation to the prevention of public nuisance, protection of children from harm and public safety licensing objectives. Specifically, concerns were expressed in relation to noise disturbance and light pollution to residents and local wildlife arising from the exhibition of films as well as the risk to public safety due to the premises forming part of a working farm and from increased traffic levels to and from the premises for the purposes of viewing the exhibited films. The interested parties took the view that the sale of alcohol in the play barn and outside play area parts of the premises does not promote the protection of children from harm licensing objective. It was contended that there is a risk of children accidentally consuming alcohol and that parents and supervisors would not give the children their full attention. Concern was expressed

about litter arising on the premises and in the vicinity as a result of licensable activities.

Members noted that there were no representations from Responsible Authorities.

Members noted that whilst the application was for a new premises licence in part there was an overlap with what is proposed and an existing premises licence. Under the terms of the existing premises licence (11/03250/LAPRE) the sale of alcohol is authorised for consumption on and off the premises from Monday to Saturday from 08:00 - 22:30 and on Sunday from 10:00 - 22:30 within the premises comprising the shop, café, café extension and store as shown on the premises plan that accompanies that licence. Members noted that the existing licence has not been subject of any licensing complaints or incident and in all the circumstances, to the extent that this new premises licence application is the same as the existing one, it shall be granted.

Members went on to consider this application in relation to the proposed increase in licensable activities and hours. Members noted that in relation to the sale of alcohol an earlier start time of 09:00 hours on a Sunday as opposed to the 10:00 hours start time currently authorised is proposed. In terms of the areas within the premises where it is proposed the sale of alcohol may take place Members noted that authorisation is sought in relation to the family picnic area, shop courtyard, tenants front walkway, function training room and family play barn café, all of which are shown outlined in red on the premises plan at Annex B to this application.

The application seeks authorisation for the exhibition of films to take place indoors and outdoors between 09:00 hours and 23:00 hours Monday to Sunday. This would be a new licensable activity to the site. The applicant indicated during oral representations that in relation to Sundays he would wish for the exhibition of films to commence from 09:00 hours.

In terms of opening hours for the premises an earlier start time of 09:00 hours is sought for Sundays.

Members resolved to grant the application with conditions consistent with the operating schedule and as proposed by the applicant in the additional information and oral representations save that the exhibition of films is authorised between 09:00 hours and 23:00 hours on Sundays and in order to ensure the licensing objective of prevention of public nuisance is promoted:

There shall be a maximum of 3 outdoors screenings per annum.

Delegated authority to the Public Protection Officer to issue the licence.

The meeting ended at 11.55 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**