

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 15th December, 2015, 10.00 am

Councillors: Paul Myers (Chair), Mark Shelford and Caroline Roberts

Officers in attendance: Michael Dando (Senior Public Protection Officer), Wendy Stokes (Environmental Information Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

92 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

93 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

94 DECLARATIONS OF INTEREST

There were none.

95 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

96 MINUTES: 1ST DECEMBER 2015

These were approved as a correct record and signed by the Chair.

97 TAXI PROCEDURE

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

98 EXCLUSION OF THE PUBLIC

RESOLVED that, the 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 shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A) 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.

99 CONSIDERATION OF CONVICTION OBTAINED - MR JR

The Public Protection Officer reported that Mr J R had informed him that he was not fit enough to attend the hearing. He circulated a DBS certificate in respect of Mr J R and a witness statement from him.

After deliberation, the Sub-Committee **RESOLVED** to defer the hearing of this matter to the meeting of the 5th January 2016.

Reasons

Members had to determine what action to take against a licensed driver having obtained a caution during the course of his Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government Miscellaneous Provisions Act, Human Rights Act, case law and Council Policy. Members also took account of the applicant's written and oral representations.

The Licensee failed to attend and whilst the Licensee had consented to the matter being dealt with in his absence Members, were concerned about the circumstances of the matter and deferred the matter for his attendance.

100 RETURN TO PUBLIC SESSION

101 LICENSING ACT PROCEDURE

102 VARIATION OF A PREMISES LICENCE, THE BELL, WALCOT STREET

Applicant: The Bell Inn Ltd, represented by Arron Whan (General Manager and Designated Premises Supervisor)

Other Persons: Diane Piper and Sylvain Filluzean, represented by Cllr P Turner; Ms Rhoda Turner

The parties confirmed that they had received and understood the procedure to be followed for the hearing.

The Public Protection Officer summarised the report. He said that the applicant was seeking to vary the premises licence by:

- extending the hours for the sale of alcohol, live music and recorded music
- extending the opening hours
- adding the provision of late night refreshment
- removing the condition prohibiting the playing of live music in the garden
- removing the conditions attached to the Public Entertainment Licence

Relevant representations had been received from local residents relating to the licensing objective of the prevention of public nuisance. He invited the Sub-Committee to determine the application.

Mr Whan stated the case for the applicant. He said that the Bell is unique. It is the largest community buyout pub in the country. It is a host to grassroots music and arts and a venue for shows, plays and poetry events. Staff are paid well over the minimum wage and local suppliers are used. The Bell had to turn a profit in an

increasingly harsh market while maintaining a 300-year old building. The Bell had been at the centre of the community for a long time. Bath would be worse off if it had to close.

The Principal Solicitor advised Mr Whan that as the premises were located in the Cumulative Impact Area, there was a presumption that the application would be refused, unless he could demonstrate that it would not significantly add to the cumulative impact already being experienced. It would therefore be helpful if he would explain in greater detail the measures he had put in his operating schedule, and explain why he considered that the application would not have a detrimental effect.

Mr Whan said that a lot of noise was caused by customers leaving to move on to other establishments. A later closing hour would reduce noise nuisance by allowing customers to disperse over a longer period. He believed that more noise in Walcot Street emanated from Club XL rather than from the Bell. The staff at the Bell did their best to keep doors closed and to encourage customers to leave quietly. There would be further staff training to make sure that staff encouraged customers to leave quietly. Bands were being asked to finish earlier, so that there would be less disturbance for local residents. CCTV would be installed.

A Member asked Mr Whan to explain why the variation application sought a closing hour of 01:30 on Fridays and Saturdays when under the current licence the closing time for the Function Room on Saturdays was 02:30. He replied under the existing licence there was a separate closing hour for the lounge of 02:30. The Principal Solicitor advised that on the premises map supplied with the application the lounge was included within the area edged in red, and would therefore be subject to the same closing hours as the rest of the premises. Mr Whan said that this was a mistake, and that he would like to retain the Saturday closing hour of 02.30 for the lounge. The Chair asked whether the applicant would be allowed to amend the application. The Principal Solicitor advised that the error could be rectified by the Sub-Committee refusing the variation of the closing hour on Saturdays, but the applicant would need to address the Committee further on this.

In reply to questions from Members, Mr Whan stated:

- the management of the premises had had a couple of meetings with local residents to explain the application
- the extended hours, if granted, would be introduced gradually, beginning with an additional hour on Friday nights, and the impact would be assessed
- the management had spoken to many people, explaining that there was no intention to turn the Bell into a nightclub or impact adversely on the community
- doors would be kept closed; smokers would use the back part of the garden; customers would be asked to leave quietly and staff trained to encourage them to do this

- CCTV would help to reduce noise because customers would know they were under observation
- door staff would not be employed
- there had been communication with the many regular customers explaining how the Bell expected to operate and encouraging them to be aware of the local community
- bands would be asked to load their equipment earlier to reduce the possibility of noise nuisance

The Other Persons stated their cases.

Michael Lewin said he would like another person to speak on his behalf. She said that she liked the Bell and did not object to current activities at the premises, but she and her neighbours did not want increased disturbance. The management of the Bell had not contacted her or her neighbours about the application. She thought it odd that staff would need to be trained about encouraging customers to leave quietly; surely this should have been done already. People collecting outside waiting for taxis cause noise nuisance. Staff would have to be trained not to allow people to drink outside the premises and not to drink in Chatham Row, where she lived. People use the road as a toilet. She opposed any extension of hours at the Bell.

Councillor Peter Turner read out a statement on behalf of Diane Piper and Sylvain Filluzean. They were concerned about the potential for increased noise at the venue because of late-night music and the sale of alcohol, and the likely increase in anti-social behaviour and noise after the pub had closed, including on weekdays. They believed that the extended hours would attract large numbers of customers to the Bell later at night, and that their behaviour would be worse and outside the Bell's ability to control. Residents report that under the current arrangements the Bell is already causing some disruption, but that is at a tolerable level. They fear that an extension of hours would result in the disturbance becoming intolerable for residents. There could be more frequent disturbances, including anti-social behaviour, in a residential area whose inhabitants include a large number of working adults and school-age children, some in properties immediately adjacent to the Bell.

A Member asked whether any of the Other Persons present had been contacted by the management of the Bell about the application. They all indicated that they had not.

In reply to questions from Members the Other Persons stated:

- there was definitely nuisance associated with the Bell; some residents could hear and see activities at the premises from their own properties
- there was noise from the Bell all the year round, not just in summer
- noise seemed to stop at the Bell at a certain and residents had got used to continuing until then; they would be concerned if it continued later

- the Bell was undoubtedly an asset to the community
- local residents sometimes collected abandoned glasses from the street and left them on the doorstep of the Bell

The parties were invited to sum up.

Councillor Turner summed up on behalf of the Other Persons. He said that he recognised that it was difficult to strike a balance between commercial imperatives and the interests of local residents. However, he thought the appropriate compromise was to not to extend hours beyond what they were now.

Mr Whan said that there was no intention to turn the Bell into a nightclub. If they were granted the additional hours were granted, they would increase them gradually, beginning with an extra hour on Fridays.

Following an adjournment the Sub-Committee **RESOLVED** to refuse the application.

Reasons

Members have determined an application for a variation of a premises license at The Bell, Walcot 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 instance Members noted the premises are in the Cumulative Impact area and therefore a rebuttable presumption is raised that the application will be refused unless the applicant demonstrates the variation is unlikely to add significantly to the cumulative impact being experienced.

The application is to extend live and recorded music, opening times, add late night refreshment and remove a number of conditions.

The applicant stated that the pub is unique, the largest community pub in the country and that he had tried to engage the community in the process of variation. He said although the premises occasionally caused nuisance the variation was not designed to turn it into a night club. With regard to Cumulative Impact it was accepted noise nuisance was caused from music and the bands loading and unloading equipment although those gathering on the street drinking and smoking also contributed to this. However, it was stated that a lot of noise and disorder was attributable to the other venues in the area and with a later opening time of his premises this would enable customers to disperse more evenly and with further staff training this would mean there would be no significant effect on the cumulative impact already being experienced.

The Interested Parties made representations under the objectives of public nuisance and crime and disorder. It was stated that none of those who attended had been engaged in the variation process by the premises. It was said the Bell is a good community pub although it was feared this extension would contribute to the general

noise and anti-social behaviour experienced on Walcot Street. It was also said that departing customers and smokers using the outside areas often cause noise nuisance and that noise escapes when customers enter or leave the building which results in sleep disturbance. The objectors stated that although they had made no complaint to Environmental Health they had had cause to complain to the premises on occasions.

In determining the application Members took into account all relevant representations, disregarded the irrelevant and noted there were no representations from the police or environmental health.

With regard to policy it was noted that the Statement of Licensing Policy recognised the need to encourage live music for the wider cultural benefit of the community and that performances of live music had further been encouraged by the Live Music Act. However, Members recognised that licensed premises have a significant potential to adversely impact on communities through public nuisance and were therefore careful to balance the competing interests of the applicant and objectors.

Members noted that although there had been no recorded complaints and no Responsible Authority representation the Interested Parties had been affected by noise nuisance which they feared would increase and the applicant accepted his premises did cause nuisance. Members were disappointed to hear that there had been no meaningful consultation with the community regarding the variation and felt the applicant did not make any realistic suggestions as to how nuisance could be addressed by condition.

In the circumstances Members find the applicant had not satisfied them that granting the variation would not contribute significantly to the cumulative impact already experienced. The application is therefore refused having considered the scale of the application, the acknowledgement that the premises is already causing nuisance, the apparent lack of control and lack of realistic suggestions from the applicant to take control that there are no conditions to mitigate the negative effect of such an extension.

Application refused.

The meeting ended at 11.32 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services