

BATH AND NORTH EAST SOMERSET

LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE

Thursday, 9th August, 2012

Present:- Councillors:- Douglas Nicol (Chair), Gabriel Batt and Gerry Curran

Also in attendance: Terrill Wolyn (Senior Licensing Officer) and Francesca Smith (Senior Legal Adviser)

1 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

2 ELECTION OF VICE-CHAIR (IF DESIRED)

RESOLVED that a Vice-Chair was not required on this occasion.

3 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

4 DECLARATIONS OF INTEREST

Councillors Nicol and Curran both declared a non-pecuniary interest by reason of their acquaintance with the representative of the applicant, Mr Alan Morgan. They stated that they had not discussed the application with him or with each other.

Mr Phipps said that he accepted that in a small town it was inevitable that Councillors would be acquainted with many residents and business people and that he had no objection to the two Members participating in the hearing.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

6 MINUTES: 24 JULY 2012

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

7 LICENSING PROCEDURE

The Chair drew attention to the licensing procedure, copies of which had been made available to those attending the meeting.

8 APPLICATION TO VARY A PREMISES LICENCE FOR THE TRINITY INN, 49 JAMES STREET WEST, BATH BA1 2DA

Applicant: Punch Taverns, represented by Alan Morgan (Abbey Ales) and Matthew Phipps (TLT Solicitors)

Responsible Authority: Avon and Somerset Police, represented by Martin Purchase (Liquor Licensing Officer)

The parties confirmed that they had received and understood the licensing procedure.

The Senior Licensing Officer summarised the application, which was for a variation of an existing premises licence. The details of current premises licence were set out in paragraph 4.2 of the report and the details of the variation application in paragraph 4.3. The premises were situated in the cumulative impact area and the Police had proposed an additional five conditions to further the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. These conditions were listed in paragraph 4.14 of the report. The applicant had indicated through its solicitors its willingness to accept these conditions.

Mr Phipps stated the case for the applicant. He explained that the premises would be the fourth public house to be operated by Abbey Ales in the City of Bath. He stated that Abbey Ales had already turned round three failing public houses, which, he submitted, were now assets to the City, because they were successful and fully compliant with the licensing objectives. He stated that the applicant had given written notice of its willingness to accept the conditions proposed by the Police. However, it had been brought to his attention that the fourth condition proposed by the Police, namely that "there will be no live or recorded music after 12.00 midnight on any day", should have referred to all forms of regulated entertainment and that the applicant would accept the condition so amended. He believed that there were no outstanding issues between the applicant and the Police and urged the Sub-Committee to grant the application.

The Senior Licensing Officer pointed out that the condition referred to by Mr Phipps would, if imposed, reduce the non-standard hours for regulated entertainment permitted under the existing premises licence, for which the terminal hour was 01.00. Mr Phipps suggested that in that case the condition should not be imposed, but that instead the applicant would amend the application so that the standard terminal hour sought for all forms of regulated entertainment would be 12.00 midnight on Thursday, Friday and Saturday. In response to a question from the Senior Licensing Officer he confirmed that the applicant would withdraw that part of the application relating to non-standard timings for regulated entertainment, leaving the terminal hour for these as 01.00 as at present.

Mr Purchase said that he had nothing to add and did not wish to make a statement.

The Sub-Committee adjourned and then reconvened to seek clarification from the applicant about the meaning of "new entry" in the third condition proposed by the Police, "there will be no new entry to the premises after 00.30 each day." Mr Phipps stated that he had always understood that there was a distinction between "entry" and "re-entry" and that the condition would permit the re-admission of customers who had temporarily left the premises to smoke.

Following a further adjournment, it was **RESOLVED** to grant the licence as applied for with modifications, together with the conditions consistent with the Operating

Schedule and four of the five conditions proposed by the Police and agreed to by the applicant, namely:

1. A digital CCTV system will be fitted and maintained at the premises in consultation with the police. The recordings will be of evidential quality and kept for a minimum of 31 days. They will be time and date marked and made available to the police upon request. Notices are to be displayed at the entrance to the premises advising that CCTV is in operation.
2. Where a risk assessment by the DPS identifies as necessary, and/or at the written request of the police or licensing authority, door staff will be on duty to supervise all patrons entering and leaving and to ensure the good order of the premises.
3. There will be no new entry to the premises after 00:30 each day.
4. All windows and doors (except for entry and departure) will remain closed during performances of live music.

Authority was delegated to the Licensing Officer to issue the licence accordingly.

Reasons

Members have today determined an application for the variation of a premises licence for The Trinity Inn, 49 James Street West, Bath.

In doing so they have taken into account of the Licensing Act, Human Rights Act, the Council's Policy and the Statutory Guidance.

Members are aware that the proper approach under the Licensing Act is to do only what is appropriate, proportionate and justifiable to promote the licensing objectives in light of what is presented to them.

Members considered the relevant representations and took account of the evidence put before them. They were careful to balance the competing interests of the applicant and those of the Responsible Authority, i.e. the Police in reaching a decision.

Members noted that the Police had made representations on the basis that the premises were in the city centre and also fell within the area of cumulative impact as defined in the Council's Policy.

The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or variations will be refused if relevant representations are received.

If the application is not to be refused then the applicant will have to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.

The Police had stated that the area suffered from crime, disorder and from revellers who behaved in an anti-social manner as they moved between licensed premises which included looking for the premises that may be open last.

It was said that the location, where the premises were based, could exacerbate tension in persons already fuelled by alcohol and, as the premises was based in the cumulative impact area, the later hours for the sale of alcohol and regulated entertainment could exacerbate the level of crime and disorder and anti- social behaviour in that area. Furthermore, as the area was residential, noise nuisance could be caused by the extension of the licensable activities.

The Police considered that the application did not sufficiently forward the promotion of the licensing objectives and mitigate the effects of such problems. In order to address this, the Police had proposed a number of conditions to which the applicant had agreed.

The Members considered that, if the proposed conditions were imposed on the Premises Licence, to grant the application would be unlikely to add to significantly to the cumulative impact having regard to the licensing objectives.

The Members noted that the applicant had amended the application to state that all regulated entertainment, the provision of facilities for dancing and the provision of facilities making music would cease at 00.00 (midnight) on a Thursday, Friday and Saturday.

They also noted that the applicant had withdrawn that part of the application related to the non-standard timings which concerned regulated entertainment, the provision of facilities for dancing and making music.

The meeting ended at 11.29 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services