

BATH AND NORTH EAST SOMERSET

LICENSING (GAMBLING AND LICENSING) SUB-COMMITTEE

Friday, 26th April, 2013

Present:- Councillors:- Douglas Nicol (Chair), Gabriel Batt and Sarah Bevan

Also in attendance: Kirsty Morgan (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

Apologies were received from Cllr Gerry Curran, for whom Cllr Sarah Bevan substituted.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

6 MINUTES: 26 MARCH 2013

The minutes of the meeting of 26 March 2013 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 YAMMO!, 66 WALCOT STREET, BATH BA1 5BD

Applicant: Charlie's Burgers T/A Yammo, represented by Ellen Potter (Partner)

The applicant's representative confirmed that she had received and understood the licensing procedure.

The Licensing Officer summarised the application, which sought to vary the current licence as set out in paragraph 4.3 of the report. A representation had been received

from a local resident relating to the licensing objective of the prevention of public nuisance.

Ms Potter stated the case for the applicant. She said that Yammo! was a brand new business. It was a high-end Italian burger bar and diner. Noting that a representation had been received from an Other Person living in Walcot Street, she said that she also lived in Walcot Street and she agreed that people coming out of clubs and other licensed premises in the area could be quite rowdy. However, customers of Yammo! would not be permitted just to drink. She submitted that the premises would not add to problems in the cumulative impact area. An open night had recently been held at the premises, and the feedback from local residents had been favourable. She said that conditions had been put into the operating schedule to further the licensing objectives. These conditions had been drafted with advice from Martin Purchase, the liquor licensing officer of Avon and Somerset Police. In response to questions from Members, she stated:

- vertical drinking would not be permitted at the premises
- there would be no off-sales to customers at the premises after 22:00 or to customers obviously intending to visit other drinking establishments afterwards; she would be happy to accept a condition restricting off sales of alcohol to deliveries only
- the delivery driver was very bright and would not hand over alcohol to someone he suspected was a minor; credit card refunds would be made if an order was withheld because of this
- she would be happy to agree to a condition prohibiting the sale of alcohol on the premises after 22:00 every day
- the premises had a small upstairs room where it was intended to show films; the Bath Film Festival and students would be offered the opportunity of screening films at the premises

Summing up, Ms Potter said that she was happy with the additional condition restricting off-sales to deliveries.

Following an adjournment the Sub-Committee **RESOLVED** to grant the application, (modified to permit the sale of alcohol, both on and off the premises to 22.00 every day), subject to the mandatory conditions relating to the sale of alcohol and the showing of films, conditions consistent with the Operating Schedule, in addition to those conditions already on the Premises Licence, and the following condition proposed by the applicant and imposed by the Sub-Committee;

“The sale of alcohol for consumption off the premises shall only be permitted for takeaway deliveries”.

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 Yammo! 66 Walcot Street Bath.

In doing so they have reminded themselves of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing 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 to promote the licensing objectives based on the evidence before them.

Members took account all of the relevant oral and written representations from the applicant and the Other Person and were careful to balance their competing interests.

Members noted that the representations, made by the Other Person, were based upon problems experienced in the area of cumulative impact.

The premises fall within the cumulative impact policy contained in the Council's Statement of Licensing Policy. Cumulative impact is not mentioned specifically in the Licensing Act 2003 but it means, in the Statutory Guidance, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences 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 in the area.

Members noted that there is the possibility of disturbance and noise arising from these premises. However, there has been no evidence to corroborate this submission other than that there are a number of other outlets contributing to disturbance, noise, litter and other anti-social behaviour in the wider area.

Members find that the incidents of disturbance noise and other anti-social behaviour can be attributed from the sale of alcohol from other premises.

The Members were satisfied with the representations made by the applicant as to the operation of the premises and considered that the measures proposed in the Operating Schedule would promote the licensing objectives of the prevention of public nuisance.

They therefore considered that the premises would not add to the cumulative impact in the area.

They noted that no representations to the application had been made by the Police, Environmental Health Officer or Children's Services Officer. They acknowledged that the applicant had sought pre-application advice from the Police and had taken the advice into account when making the application.

They considered the merits of the application and considered that the evidence they had been presented with in respect of the safeguards the applicant would put in place would uphold the licencing objectives especially with respect to the sale of alcohol and, the protection of children from harm.

The meeting ended at 11.15 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services