

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 15th March, 2016, 10.00 am

Councillors: Paul Myers (Chair), Michael Norton and Caroline Roberts

Officers in attendance: Carrie-Ann Evans (Senior Legal Adviser), John Dowding (Senior Public Protection Officer) and Terrill Wolyn (Senior Public Protection Officer)

141 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

142 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Mark Shelford, for whom Councillor Michael Norton substituted.

143 DECLARATIONS OF INTEREST

There were none.

144 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

145 MINUTES: 2 FEBRUARY 2016 AND 1ST MARCH 2016

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

146 TAXI PROCEDURE

The Chair explained the procedure to be followed for Agenda Item 8.

147 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 shall be excluded from the meeting for the following item 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.

148 APPLICATION FOR A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - NMC

Mr NMC confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and circulated a DBS Certificate in respect of the applicant and a section 9 statement provided by him. The

meeting was adjourned to allow Members time to read these documents. Members noted that the two most recent convictions fell within paragraphs 5(b) and 5(e) of the Council's Policy relating to previous convictions.

After the meeting had reconvened, Mr NMC stated his case and was questioned by Members. He made a closing statement.

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

Reasons

Members have had to determine an application for a combined Hackney Carriage/ Private Hire Driver's Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In making a determination Members took account of the applicant's oral representations and his statement, and balanced these against the information provided by the Disclosure and Barring Service.

The applicant admitted his convictions and did not seek to go behind them, but offered explanations of the facts surrounding them. So far as his two most recent convictions were concerned, he described being compliant with ambulance and police services. He fully admitted his mistake in trying to move his vehicle whilst under the influence of alcohol, and said that he did well in fulfilling the terms of his sentence. In relation to his most recent conviction, he described suffering from bereavement at that time, but said he is not a violent person by nature; his head was simply in a bad place.

Members noted that the Policy sets out minimum periods that the Council will expect an applicant to remain free from conviction, which states that they will not have been convicted of a serious motoring offence during the previous five years and not have been convicted of an offence during the previous three years. In this case Mr N M C has two convictions to which these parts of the policy apply. He also has a number of other convictions which are relatively more historic. Members took into account the fact that they may depart from this policy having had regard to the full facts of the case and having taken account of any mitigating or other circumstances, however they are not satisfied, based on what they have heard and read, that there are reasons for departing from the policy here. Members formed the view that Mr N M C has shown a pattern of behaviour of offending, and reacts badly in emotionally challenging situations. For all of those reasons, members are not satisfied he is a fit and proper person and accordingly his application is refused.

149 LICENSING ACT PROCEDURE

The Chair explained the procedure to be followed for the next two items of business.

150 APPLICATION FOR A PREMISES LICENCE FOR EDMUNDS NEWS, 2A ST JAMES'S STREET, LANSDOWN, BATH BA1 2TW

Applicant: Star News Ltd, represented by Parminderjit Singh Heer (DPS) and John Milton (Knight Training)

Other Persons: David Attinger and Angelina Jenkins

Responsible Authority: Paul Kendall (Police Licensing Officer)

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

The Senior Public Protection Officer presented the report.

Mr Milton stated the case for the applicant. He said that Edmunds News was a tiny newsagents, which opened at 06:00 and delivered newspapers around the area. It would now also begin selling lottery tickets. As these were mostly purchased in the evening, it would be natural to seek an extension of trading hours for this purpose. There was a covenant on the building which prevented the premises opening beyond 22:00.

He said that it was proposed that the business would be further extended by adding the sale of alcohol. He submitted that the impact of sales of alcohol from the premises would be minute, because only small volumes could be stored there. The proposal was to sell beer, wines and spirits; the latter would be stored behind the counter, in accordance with the condition proposed by the Police and accepted by the applicant. There were already licensed premises nearby, which remain open after 22:00. The applicant had included in his operating schedule a condition preventing the sale of single cans of lager above 6.5% ABV, but he would be happy to extend that to all single cans of lager. They would be sold only in multiples of four to discourage anti-social drinkers.

He said that the applicant was already running a Post Office and newsagents in another area without any significant impact on local residents.

He said that all staff would be trained in the sale of alcohol.

He asked the Sub-Committee to grant the application.

Members put questions to the applicant. In reply Mr Milton stated:

- there are three primary schools in the area
- in general alcohol-related anti-social behaviour involved the purchase of single cans of super-strength alcohol

Mr Attinger and Ms Jenkins suggested that the condition about not selling single cans was irrelevant; why could not young people buy and share a 4-pack? Mr Milton suggested that it was more likely they would purchase 4-packs from a supermarket, where the price was lower. The applicant would not be buying in the volumes that supermarkets did, and so could not compete with them on price.

Mr Attinger stated his case. He said that he lived in St James's Square and was a director of St James's Square Ltd, which owns the garden and which effectively acts as the residents' association. He therefore considered that he represented the residents of St James's Square. He said that since notice had been given of the

application many residents had expressed concern. He submitted that the application could cause public nuisance, and potentially threaten children going to and from the primary school. The primary school was only 47 metres from the shop front. He believed that there was the potential for more noise from the shop being open longer hours and selling alcohol up to 22:00. This was a big change, because the newsagents had for a long time shut at 18:00.

When he said that there were already two outlets selling alcohol within 200 metres of the premises, the Senior Legal Adviser intervened to advise that question of whether or not another licensed premises selling alcohol was needed was not a relevant issue, and that the Sub-Committee could consider only issues relating to the licensing objectives.

Mr Attinger said that 26 of the 200 residents had objected to the application. The Senior Public Protection Officer intervened to advise that Mr Attinger had not said in his representation that he was representing the residents, and that no representation had been received from the residents' association. Mr Attinger accepted this.

Mr Attinger said that anti-social behaviour often took place on the green opposite the school, and that beer cans and wine bottles were discarded there. These could only come from the outlets currently selling alcohol in the vicinity.

Ms Jenkins said that St James's was a quiet residential area. Residents were pleased that tourists visited the area and did not want them to be deterred by anti-social behaviour.

Mr Kendall stated the case for the Police. He said that the Police had been satisfied with the measures proposed by the applicant to promote the licensing objectives, with one exception. Whilst the plan accompanying the application showed spirits located behind the counter, the Police believed this should be made a condition. The applicant had confirmed his acceptance of this additional condition in an email to the Police.

The parties summed up.

Mr Attinger summed up for the Other Persons. He said that residents' main concern was the potential for an increase in anti-social behaviour arising from the sale of alcohol during the proposed extended opening hours.

Summing up for the applicant Mr Milton said the premises was a small convenience store that wishes to be able sell a small quantity of alcohol. He understood the concerns relating to the school, but there was already a pub opposite the school. In the present economic climate, his client wished to expand the business as far as possible. His management of his other business demonstrated that he had fully complied with the licensing objectives. If the licence were granted, there was a review procedure should problems arise. He hoped that the Sub-Committee would grant the application, with the amended condition prohibiting the sale of single cans of drink.

The Sub-Committee adjourned and then reconvened to ask the applicant to clarify the condition offered about single cans of drink. Mr Milton said that this included beer, cider and lager.

Following a further adjournment, the Sub-Committee **RESOLVED** to grant the application for the reasons, and with the conditions, detailed below.

Reasons

Members have today determined an application for a new premises licence for Edmunds News, 2a St James' Street, Lansdown, 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.

Members were careful to take account of the relevant written and oral representations made and were careful to balance their competing interests. Members were however careful to disregard irrelevant matters.

Members noted that there had been representations from the Avon and Somerset Constabulary as a Responsible Authority.

Applicant

Mr Milton on behalf of the applicant indicated that the premises are a small newsagent and grocery store wishing to sell a small selection of wines, beers and spirits as an ancillary offering to the existing products. The application is for the sale of alcohol for consumption off the premises, Monday to Sunday inclusive from 06:00 -22:00.

In summing up the applicant's representative indicated that the applicant has a proven track record of running a successful licensed premises elsewhere and complying with all the licensing objectives and that the review procedure exists should any problems arise in the future. He also indicated that the applicant was agreeable to a condition not to sell any single cans of beer, lager or cider and not to sell in multipacks of less than four and that he agrees to the proposed police condition.

Interested Parties

The Interested parties objected under the prevention of crime and disorder, prevention of public nuisance and protection of children from harm licensing objectives.

Interested Parties expressed concerns that this new premises licence would result in inebriated people causing disorder, carrying out alcohol fuelled crime and street drinking, all of which would have an impact on the quiet street. Concerns were also expressed about littering of discarded drinks cans, broken glass and packaging; as well as the proximity of the premises to a school and the fact that the alcohol purchased may be consumed within the vicinity of the school and could therefore, be witnessed by the children.

In summing up Mr Attinger expressed concerns that the increased opening hours for the sale of alcohol would result in an increase in anti-social behaviour.

Responsible Authorities

Paul Kendall as Police Licensing Officer on behalf of the Avon and Somerset Constabulary said that the police were generally satisfied by the steps proposed to be taken by the applicant but made an objection to the application on the prevention of crime and disorder licensing objective and proposed a condition that "All spirits be displayed behind a counter" as appropriate in order to promote this objective. The applicant agreed to this proposed condition.

Members

Members considered the premises were likely to have an effect on the licensing objectives of prevention of public nuisance, prevention of crime and disorder and protection of children from harm however they felt that conditions would be effective in the promotion of these licensing objectives.

Accordingly members resolved to approve the application with conditions consistent with the operating schedule subject to a minor amendment specified below; the condition proposed by the Avon & Somerset Constabulary and the mandatory conditions.

The amendment to a condition on the operating schedule and offered by the applicant is as follows:

Change from: *"No single cans of high strength lager or cider (over 6.5% ABV) will be sold"* to: *"No single cans of lager, beer or cider will be sold. Lager, beer and cider will be sold in a multipack with a minimum of 4 cans"*.

Members took the view that the additional conditions proposed by the Responsible Authority and agreed to by the applicant were appropriate and proportionate in promoting the prevention of public nuisance and prevention of crime and disorder licensing objectives.

Authority was delegated to the Senior Public Protection Officer to issue the licence accordingly.

151 APPLICATION FOR A PREMISES LICENCE FOR WIDCOMBE SOCIAL CLUB, WIDCOMBE HILL, WIDCOMBE BA2 6AA

Applicant: Widcombe Social Club, represented by James Waterhouse

Responsible Authority: Paul Kendall, Police Licensing Officer

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

The Senior Public Protection Officer presented the report. She informed Members that the Police had proposed additional conditions, which had been accepted by the applicant.

Mr Waterhouse said that he did not wish to add anything to the information in the report.

Mr Kendall said that the Police had felt that the conditions originally offered by the applicant had been inadequate. A meeting had taken place at the premises at which he had proposed the additional conditions set out in paragraph 5.13 of the report. The applicant had accepted these additional conditions. Mr Kendall said that there was one minor amendment to the agreed condition relating to the provision of CCTV, to remove reference to the Licensing Authority.

Following an adjournment the Sub-Committee **RESOLVED** to grant the application for the reasons, and with the conditions, detailed below.

Reasons

Members have determined an application for a new premises licence at Widcombe Social Club, Widcombe Hill, Widcombe. 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 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 the Responsible Authority.

Members noted that there were no representations from Interested Parties.

Applicant

The applicant indicated that he was content with the conditions proposed by the police and did not wish to add anything to his application documents and e-mail correspondence with the police.

Responsible Authorities

Paul Kendall as Police Licensing Officer for the Avon and Somerset Constabulary made representations in respect of the prevention of crime and disorder and prevention of public nuisance licensing objectives. He put forward suggested conditions as set out in the written representations, subject to one minor amendment, in order to promote those licensing objectives. The applicant agreed to all of these suggestions conditions.

Members

Members considered the premises were likely to have an effect on the licensing objectives of prevention of public nuisance and prevention of crime and disorder however they felt that conditions would be effective in the promotion of these licensing objectives.

Members resolved to grant the application with conditions consistent with the operating schedule, the mandatory conditions and the conditions as proposed by the Responsible Authority subject to one minor deletion specified below and agreed to by the applicant.

The deletion to a condition proposed by the police is as follows:

“A CCTV system to be installed to the satisfaction of the police ~~and the licensing authority.~~”

Members took the view that the conditions proposed by the Responsible Authority and agreed to by the applicant were appropriate and proportionate in promoting the prevention of public nuisance and prevention of crime and disorder licensing objectives.

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

The meeting ended at 12.48 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services