

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 8th September, 2016

Present:- Councillors Les Kew (Chair), Mark Shelford and Caroline Roberts

Also in attendance: John Dowding (Senior Public Protection Officer), Terrill Wolyn (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor)

29 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

30 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

31 DECLARATIONS OF INTEREST

There were none.

32 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

33 MINUTES OF THE MEETING OF 9TH AUGUST 2016

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

34 TAXI PROCEDURE

The Chairman drew attention to the procedure to be followed for agenda items 8 and 9.

35 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 two items 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.

**36 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE
- MR A E**

The applicant confirmed that he had received and understood the taxi procedure.

The Senior Public Protection Officer summarised the report and stated that an enhanced DBS certificate showed no previous convictions or relevant information disclosed at the Chief Police Officers discretion. A statement submitted by the applicant and references given on his behalf were circulated. The hearing was adjourned to allow Members time to study these documents.

After the hearing was reconvened, Mr AE said that he had nothing further to add to his statement.

Members asked the applicant questions relating to the reported incidents.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr AE was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

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.

Members had to decide whether the applicant was a fit and proper person to hold a licence taking into account all the circumstances.

Members took account of the applicant's written statement, references and his oral representations and balanced these against the information disclosed in the Report.

Members noted that the applicant was first licensed by the Authority in November 2013 and that during that time no complaints were received regarding his conduct. Members also noted that a Disclosure and Baring Service certificate showed no previous convictions or relevant information disclosed at the Chief Police Officer's discretion.

Members noted that the applicant brought these matters to the authority's attention and the Police took no further action on the matters. As he had not been convicted of any offence and had a good record as a licenced driver Members find he is a fit and proper person to hold a combined hackney carriage and private hire drivers licence.

**37 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE
- MR A T**

The applicant confirmed that he had received and understood the taxi procedure.

The Senior Public Protection Officer summarised the report and stated that a DBS and DVLA check on Mr AT had revealed convictions. He circulated the DBS and a

statement submitted by the applicant with references given on his behalf. The hearing was adjourned to allow Members time to study these documents.

After the hearing was reconvened, Mr AT said that he had nothing further to add to his statement except to say that he would take the profession of being a taxi driver very seriously.

The Sub-Committee **RESOLVED** that Mr AT was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

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.

Members had to decide whether the applicant was a fit and proper person to hold a licence taking into account all the circumstances.

Members took account of the applicant's written statement, references and his oral representations and balanced these against the information disclosed in the Report and DBS certificate.

The applicant stated he is a different person now, takes driving very seriously and the matters were not something that would occur again.

Members found the matters were historic and the applicant had moved on with his life. They therefore find him a fit and proper person and grant the licence.

38 LICENSING ACT PROCEDURE

The Chairman drew attention to the procedure to be followed for agenda item 11.

39 APPLICATION TO VARY THE PREMISES LICENCE FOR THE BELL , 103 WALCOT STREET, BATH BA1 5BW

Applicant: Arron Whan (DPS and Manager), John Revell (Company Secretary)

Other Persons: Eric Howard, Susan Williams

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

The Senior Public Protection officer summarised the application. She explained that the applicant was seeking to vary the current premises licence as set out in paragraph 5.3 of the report. Representations received from the Other Persons related to the licensing objective of the prevention of public nuisance. She invited the Sub-Committee to determine the application.

Mr Whan addressed the Sub-Committee. He said that The Bell was known as a music venue and that it also held fund raising events. He said that there were no drink promotions at the premises, that they take an active role in the Challenge 21 programme and that signs are in place in order to ask customers to leave the premises quietly.

He added that he had received no complaints regarding the conduct of the premises and that the variation would not have a negative effect on the area.

He said he had written to local residents regarding the application and had met with some of them as part of the process.

Mr Revell addressed the Sub-Committee. He stated that The Bell was a professionally managed premises that since 2013 has been owned by a co-operative of 534 members. He added that the nine person Board of Directors meets on a monthly basis and that their contact details were available on their website.

In response to questions from Members Mr Whan stated that:

- Chilled out music would be played by DJ's if the extended time were granted.
- The garden area would be monitored.

Eric Howard addressed the Sub-Committee. He said that the Paragon acted as a natural amplifier to noise within the area and that he could hear music from The Bell inside his home. He stated that he did not believe that the music played by the DJ's would be quiet.

In response to questions from Members Mr Howard stated that:

- He had not made any complaints regarding noise to the Council.
- He had complained to the premises regarding noise on New Year's Eve.
- The Bell was an asset to the area, but there was no need for any later hours.

Susan Williams addressed the Sub-Committee. She said that she had complained to the manager regarding the same New Year's Eve as Mr Howard and the level of noise from the premises.

In response to questions from Members Susan Williams stated that:

- She had phoned Environmental Health on New Year's Eve at 1.30am as she could not sleep. The music stopped at 2.30am.
- Recently she felt that the music had been getting louder.
- In her opinion the manager was not bothered by the complaints of residents.

Following an adjournment the Sub-Committee **RESOLVED** to grant the variation with modifications as detailed below.

Decision and reasons

Members have today determined an application to vary a premises licence 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 before them. Members noted that the application should be considered on its own merits and that the premises are within the Cumulative Impact Area. Accordingly there is a presumption that such applications should be refused unless the applicant demonstrates that they are unlikely to add significantly to the Cumulative Impact already experienced.

Members were careful to take account of the relevant written and oral representations and were careful to balance their competing interests.

The Applicant

The application was for a variation to the premises licence to:

- Extend the sale of alcohol on Friday and Saturday by 1 hour from 23:00hrs to 00:00
- Extend the opening times on Friday from 00:00 to 00:45hrs
- Extend the playing of recorded music on Friday and Saturday from 23:00 to 00:15hrs
- Remove the condition in Annex 1 relating to the Public Entertainment Licence
- Remove the Annex 2 condition relating to the playing of live music in the garden

The applicant stated this was a community pub and they had consulted widely on the application with neighbours and responsible authorities. The pub supports a number of community events and the application would further these. A number of conditions were put forward to address the concerns of the neighbours. It was stated that the pub wishes to be a good neighbour and is owned by a cooperative of 500 members with strong links to the community.

Interested Parties

The interested parties stated noise is a problem as the architecture of the area acts to amplify noise and noise can be heard in side their own homes. The pub is very loud with lots of loud speakers. It was stated that although the premises are well run there is a problem with noise from the garden and music and if the application is granted the problem will get worse.

Members

Members are aware that the premises are located in the Cumulative Impact Area and were mindful that the Licensing Authority may not reduce the rights granted by the existing premises licence.

Whilst Members noted that since 2012 there have been no formal complaints to the licensing authority and no Responsible Authorities had objected to the variation residents were affected by music emanating from the premises.

In reaching their decision Members noted that in relation to paragraph 9.42 of the Statutory Guidance their determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Accordingly, Members removed the Annex 1 condition relating to the Public Entertainment Licence as the legislation had been repealed and the condition was no longer relevant. Members also removed the Annex 2 condition as the licence does not permit the playing of Live Music in the garden and therefore this condition was no longer relevant.

Members granted the 45 minutes of additional opening time on Fridays, and the additional 1 hour for the sale of alcohol.

With regards to recorded music members granted an additional 30 minutes on Fridays and Saturdays believing that the conditions offered by the applicant would deal with the issue of public nuisance and 30 minutes is a reasonable period of extension in the circumstances rather than the 75 minutes applied for.

Accordingly, Members considered that this variation would not have a significant detrimental effect on the cumulative impact area and they delegate authority to the licensing officer to issue the licence.

The meeting ended at 12.15 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services