

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 21st December, 2017, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

Officers in attendance: Alan Bartlett (Public Protection Team Leader), Shaine Lewis (Legal Adviser) and Ian Nash (Public Protection Officer (Licensing))

71 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

72 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

73 DECLARATIONS OF INTEREST

There were none.

74 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

75 MINUTES: 23 NOVEMBER AND 7 DECEMBER 2017

The minutes of the 23rd November and 7th December were approved as a correct record and signed by the Chair.

76 VEHICLE PROCEDURE

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

77 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE - MR S H

Applicant: Mr S Holden

Members had conducted an inspection of the vehicle before the hearing.

The applicant confirmed that he understood the procedure to be followed for the hearing.

The Public Protection Team Leader presented the report. Members noted that while the Council's current policy on Hackney Carriage and Private Hire Licensing Standards – Vehicles, Drivers and Operators state that "*all vehicles will normally be less than five years old when first licensed*" the applicant's vehicle was more than five years and six months old at the date of application. The vehicle was fully compliant in every other respect with the Council's Licensing Standards and had

passed a licensed vehicle mechanical compliance check at an authorised garage on 28 November 2017.

The applicant stated his case and was questioned by Members.

The applicant summed up.

Following an adjournment the Sub-Committee **RESOLVED** that the vehicle was suitable to be licensed as private hire vehicle and delegated authority to the licensing officer to issue the licence, subject to the satisfactory completion of all necessary checks.

Reasons

Members have had to determine an application for a Private Hire Vehicle Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, the Council's Policy and the applicant's oral representations. Members also had the benefit of an inspection of the vehicle.

The applicant stated that he had been a taxi driver for 5 years now and had his own vehicle which was written off in an accident. He wanted to replace it with the same model as it had an excellent carbon footprint. He realised recognised that the vehicle does not meet the requirements of the council's standard conditions but thought it was a simple replacement for his old vehicle.

Members reminded themselves of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Private Hire Vehicle Licence general conditions. These state they must be satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle and furthermore is safe, comfortable and less than 5 years old when first licensed.

Having inspected the vehicle Members found the vehicle in exceptionally good condition and having heard from the licensing officer that the vehicle had passed all the necessary safety inspections were satisfied that the vehicle was suitable in type, size and design. Given that the vehicle was only 6 months outside the Policy at the time of application Members take the exceptional step on this occasion of departing from their Policy. Members therefore delegate authority to the licensing officer to issue the license subject to completion of all necessary checks.

78 LICENSING PROCEDURE

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

79 APPLICATION FOR A NEW PREMISES LICENCE FOR GROUND FLOOR AND BASEMENT, 8 EDGAR BUILDINGS, GEORGE STREET, BATH BA1 2EE

Applicant: LLDD Ltd, represented by Hannah Houghton

Other Person: Stephanie Brown (not present and not represented)

Responsible Authority: Geoff Cannon (Police Licensing Officer)

The Public Protection Officer presented the report. He drew attention to the conditions offered by the applicant detailed in paragraph 5.3 of the report. Members noted that the premises was situated within the Cumulative Impact Area and that representations had been received from an Other Person and from the Police relating to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder.

Ms Houghton presented the case for the applicant and was questioned by Members.

The Police Licensing Officer complimented the applicant on its engagement with the Police and its responsiveness to recommendations he had made to minimise the risk of any addition by the premises to the cumulative impact of licensed premises in the area.

Ms Houghton summed up.

Following an adjournment the Sub-Committee **RESOLVED** to grant the application, subject to the mandatory conditions, conditions consistent with the operating schedule and additional conditions which the application had agreed with the Police as detailed below. Authority was delegated to the Public Protection Officer to issue the licence.

Reasons

Members have had to determine an application for a new Premises Licence at 8 Edgar Buildings Bath BA1 2EE. 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 they must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. Members noted that each application is considered on its own merits.

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.

The Applicant

The applicant stated the premises currently operate as an independent Deli and would like to sell a selection of Italian Wine, craft beer and liquors. As a result of consultation with the Police and a visit to the area outside of the premises operation a number of conditions were agreed and the times for the sale of alcohol reduced to between 10:00-19:00 hrs every day. With regard to the licensing objectives they believed the conditions, limitation of the hours and absence of a bar would address the public nuisance and crime and disorder objectives. The applicant recognises the responsibility that comes with the licence and is simply offering a taste of Italy.

The Interested Parties

The interested party representation stated the premises was in an residential community and did not feel another drinking establishment would be of benefit but rather would add to crime and disorder and public nuisance in terms of more drunks in the area and disturbed sleep.

Responsible Authorities

The Police stated that with the addition of the conditions and reduction in hours they were content that the premises would operate without having a detrimental effect on the licencing objectives and welcomed the engagement of the applicant in the process.

Members

Members carefully considered the representations made in relation to the application and noted that whilst the premises were in the Cumulative Impact Area the Cumulative Impact Policy related to 'on trade' sale of alcohol for consumption on the premises rather than 'off-trade.' Members were satisfied that with the application as presented before them this morning the proposed licence would not add significantly to the cumulative impact already being experienced.

Accordingly, members considered that any effect on the licensing objectives would be addressed by the conditions consistent with the proposed operating schedule and those agreed between the parties. Therefore members resolved to approve the application subject to the mandatory conditions, conditions consistent with the operating schedule and the following conditions:

- There will be no bar at the premises at which persons may consume alcohol
- The consumption of alcohol on the premises will be limited to taster samples provided in no more that 125ml containers
- The premises will maintain an incident and refusals register. This will remain at the premises and be made available to an authorised officer of the police or licencing authority on request.
- All spirits on display at the premises will be kept behind the service counter and not available for self-service
- All alcohol supplied for consumption off the premise will be sold in sealed containers.

In terms of licensable activities the sale of alcohol will be permitted as follows:

- 10:00 hrs - 19:00 hrs every day but not Christmas Day

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

80 APPLICATION FOR A NEW PREMISES LICENCE FOR BECKFORD BOTTLE SHOP LTD, 5-8 SAVILLE ROW, LANSDOWN, BATH BA1 2QP

Applicant: Beckford Bottle Shop Ltd, represented by Daniel Brod and Charlie Luxton (partners)

Other Persons: Kim Green, Elizabeth Lewrey and David Daniels

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

The Public Protection Officer presented the report. Members noted that the premises was situated in the Cumulative Impact Area. Ten representations had been received from Other Persons, relating to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. Eighteen representations in support of the application had been received.

Mr Brod stated the case for the applicant. He described the nature of the business and efforts made to engage with local residents. He said that he considered operating in Bath to be a privilege. The premises were situated near to the Assembly Rooms and the landmark Beckford Tower. He had met with residents to try to allay their fears. He noted that more expressions of support for the application had been received than objections. He had limited the hours of the premises. He would also restrict any table and chairs application to a 21:00 terminal hour. He submitted that the nature of the business was inherently up-market and would be unlikely to attract binge drinkers. He noted that there were already fourteen licensed premises in the vicinity, but did not believe that adding a fifteenth would materially worsen problems; in fact he believed that the Beckford Bottle Shop would improve the situation for residents by setting a higher standard. His company had an unblemished record of running their other premises.

Mr Brod was questioned by Members and by Other Persons.

Other Persons stated their cases.

Mr Green said that he lived directly opposite the premises. He felt there were already too many licensed premises in a residential area. There were disabled and vulnerable people living nearby. There was a great deal of noise nuisance and residents were often woken at night. Smokers outside premises caused noise nuisance. He considered that 'shop' was not an accurate description of the nature of the business to be carried out at the premises. He thought the hours of the premises were too long. He believed that the application, if granted, would add to the cumulative impact.

Mrs Lewrey said that residents already suffered disturbance cause by patrons of other licensed premises in the area.

Mr Daniels said that the main issue was the noise and disturbance suffered by residents in the area. He believed that an additional drinking establishment was bound to add to this, however well-intentioned the proprietors might be. Twice in the recent past people incapacitated through excessive drinking had had to be taken away by paramedics. He submitted that there should be extreme caution about adding to the number of drinking establishments.

Mr Brod summed up for the applicant. He acknowledged that there were existing problems in the area associated with licensed premises. However, he believed that this application was an up-market proposition akin to a European style of drinking, and he believed it would improve standards in the area.

Following an adjournment the Sub-Committee **RESOLVED** to grant the application, subject to the mandatory conditions and conditions consistent with the operating schedule. Authority was delegated to the Public Protection Officer to issue the licence.

Reasons

Members have had to determine an application for a new Premises Licence at 5-8 Savile Row, Lansdown, Bath BA1 2QP. 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 they must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. Members noted that each application is considered on its own merits.

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.

The Applicant

The applicant said the bottle shop concept is a spin off from our pubs which are recognised as some of the best in the south west. He said they will showcase carefully selected wine and from across the region. The applicant stated that they are privileged to be a part of Bath and want to integrate with the community. They recognised there was some concern about the premises and had met with local resident to try and allay their fears. The applicant said we are not a drinking establishment and are offering an up market premises offering wine tastings with food and wine education opportunities in the basement. He said we do not wish to attract binge drinkers, will discourage these types of customers and will not be a late night venue. It was further added that whilst there are 14 other licensed premises in the area he felt that adding another would not add to the concerns because we are experienced operators and will manage the premises accordingly. Finally he said we have an unblemished track record and intend to be an asset to Bath.

The Interested Parties

The interested parties against the applicant stated the premises were in a predominantly residential area although it was accepted there were already a number of licensed premises within it. They believed that given the experience they have with currently licensed premises granting this application would give rise to public nuisance from noise leading to more disturbed sleep. It was further stated that the premises would attract drunken revellers already in the area and this would result in more crime and disorder with people urinating in the street, sleeping in doorways and leaving a mess for residents to clean up.

Whilst it was accepted that no complaints had been made to the council in the past, an enquiry had been made for a review of a premises in the locality. They did not accept that the addition of one more premises would not make a difference.

There was written interested party support for the application. These generally welcomed seeing a disused premises brought back to life, regenerating the area and adding to its charm and history of independents. It was further stated that the applicant also operates a number of similar premises across the district and this application is welcomed in this location.

Members

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 is intended to be achieved. Members were careful not disregard representations that did not relate to the licencing objectives, for example, parking, need, tables and chairs and traffic issues.

Members carefully considered the representations made on behalf of the Interested Parties both for and against and the Applicant and noted there were no representations from a Responsible Authority.

Members noted that the Cumulative Impact Policy relates to the ‘on trade’ sale of alcohol for consumption on the premises. On balance members found the proposal would not result in a vertical drinking establishment but rather was reasonable and low key in its extent being predominantly off sales with tasting/education/and food as an additional feature. Further, members were satisfied that the applicant had demonstrated that taking into account all the relevant circumstances including the proposed conditions on the operating schedule and the business model that the premises and timings would not add significantly to the cumulative impact experienced.

Members further considered that any effect on the licensing objectives would be addressed by the conditions consistent with the proposed operating schedule which they found to be appropriate and proportionate.

Accordingly, members resolved to approve the application subject to the mandatory conditions and conditions consistent with the operating schedule. Authority was delegated to the Public Protection Officer to issue the licence

The meeting ended at 11.42 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services