

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Thursday, 19th May, 2022, 10.00 am

**Councillors:** Rob Appleyard (Chair), Michael Evans and Steve Hedges

**Officers in attendance:** Carrie-Ann Evans (Interim Team Leader, Legal Services), John Dowding (Lead Officer - Licensing) and Geoff Cannon (Public Protection Officer (Licensing))

### **1 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

### **2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

### **3 DECLARATIONS OF INTEREST**

There were none.

### **4 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

### **5 MINUTES OF PREVIOUS MEETINGS: 21ST APRIL 2022 AND 5TH MAY 2022**

The Sub-Committee **RESOLVED** that the minutes of the previous meetings be agreed as a correct record and signed by the Chair.

### **6 LICENSING PROCEDURE**

The Chair explained the procedure for the meeting and all parties confirmed that they had received it.

### **7 APPLICATION FOR A PREMISES LICENCE FOR THE BUILDING OF BATH MUSEUM, COUNTESS OF HUNTINGDON CHAPEL, WALCOT, BATH**

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He explained that an application had been received from Bath Preservation Trust for a new Premises Licence for The Building of Bath Museum, Countess of Huntingdon Chapel, Walcot, Bath.

The application proposed the following licensable activities:

The sale of alcohol on and off premises: Monday to Saturday 09:00 to 23:00 and Sunday 10:00 to 17:30

Performance of Dance (indoors and outdoors): Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

Exhibition of Film (indoors): Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

Performance of Live Music (indoors and outdoors): Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

Performance of Recorded Music (indoors and outdoors): Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

Performance of a Play: (outdoors): Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

The application proposed the following opening times: Monday to Saturday 09:00 to 23:00 and Sundays 10:00 to 17:30

### Decision and Reasons

Members have determined an application for a new Premises Licence at The Building of Bath Museum in Bath from Bath Preservation Trust. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

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 on the information before them. Members reminded themselves that each application must be considered on its own merits.

### **The Applicant**

The applicant stated that the Bath Preservation Trust owned the premises since 1984 and take its position as part of the community very seriously and want to ensure that it does not contribute to any problems that exist from other premises on that street. They are committed to not be a part of the problem and keen to make sure they are honourable as part of the community and take into account residents' concerns.

The applicant acknowledged the noise made by the staff gate and whilst the premises is listed, he said he was very happy to explore putting in some sort of rubberised buffer and would talk to staff and tenants to make sure they are considerate.

On questioning from the Chair, the applicant was asked how much the outside space is part of what they propose to do. The applicant indicated that the outside space was included as part of the premises in the application as it is within curtilage but he indicated that he is happy to remove the outside courtyard space from consideration in the licensing application.

## Other Persons

There were written representations from three residents, one of which is Chairman of the Vineyards Residents Association. Representations of objection were made in relation to the prevention of public nuisance licensing objective. The concerns related to noise from people leaving the premises and noise from live and recorded music emanating from the premises.

Mr Rotherham addressed members and explained that this is an entirely residential area, and the Chapel sits in the middle of the terrace; 10A has a door onto the courtyard of the Chapel. There are concerns about noise and disturbance, including the slamming of the staff gate. Mr Rotherham expressed the view that activities ought not to take place in the courtyard.

On questioning from Members, the Licensing Officer indicated that he was not aware of any specific problems in relation to the premises.

In determining this application Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members were careful to disregard representations which concerned unrelated premises.

Members noted there had been no representations from Responsible Authorities.

Members were satisfied on the evidence they have heard and read that the measures offered by the applicant in their operating schedule, together with the offer to remove the outside area from the premises as indicated in the licence application, would mitigate any detrimental impact of the licence on the licensing objective of public nuisance.

Consequently, Authority is delegated to the licensing officer to issue the licence with conditions consistent with the operating schedule and the mandatory conditions subject to the premises being delineated to remove the outside area, and members consider this to be appropriate and proportionate in the prevention of public nuisance licensing objective.

## 8 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were 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. They **RESOLVED** that the public should be excluded from the meeting for the following item(s) 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.

## 9 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER - 22/00326/TAXI

The Lead Officer - Licensing presented the report to the Sub-Committee. He added that the applicant's conduct had been good throughout this process with the Licensing department.

The members of the Licensing Sub-Committee asked questions of the applicant and he and his wife responded accordingly with regard to the process of the application, the reasons for not disclosing the previous convictions and the conditions that are within the licence.

### Decision and Reasons

Members have had to consider whether or not the applicant is fit and proper to have his combined Hackney Carriage/Private Hire Driver's licence renewed in the light of the fact that his DVLA check has revealed speeding offences, some of which had not been declared by the applicant. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law, Council Policy and the applicant's oral representations.

Members heard from the applicant's wife in oral representations who explained that they struggle with computer literacy and were not trying to get out of reporting the speeding matters. She explained that the applicant is a very popular driver with passengers and is very careful. The applicant indicated that he had misunderstood the question regarding declaration of previous convictions and had tried to get help with the problem from the Council. On questioning, the applicant indicated that the speeding offences were never when he was acting as a taxi driver. The applicant explained that the last 12 weeks where he has not been driving has made him and his wife think about the seriousness of the situation.

Members noted that:

- there had been no complaints against the applicant from passengers
- his interactions with licensing have been as licensing would expect
- they found his explanation that he misunderstood the question on convictions on the application form, to be credible
- they accept that his speeding convictions were whilst driving in a personal capacity and not whilst acting as a BANES licensed driver
- he was not caught by the Policy as he did not have three or more speeding convictions in the previous three years.

On balance, Members find that the applicant is fit and proper to hold a combined hackney carriage/private hire driver's licence but issue a formal warning in the strongest terms, that he must not speed whilst driving, whether in a personal or professional capacity, and must ensure he abides by the conditions of his licence including the requirement to report any cautions or convictions, by whatever means

necessary and should seek assistance if required. Members note that if the applicant comes before the LSC again, there might be a very different outcome.

Authority is delegated to the Licencing Officer to issue the licence subject to the applicant completing all steps required by the licencing process.

The meeting ended at 12.28 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**