

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Tuesday, 31st May, 2022

Present:- Councillors Steve Hedges (Chair), Sally Davis and Karen Warrington

Also in attendance: Carrie-Ann Evans (Deputy Team Leader) and Geoff Cannon (Public Protection Officer (Licensing))

10 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

12 DECLARATIONS OF INTEREST

There were none.

13 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

14 MINUTES OF PREVIOUS MEETING: 19TH MAY 2022

The Chair, Councillor Steve Hedges agreed the minutes in principle, but asked for another member who was present on the day in question to give their approval when they were next present at a meeting.

15 LICENSING PROCEDURE

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

16 APPLICATION FOR A TABLES AND CHAIRS PERMIT: SUB 13 WINE BAR, 4 EDGAR BUILDINGS, BATH

The Deputy Team Leader, Legal Services addressed the Sub-Committee. She explained that the complainant, Mr Sagi had brought some additional information to the meeting that he would like the Sub-Committee to view. She said that the applicant had also been made aware of this and had viewed the information prior to the beginning of the meeting.

The applicant's agent, Terrill Wolyn addressed the Sub-Committee. She said that within the bundle of information supplied by Mr Sagi there were things not referred to

in the initial representations and that they would object to any new information from other complainants as these had not been raised earlier.

She stated that they were happy for some photos to be submitted and that some were already within the agenda pack and had agreed with Mr Sagi what they would allow the Sub-Committee to view.

Mr Sagi addressed the Sub-Committee. He stated that he included all documents that he felt were relevant from his point of view. He said that he understood that the process needs to be fair for all parties.

The Deputy Team Leader, Legal Services explained that the applicant had also brought some additional photos regarding refuse to show the Sub-Committee.

Mr Sagi said that he did not feel that the photos were relevant to the application as they were of rubbish not caused by the applicant.

The applicant, Mr Whelehan explained that it is refuse that is cleaned up on a regular basis from other sources by their cleaners.

The Chair announced that he would allow Mr Sagi's additional information to be submitted subject to removal of the documents that the applicant did not agree to and he would allow the applicant's additional information.

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He explained that an application had been received for a Tables and Chairs permit from Tim Whelehan, Director of Sub 13 Wine Bar.

He stated that application is for an outside seating area in front of Sub 13 and in front of the neighbouring premises 'Mailboxes' and The Citizens Advice Bureau.

He added that the times applied for are 11:00 to midnight every day with no changes to the times and overall area dimensions and location authorised by the previous Tables and Chairs Permit which expired on 30 April 2022.

He informed the Sub-Committee that an objection was received from a neighbouring business premises and that the grounds for the objection were:

Concern over litter left in the proposed Tables and Chairs Permit area in front of 'Mailboxes' premises and the disruption caused to customers using 'Mailboxes' premises after normal opening hours.

Decision and Reasons

Members have had to determine an application to place tables and chairs on the highway outside of the premises at Sub 13, 4 Edgar Buildings, Bath, as well as neighbouring premises Mailboxes and the Citizens Advice Bureau. In doing so they took account of the Highways Act 1980 and the Human Rights Act 1998 and balanced the representations from Mailboxes against the application.

As a preliminary issue members determined whether or not to allow additional information from the applicant and objector. Each party was given a fair opportunity to consider the additional material before Members determined this issue.

Having heard from the objector and applicant, who did not object to the introduction of a reduced amount of the additional information from the objector, Members determined in the interests of fairness, to admit the additional information from the objector, as agreed between the parties.

The objector objected to the introduction of the applicant's additional material. Members determined in the interests of fairness to allow this material and they would determine what weight to attach to it, if any.

In reaching a determination Members had to decide whether the application was likely to obstruct the free passage of pedestrians, cause a public nuisance in highway terms or be a hazard in its real sense.

Members had regard to the oral representations and written representations of the Applicant Mr Tim Whelehan. Mr Whelehan addressed the objection from Mailboxes and said that Sub 13 had benefited from a table and chairs permit since 2016 and that this application is identical to the authorisation that they had last year. He noted that there had been no complaints, no breaches identified and no enforcement action necessary. In relation to the reference to litter, urination and the pavements not being kept clean, he refuted that allegation and explained that they have a cleaning contractor that they have used since 2019. He noted that there had been no complaints from Highways or the other council departments consulted, Ward members, BLB solicitors or the CAB and that there had been no objection at all for noise disturbance or lack of adequate space. On questioning from Members, the applicant agreed to the siting of barriers either side of the entrance to the Mailboxes, to ensure unobstructed access for Mailboxes customers.

Members had regard to the written objection from Mailboxes which is a neighbouring business premises in front of which it is proposed to site some of the tables and chairs. The objection related to litter and disruption to customers using the Mailboxes premises after normal opening hours. Mr Sagi addressed members on behalf of Mailboxes and made oral representations that since the tables and chairs have been outside there have been issues with rubbish and an impact on customers and the business. He explained that as he arrives early at the premises, he is the one that has to clear vomit and rubbish from outside of the store and it is tiring. On questioning from Members regarding what evidence he has of where the litter comes from, Mr Sagi accepted that he does not have CCTV but in his view it was clear where the rubbish was coming from.

Members noted that the Applicant had a previous licence for the same times, dimensions and location authorised by a Table and Chairs Permit which expired on 30/04/22 and that there had been no formal complaints or enforcement in relation to this premises.

Members noted that there had been no representations from the police, Highways team, Property Services, Environmental Protection Team, Development Control, Ward councillors, the Citizens Advice Bureau or BLB Solicitors.

Members were careful to disregard any representations which were not relevant and matters which were covered by other statutory regimes such as health and safety or fire safety.

Members carefully weighed in the balance the representations on behalf of Mailboxes and the applicant and in the exercise of their discretion decided to grant the application subject to one additional condition as agreed by the applicant. They found that the application was not likely to obstruct the free passage of pedestrians, cause a public nuisance in highways terms or be a hazard in its real sense. Their reasons for this included the fact that:

- They did not have evidence to confirm that the litter and purported urination was attributable to the premises. Members note that the premises is in the heart of Bath city centre on a busy street.
- They noted that pedestrians should be able to pass and re-pass without obstruction alongside side of the area where it is proposed to site the tables and chairs.
- They noted that the applicant agreed to site a form of barrier either side of the entrance to Mailboxes to ensure unobstructed access to and from that business for its customers.
- They noted that it would be a standard condition of the permit that the holder should not cause any unnecessary obstruction of the highways or danger to persons using it and should not permit persons to gather so as to cause a nuisance or annoyance or danger to any person lawfully using the highway and that any breach of such condition may be dealt under section 115K of Highways Act 1980.
- They noted that it would be a standard condition of the permit that the holder shall maintain the area in a clean and tidy condition during the permitted hours and shall leave it clean and tidy and unobstructed including washing down the area.

Authority is delegated to the licensing officer to issue the permit with the attachment of the standard terms and conditions as well as the following condition:

- The holder will at all times when the tables and chairs permit is in use outside of Mailboxes, site a form of barrier either side of the entrance which area is indicated as 2m wide on the site plan, to ensure unobstructed access to those premises.

The meeting ended at 11.46 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services