

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Thursday, 9th November, 2017, 10.00 am

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

**Officers in attendance:** Carrie-Ann Evans (Deputy Team Leader (Barrister)), Charlotte May (Apprentice Legal Advisor), Alan Bartlett (Public Protection Team Leader) and Terrill Wolyn (Senior Public Protection Officer)

#### **47 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

#### **48 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **49 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **51 MINUTES OF THE MEETING OF THE 26TH OCTOBER 2017**

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

#### **52 LICENSING PROCEDURE**

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

#### **53 APPLICATION FOR A PREMISES LICENCE FOR SUGO, 66 WALCOT STREET, BATH BA1 5BD**

The applicant not being in attendance, despite having confirmed that he would attend, the Sub-Committee **RESOLVED** to exercise its discretion under Regulation 20(2) of the Licensing Act 2003 (Hearing) Regulations 2005 to defer the hearing of this application until 10.00 am, 23<sup>rd</sup> November 2017, in the Guildhall, Bath, and that the Senior Public Protection Officer should immediately notify the parties of the new date, time and place of the hearing in accordance with Regulation 20 (4).

##### Reasons

Members had before them an application for a new premises licence for Sugo, 66 Walcot Street, Bath, BA1 5BD.

The Applicant was not in attendance and so Members considered Regulation 20 of the Licensing Act 2003 (Hearings) Regulations 2005 which deals with failure of the parties to attend the hearing.

Members heard from the Senior Public Protection Officer that the applicant had given notice in writing of his attendance at the hearing.

In the exercise of their discretion under Regulation 20 members determined it to be necessary in the public interest to adjourn the hearing to 23<sup>rd</sup> November 2017. Members formed the view that it was in the public interest for the applicant to be in attendance so that they could hear what he had to say in relation to the application; so that they could question him and that the interested parties could question him.

**54 APPLICATION TO VARY THE PREMISES LICENCE FOR WALCOT HOUSE, 90B WALCOT STREET, BATH BA1 5BG**

Applicant: Red House (Bath) Ltd, represented by Debbie and Martin Still

Other Person: Eric Howard

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

The Senior Public Protection Officer presented the report. The Sub-Committee noted:

- That the premises were located within the Cumulative Impact Area.
- The details of the variation contained in paragraph 5.3 of the report.
- The additional conditions offered by the applicant listed in paragraph 5.4 of the report.
- That 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.
- That no representations had been received from the Responsible Authorities.
- That the applicant had consulted the Police before submitting the application and included all the conditions recommended by the Police to prevent any addition to the cumulative impact of licensed premises in the area.

Mrs Still stated her case. She said that she and her husband had had 25 years' experience as licensees. They had made a speciality of reviving licensed premises that had failed or were failing. They had taken on two premises, including one that had been shut and boarded up, and had turned them into national award winners. They had taken over premises in central areas and had come up with a formula that worked. At Walcot House they wanted to offer a diverse experience and not to cater just for a limited clientele, as the premises had previously done. They wanted to offer fitness classes during the day and talks and other events in the evening. She had

spoken to a professor at Bath University who thought that the premises would provide excellent opportunities to give talks in a relaxed environment. They wanted to offer film nights, product launches and live bands. There would also be a cocktail bar to provide a more mature client base somewhere to relax. There would also be an extensive range of food available. The premises were large, and would be a good place for people to hire to put on events. The Night Surfers would come to perform at the premises in December. They originally were booked for another venue ten miles away; they had previously been unable to come to Bath, because there was no suitable venue. The premises would offer food and entertainment in a magical space. She believed that the premises would bring great advantages to Bath. Their research had indicated that night clubs in Bath were predominantly targeted at the student market. They thought that there were older clients who enjoyed entertainment and bands, but did not feel comfortable with some of the night clubs at the moment, and they wanted to create something softer and more interesting for those clients, where they could listen to music but still be able to have a conversation.

Before submitting the application they had met the Police Licensing Officer, because they were very aware of the concerns of residents. They had a strong moral compass and always had regard to the needs of the community. They had made a substantial personal financial investment in the premises. There had been an issue with the back door, which was left open to allow ventilation, resulting in the escape of noise. They had spent £5,000 to ensure that the door was secure, and had made a substantial investment in air conditioning and a new sound system, so that clean air came in without sound escaping. The new sound system is not bass heavy, and when she had tested it, she found it was possible to hold a conversation when music was playing. They would take personal responsibility to ensure that the immediate vicinity of the premises was kept clean. Prospective staff had been interviewed very carefully; they were people who had chosen to make their careers in licensed premises. The client base had changed very quickly since they had taken over the management of the premises. There were neighbouring licensed premises that had a later terminal hour than Walcot House; they believed that increasing their own terminal hour by one hour would not have a negative impact on the area. They would focus on the orderly dispersal of customers from the premises. They believed that with their product offer, physical space new client base, and robust operating schedule they would not increase the cumulative impact of licensed premises in the area.

Mr Howard suggested that allowing people to drink for an extra hour would make it more likely that they made noise when they left, and asked how they could be prevented from causing nuisance to residents. Mr Still replied that door staff would manage customers entering and leaving the premises. The premises wanted to be engaged with the neighbourhood and to be a community asset, and so wished to prevent neighbours being upset. If customers could stay at the premises for an extra hour, they would be more likely to stay until closing rather than proceed to other premises, perhaps causing nuisance as they did so. Mrs Still said that disruptive customers would be banned. Customers would quickly understand what kind of behaviour would not be tolerated.

In response to questions from Members, Mr and Mrs Still stated:

- They had recruited a member of staff from Bristol who had experience in dealing with gatherings of 2,500 people.
- Door staff were supplied by an agency, but that individual door staff offered could be rejected.
- They were planning to introduce club membership over the next year.
- There would be 2-3 club nights a week.
- The back door would be kept closed and used only as a fire exit.
- There would be a small outside area for smokers, which would be managed by staff.

The Senior Public Protection officer asked Mrs Still to show Members and Mr Howard where the outside area was located on the plan of the premises. Mrs Still confirmed that access to this area would be controlled by staff.

Mr Howard stated his case. He said that he was representing 34 Ladymead House leaseholders. He also produced a letter claiming that this gave him authority to speak on behalf of 11 residents of The Rank, a row of houses near the Bell public house on Walcot Street. On advice from the Legal Adviser that new written representations could not be accepted at the hearing the Chair declined to accept this in evidence.

Mr Howard said that Walcot Street is very residential, unlike Milsom Street, for example. There are houses, flats and apartments and many residents had children. People drinking late cause disturbance to residents. People came out of licensed premises late at night and bang doors and shout and are sick or urinate in doorways. An extra hour of drinking would cause more problems. He has two teenage children and there are many other young children living in the vicinity, who need their sleep. His son was doing GCSES this year. When people are woken up in the night, they find it difficult to get back to sleep again. So nuisance caused by customers of licensed premises reduces residents' quality of life. Drinking until 3am should not be permitted in a residential area. A young woman was raped by someone who was drunk on the staircase leading up to the Paragon about a year or eighteen months ago. The applicants had said that they would ban customers who cause problems, but people come to Bath for hen and stag parties and might not come again for a long time or ever. He submitted that drinking until 2 am is late enough and to extend the terminal to 3 am would be asking for trouble. He requested the Sub-Committee to reject the extension.

Mrs Still asked Mr Howard what evidence he had that he was representing thirty-four other residents. Mr Howard replied that he was on a residents' steering committee, which comprised leaseholders and other long-term residents.

In reply to a question from the Chair, Mr Howard said that overall he believed that the premises would be better managed under the new licence holders, but he thought an extra hour of drinking was bound to cause more problems.

The parties summed up. Mrs Still said that they had changed the strategy of the premises and were attracting a new client base. Customers staying until 3 am would not necessarily be drinking. There were other premises in the vicinity that remained open until 4 am and they wanted to respond to this competitive environment. The physical space had changed. Bad behaviour would be stamped on very quickly. She submitted that the operating schedule was robust.

Mr Howard said that his major concern was the extra hour of drinking. Licence holders had no control over customers when they had left the premises. Once the extra hour had been granted, it would be difficult to take it back again.

Following an adjournment the Sub-Committee **RESOLVED** to grant the variation as applied for, subject to the statutory conditions and conditions consistent with the operating schedule. Authority was delegated to the Senior Public Protection Officer accordingly.

### Reasons

Members have had to determine an application to vary a premises licence at Walcot House, 90B Walcot Street, Bath, BA1 5BG. 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 noted that the application should be considered on its own merits.

### **The Applicant**

The Applicant, Mrs Still, indicated that they had been operating as licensees in other areas for the past 25 years with a proven track record.

The premises want to be able to offer inspirational talks in conjunction with the licensable activities and cited film nights, product launches, live bands and a cocktail bar. The premises are intended to attract people of all ages. They are creating a soft, interesting and safe environment.

The applicants indicated that they met with the Police Licensing Officer before they submitted the application. They want to reassure members that they intend to run a very different establishment with a very strong moral compass working well with the community. They have invested heavily in the premises with acoustic measures, air conditioning and more sympathetic sound systems.

Mrs Still indicated that at the premises there will be zero tolerance of disruption and they will manage dispersal. They confirmed that there will be no use of the rear door saves for as a fire exit.

### **The Interested Parties**

The Interested Parties objected to the variation application on the prevention of public nuisance and prevention of crime and disorder licensing objectives. They submitted that an extension to the licensing hours would result in increased noise and disturbance from people and vehicles; fights and shouting, urinating and vomiting in doorways; an increase in anti-social behaviour. Mr Howard made oral representations which he indicated were on behalf of Ladymead House reinforcing these concerns. He submitted that an extra hour of alcohol sales would cause more problems and there are a number of children that live in close proximity and an additional hour will impact on quality of life.

### **Responsible Authorities**

Members noted that there had been no representations from Responsible Authorities.

### **Members**

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

Members noted that in accordance with the Statutory Guidance at paragraph 2.21 beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right.

Members found the applicants of Walcot House to be conscientious, experienced and considerate in their approach to the premises and promotion of the licensing objectives. Members were satisfied that the application was reasonable and proportionate and that the applicant had demonstrated that the proposed variation to the premises licence so far as the on trade sale of alcohol was concerned, would not add to the cumulative impact being experienced. In the circumstances Members were satisfied that all remaining licensable activities applied for could be controlled by conditions consistent with the operating schedule.

Authority is delegated to the Senior Public Protection Officer to issue the licence.

The meeting ended at 11.41 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**