

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

### **LICENSING SUB-COMMITTEE**

Thursday, 7th December, 2017, 10.00 am

**Councillors:** Anthony Clarke (in place of Deirdre Horstmann), Les Kew (Chair) and Caroline Roberts

**Officers in attendance:** Ian Nash (Public Protection Officer (Licensing)) and Carrie-Ann Evans (Deputy Team Leader (Barrister))

#### **64 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

#### **65 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Deirdre Horstmann. Councillor Anthony Clarke substituted.

#### **66 DECLARATIONS OF INTEREST**

Councillor Clarke declared Other Interests as a member of the Campaign for Real Ale and as a Fellow of the Royal College of Surgeons. He did not believe that these would impact on his ability to determine the application with an open mind.

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

There was none.

#### **68 MINUTES OF PREVIOUS MEETING: 9 NOVEMBER 2017**

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

#### **69 LICENSING PROCEDURE**

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

#### **70 APPLICATION FOR A NEW PREMISES LICENCE FOR CHAMPAGNE PLUS FROMAGE, 5 GEORGE STREET, BATH BA1 2EH**

Applicant: LAFATA Ltd, represented by Stefano Frigerio (Director and DPS) and David Holley (Licensing Agent).

The Other Person, Stephanie Brown, was not present and not represented.

The Applicant confirmed that he had received and understood the procedure to be followed for the hearing.

The Public Protection Officer summarised the application. This was an application for a new premises licence. The application sought authority for the sale of alcohol for

consumption on and off the premises and the provision of Late Night Refreshment. The premises was situated within the Cumulative Impact Area. One representation had been received from an Other Person in relation to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder.

Mr Holley and Mr Frigerio stated the case for the applicant. Mr Holley said that he would examine the strength of the objections raised by the Other Person and endeavour to demonstrate that the applicant's business would be a good and honest operation, which would add to the type and quality of refreshment currently available in Bath. He submitted that Mrs Brown's representation gave a very general view of the impact of the concentration of licensed premises in the George Street area. He thought it was significant that neither the Circus Residents' Association nor the Responsible Authorities had made representations to the application. He asked Mr Frigerio to provide a complete description of the business, to allow Members to judge its potential impact.

Mr Frigerio said that LAFATA owned four premises in London. The first had been in Covent Garden, the second in Brixton, the third in Greenwich and the fourth in Mercato Metropolitano, Newington Causeway. LAFATA was jointly owned by two families. The concept of champagne and cheese was unique, and this was the secret of their success. Similar concerns to those made in the representations to this application had been raised when it was proposed to open premises in Brixton, which is an area with many alcohol-related problems. But then it was understood that the concept of the business is quite different from that of the usual pub or restaurant. The focus is on champagne, which the management personally select and import. Mr Frigerio said that his wife is French and an expert on champagne. He believed champagne was best served with food, especially cheese. The business had been operating in London for six years. Because of the nature of the business, there was a new kind of customer. The premises in London had never received complaints about noise or alcohol-related bad behaviour by customers. The average age of customers was about thirty-five, and they were not motivated by drinking as much alcohol as possible. Their premises were not just restaurants, but also shops. Therefore they were open throughout the day, and did not just open at night to sell alcohol. The intention was to expand the shop at George Street into a kind of French market, where people could buy cheese and champagne and other things as well, including non-food products, such as kitchen utensils. They wanted to be open throughout the day, providing breakfasts and lunch. Comments about the London premises on websites such as TripAdvisor were very favourable. The site of the Bath premises is very beautiful and presents a very good image for the business. It is very similar to the premises in Greenwich, which is also Grade II listed. He believed that the business would add value to Bath by increasing what was available to residents. He understood the concern about alcohol-related issues in certain places, but the premises would not just be pushing the consumption of alcohol; this was not the main driver of the business. The business had an operations manager who ensured all premises had proper procedures in place. All managers and staff were trained in licensing requirements, food hygiene and safety and emergency procedures. He believed that the premises in Bath would be run to the same standard as the premises in London because the operations manager was the same. No accidents or incidents had occurred at any of the London premises.

The Chair asked whether the applicant wished to address Cumulative Impact. Mr Holley submitted that the most important factor in reducing the impact of licensed

premises on a locality was how licensed premises were operated. No representations had been received from residents' associations or the Responsible Authorities, and he felt that they would have made representations had they been concerned about this application.

The Chair noted that Mr Frigerio lived in London, and asked who would supervise the premises on a day-to-day basis. Mr Frigerio replied that the operations manager also resided in London, though it was the present intention that he should move to Bath for the first year after opening. A local manager who held a personal licence had been appointed. All managers were very experienced. It was planned that he or one of the other Directors would spend one day a week in Bath for the first six months to ensure that everything was under control.

A Member asked about seating capacity in the premises. Mr Frigerio explained that most of the ground area of the premises would be occupied by the shop, with some tables and chairs at the rear of this area. There would be another seated area on the first floor. There would be a kind of lounge in the basement. There would be sufficient seating to allow customers who wished to sit to do so. Customers have to sit to be able to enjoy the food.

Summing up for the applicant Mr Holley submitted that the nature of the business and the conditions included in the operating schedule were such that there was no undue risk of any adverse impact from the premises. No evidence had been submitted to suggest there would be. The premises would be run in a competent manner.

Following an adjournment the Sub-Committee **RESOLVED** to grant the application as applied for, 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 for Champagne plus Fromage, 5 George Street, Bath, BA1 2EH. 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**

Mr Holley addressed members as the legal representative for the applicant. Mr Holley contended that the representation that had been received from Ms Brown was a general view. Mr Holley addressed members in relation to the Cumulative Impact

Policy. He cited the staff training, the nature of the premises and the way the business premises are intended to be run as reasons why he does not think that the they will contribute to the cumulative impact already being experienced. He noted that there had been no representations from the Residents' Associations nor Responsible Authorities. Mr Holley submitted that members could be satisfied that the application would not add to the cumulative impact.

Mr Frigerio on behalf of the Applicant addressed members on his previous experience of running four other licensed premises in London over the last of six years which he said had never received complaints. Mr Frigerio said that he feels the premises will add value to the current offering from existing premises in Bath. The premises are not intended to push just the sale of alcohol which will be an ancillary part of the business.

### **The Interested Parties**

Mrs Brown made written representations as an interested party who lives in the vicinity of the premises. Mrs Brown objected to the application on the Prevention of Crime and Disorder and Prevention of Public Nuisance licensing objectives. She indicated that the existing premises licensed to sell alcohol in the area covered by the Circus Area Residents Association already have an adverse impact on crime and disorder and this addition of this premises would contribution to that impact. Similarly, she referred to the impact of existing premises on the prevention of public nuisance and how the addition of another premises would add to her already being woken multiple times a week by inconsiderate noisy consumers of alcohol, some of whom are abusive. Mrs Brown indicated that this causes distress and is adversely affecting her health.

### **Responsible Authorities**

Members noted that there had been no representations from Responsible Authorities, including the police.

### **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 carefully considered the representations made on behalf of the Interested Party and the Applicant.

Members noted specifically that the Cumulative Impact Policy relates to the 'on trade' sale of alcohol for consumption on the premises. Members were satisfied that the applicant had demonstrated taking into account all the relevant circumstances including the proposed conditions on the operating schedule that the proposed licence would not add to the cumulative impact being experienced.

Members 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 11.25 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

This page is intentionally left blank