

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 1st February, 2018, 10.00 am

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

Officers in attendance: Carrie-Ann Evans (Deputy Team Leader (Barrister)), Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer) and Ian Nash (Public Protection Officer (Licensing))

81 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

82 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

83 DECLARATIONS OF INTEREST

There were none.

84 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

85 MINUTES: 21 DECEMBER 2017

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

86 EXCLUSION OF THE PUBLIC

The Committee having been 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, **RESOLVED** that the public should be excluded from the meeting for agenda items 8 and 9 and that the reporting of this part of the meeting should 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.

87 TAXI PROCEDURE

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

88 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MISS K A S

Miss KAS confirmed that she understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report. He provided Members with a DBS certificate in respect of Miss KAS and a statement submitted by her. The meeting was adjourned to allow Members time to study these documents.

Following the adjournment Miss KAS stated her case and was questioned by Members.

Following an adjournment the Sub-Committee **RESOLVED** that Miss KAS was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, and delegated authority to the licensing officer to issue the licence, subject to the applicant completing all steps required by the licencing process.

Reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant stated that the caution was a one-off. She said she learned her lesson and that she has grown up a lot. She told members that she would really like to have a change of career and hold a licence. The intention is for her to work for her uncle's taxi company. She has held a position of responsibility for approximately 6 years now.

Members took account of the applicant's oral representations, written statement and balanced these against the information contained in the Disclosure and Barring Service Certificate.

Members noted that the Council's policy expects that an applicant will not have been cautioned by the police for an offence during the previous two years. Ms KAS was cautioned in 2014 and was not therefore, caught by this part of the policy. Members find Ms KAS has held a position of responsibility since then and regrets her actions. She has learned her lesson and grown up. Members find Ms KAS to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

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

89 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR S J B

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

The Senior Public Protection Officer summarised the report. He provided Members with a copy of a Disclosing and Barring certificate in respect of Mr SJB, a statement submitted by him and reference given on his behalf. The hearing was adjourned to allow Members time to study these documents.

Following the adjournment Mr SJB stated his case and was questioned by Members. With the agreement of Members he submitted two further references and internet feedback from customers of his business.

After a further adjournment the Sub-Committee **RESOLVED** that Mr SJB was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence and delegated authority to the licensing officer to issue the licence, subject to the applicant completing all steps required by the licensing process.

Reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant stated that he had his own removal business for the last three years which he runs from his home address and he had the idea to apply for a Combined Hackney Carriage/Private Hire Driver's Licence to compliment that business. He told members that he is embarrassed by his convictions, that he did not have a very good upbringing. He said that he does not think he was a bad person but got into some stupid situations. He said would not be the person he is now if he did not have the past he had. He explained that the term of imprisonment and the effect that it had on his children and wife, had changed his life. He wants to be a good Dad and a good person. He said he was an immature young man back then under the influence of alcohol. He said he was sorry for what he had done and wants to make his life and his kids' life better. Mr S J B said he had worked since he was 17 and has a full clean driving licence. He said that marriage had taught him how to handle situations better and he said he is not the same person now and had made changes in his life. He just wants to look after his family and make a better life.

Members allowed the applicant to provide some additional documentary information in support of his application including two additional references and positive reviews of his current business.

Members took account of the applicant's oral representations, written statement references and reviews and balanced these against the information contained in the Disclosure and Barring Service Certificate.

Members noted that Mr SJB had remained conviction free for the period anticipated by the policy but they could depart from that where there are good reasons for doing so. Members took a serious view of Mr SJB's offending but heard from him at length in relation to his upbringing, life at the time of offending, the changes he had made to his life in order to be a better person and his current family life. Members questioned Mr SJB at length in order to try to establish if he is a fit and proper person. On balance members found that Mr SJB came across as credible and genuine and showed remorse and embarrassment in relation to his past. Members noted the references from reliable sources and in the light of the above Members found Mr SJB to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence. They noted however, that they were likely to take a very dim view, if he came before the Committee subsequently for offending or unreasonable conduct.

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

90 RETURN TO OPEN SESSION

The Sub-Committee returned to open session.

91 LICENSING ACT PROCEDURE

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

92 APPLICATION FOR A NEW PREMISES LICENCE FOR CIRCO BAR AND LOUNGE, 15-18 GEORGE STREET, BATH BA1 2EN

Applicant: The Halcyon (Bath) Ltd, represented by Paul Newson (General Manager/Director) and Giles Thomas (owner)

Other Persons: Richard Brown (not present and not represented) and Danielle Jefferies-Clarke (not present and not represented)

Responsible Authority: Avon Fire and Rescue represented by Ian Strand and John Brown.

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

The Public Protection Officer summarised the report. He said that the applicant was seeking to consolidate three existing premises licences into a single licence covering the whole of their building. Members noted that there had been representations from two Other Persons in relation to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder and from Avon Fire and Rescue service in relation to the licensing objective of public safety, and that the premises is located in the Cumulative Impact Area.

Mr Newson stated the case for the applicant. He said the applicant currently held a licence for 15 George Street. The aim of this application was to include the whole of their building within the area of the existing licence. So they were not applying for a wholly new range of activities, but only for what they were already providing in the area. They had spoken to everyone who had made a representation, and had agreed to accept a reduced capacity limit within the building, and also not to have extended hours in the outside area. He said that the applicants had a vested interest in achieving the licensing objectives, as they offered accommodation to paying guests within the building. There was guest accommodation costing up to £480 per night immediately above the bar in the outside area. The bar had operated for the past 3-4 years, and its extension into the Circo area for over a year. Efforts were made to ensure that customers left quietly. The applicants would continue to strive to keep the impact on residents and guests to the minimum.

In response to questions from Members, Mr Newson stated:

- Currently half the building has to close at 00:00 and the other half at 03:00. Extending the 03:00 terminal hour would mean that customers were not forced into a smaller area after 00:00. In addition extending the licence to the whole building would actually increase the number of fire exits.
- Usually their premises closed at 23:00 on Mondays to Thursdays and at 03:00 on Fridays and Saturdays. There was no music on Mondays to Thursdays.
- It was never intended to broadcast recorded music in the outside area, but only to have background music there; it was only after the application had been made that he had discovered that no authorisation was required for background music. The garden would close at 23:00.
- He was content to accept a capacity limit of 260 persons for the whole building.
- Food ceased to be served 15 minutes before the terminal hour.

Mr Strand and Mr Brown stated the case for Avon Fire and Rescue Service. He said that the premises had been visited on 20th January this year because there was insufficient detail about emergency escape routes from the exterior and interior of the premises on the premises plan. Before the visit he had requested a fire risk assessment to calculate the capacity of the premises. There had been a difference between the capacity calculated by the fire risk assessor and what he himself felt to be a safe capacity. He had therefore requested a second opinion from another fire safety officer in relation to all emergency evacuation scenarios and not just fire. The emergency exit routes at the premises are quite convoluted, and some of the emergency exit doors are lower in height than standard doors. The floor space at the premises would allow a greater number of people than could be safely accommodated by the emergency exits. After the visit and a discussion with Mr Newsom a safe limit of 260 persons including staff and the outside garden area had been agreed. At present the only escape route from the garden was through the building, though he understood from Mr Newsom that in future there might be an alternative escape route from the garden. If this was provided, then the limit of 260 could be reviewed, but 260 was the safe capacity at present. In addition he would also propose a condition requiring there to be management procedures to control the flow of occupants within the premises to prevent localised overcrowding. The concern was that when one half of the premises closed, customers there would all migrate to the other half. Even if the 03:00 terminal was extended to the whole building, there would still need to be management control to prevent localised overcrowding.

The legal adviser noted that a proposed condition about management control of the flow of customers within the premises had not been included in the Fire and Rescue Service's written representation. The applicant should have the opportunity to address members on the proposed condition and whether or not they were willing to accept such a condition. If members were minded to grant the licence and considered such a condition to be appropriate and proportionate in the promotion of the licensing objective of promotion of public safety, it was also essential that the condition was drafted in such a way as to be enforceable by the licensing officers. The applicants indicated their willingness to accept such a condition. Officers and the

parties made suggestions for the wording of the proposed condition in the event members were minded to grant the licence and such a condition.

The applicants summed up. Mr Newsom said that the three existing premises had become an integral part of the George Street scene. They did not wish to do anything that would impact adversely on the local community. They did not wish to interfere with anyone else's business. They wanted to operate in a way that was good for the general public and for their building. The premises was not a night club, but a bar and lounge, and they believed it brought something special to Bath. Following an adjournment, the Sub-Committee **RESOLVED** to grant the application and delegated authority to the Public Protection Officer to issue the licence with conditions as detailed below.

Reasons

Members have had to determine an application for a new Premises Licence for Circo Bar and Lounge, 15-18 George Street, Bath, BA1 2EN. 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 Newsom on behalf of the applicant indicated that there is an existing licence for 15 George Street that is exactly the same as is proposed but want to extend that across the whole premises the subject of the application. He indicated that they had spoken to everyone who had made an objection in relation to the application and tried to resolve any concerns that they have.

By extending the licence across the two premises Mr Newsom indicated that this would enable improved dispersal.

The applicant indicated that the playing of background recorded music is not regulated in this instance until 2300 and they are no longer seeking to play Recorded Music outdoors until 0300am in the morning. They confirmed that they agreed to the Avon Fire and Rescue Service proposal that capacity is limited to 260 persons including staff in the premises and that there should be a condition regarding management procedures for the flow of occupants within the premises to prevent localised overcrowding. The applicant indicated that they understood what the expectations of the Fire Service were in relation to this.

In summing up the applicant said that they do not want to interfere with the community or anyone's business and want to work harmoniously with them. Circo is a Bar and Lounge, not a nightclub and they hope it brings something different to Bath.

The Interested Parties

Mr Brown made written representations as an interested party who lives in the vicinity of the premises. Mr Brown objected to the application on the Prevention of Crime and Disorder and Prevention of Public Nuisance licensing objectives. He indicated that the noise that comes from the premises and the customers adversely affects his quiet enjoyment of his home and the extension to the hours sought in the new premises licence application will add to the current public nuisance which he says he experiences. Further Mr Brown expressed the view that the discharge of alcohol-impaired customers from the premises has an adverse impact on crime and disorder.

Ms Jefferies made written representations as an interested party and objected to the application on the grounds of public nuisance and expressed concerns over noise from customers and occasional loud music.

Responsible Authorities

The Avon Fire and Rescue Services objected to the application on the Public Safety licensing objective. Concern was expressed that there are insufficient emergency escape routes for the potential capacity of the premises and therefore, the capacity of the premises should be restricted to ensure public safety. Further concern was expressed that there is not enough detail on the plan drawing with regards to emergency escape routes and particularly the outside area.

The Avon Fire and Rescue Services have suggested a maximum capacity of 260 persons on the premises in the promotion of the licensing objective of Public Safety. In addressing the committee they indicated that they would invite the committee to impose a further condition in relation to management procedures to control the flow of occupants within the premises and prevent localised overcrowding.

In summing up the Responsible Authority noted that the applicant had been completely co-operative with them in relation to their concerns.

There were no representations from any other Responsible Authorities.

Members

Members carefully considered the representations made on behalf of the Interested Parties, Avon Fire and Rescue Service 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 of Prevention of Public Nuisance and Prevention of Crime and Disorder would be addressed by the conditions consistent with the proposed operating schedule which they found to be appropriate and proportionate.

In relation to the Public Safety licensing objective and representations made by the Avon Fire and Rescue Service, members found the imposition of the following additional conditions, as agreed to by the applicant, were appropriate and proportionate in the promotion of that objective:

- (1) A maximum of 260 persons including staff permitted on the premises at any one time; and
- (2) Management procedures to control the flow of occupants within the premises to prevent localised overcrowding namely, persons shall not exceed 100 in the dancefloor area including staff and no more than 160 persons including staff in the remainder of the premises.

Members noted that the applicant no longer sought to play Recorded Music outdoors between 2300 hours and 0300 and this would not form part of licensable activities on the licence. Save for this and the imposition of the additional two conditions in the promotion of Public Safety, 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.

93 STREET TRADING PROCEDURE

The procedure was noted.

94 APPLICATION FOR STREET TRADING - PITCH 99 , MILSOM STREET, UNION STREET, BATH STREET, ABBEYGATE STREET

The Public Protection Officer advised that the applicant had withdrawn the application.

The meeting ended at 12.33 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services