

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 9th July, 2020

**Present:-** Councillor Manda Rigby (Chair), Councillor Steve Hedges and Councillor Sally Davis

**Also in attendance:** Carrie-Ann Evans (Deputy Team Leader (Barrister)) and Terrill Wolyn (Senior Licensing Officer)

#### **8 WELCOME & INTRODUCTIONS**

The Chair welcomed those present to the meeting and introduced the other members of the Sub-Committee and the officers in attendance.

#### **9 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **10 DECLARATIONS OF INTEREST**

The Chair explained that she had previously carried out some casework for David & Jeanette Carr a number of years ago when she was a councillor in their area, but stressed that she did not consider this precluded her sitting on the panel and that she had not had any prior conversations with them regarding the application before the Sub-Committee today.

The Chair also informed those present that she had been copied in on an email from Councillor Sue Craig regarding The Provenist, querying Planning matters and making some observations in relation to the licensing application. She added that she had only acknowledged receipt of the email and had not discussed the application with Councillor Craig and had disregarded any observations made as Councillor Craig had not made a valid representation in relation to the application. The Chair indicated that she had an open mind in relation to the application and would not make her mind up until she had considered the report, all relevant factors contained within it and heard all points of view at the hearing.

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

There was none.

#### **12 MINUTES OF PREVIOUS MEETING - 25TH JUNE 2020**

These were approved as a correct record.

### **13 LICENSING PROCEDURE**

The Chair explained the procedure for the meeting to all parties who were present.

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

### **14 PROVENIST, THE TRAMSHED, BEEHIVE YARD, BATH. BA1 5BB - APPLICATION - VARIATION OF EXISTING PREMISES LICENCE**

The Senior Licensing Officer outlined the application from Provenist Limited to the Sub-Committee. She explained that it was to vary an existing premises licence to add the sale of alcohol for consumption off the premises between the hours of 08:00 – 21:45 every day.

She stated that Provenist was a licensed café within Neptune, a furniture and kitchen retail establishment.

She informed the Sub-Committee that eight representations of objection had been received from interested parties within the statutory period.

She confirmed that none of the Responsible Authorities had made any representations relating to the application.

Ed Taylor, Head of Operations for Neptune stated the case for the applicant and was questioned by Members and the interested parties present.

Dr Jennifer Sleep, Mrs Valerie Lockley and David & Jeanette Carr stated the case on behalf of the interested parties and they were questioned by Members and the applicant.

#### **Decision and reasons**

Members have determined an application to vary the Premises Licence for Provenist, The Tramshed, Beehive Yard, Bath, BA1 5BB. 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 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 on the information before them.

#### **The Applicant**

Ed Taylor Head of Operations at Neptune indicated that the purpose of the application is to try and get more covers for the business to enable them to continue

to trade with social distancing measures and government guidelines in place. He explained to members that the terrace is used currently as a show area for garden furniture from Neptune and it is intended with the licence that customers will be able to have lunch or breakfast with a glass of wine or half a pint of beer. The premises do not anticipate greater footfall if the licence is granted; will work with residents regarding concerns over access and have a meeting with residents scheduled next week to discuss issues arising.

Mr Taylor indicated to Members that the premises do not run alcohol promotions; they are not a pub or bar and there will be no sale of spirits. Mr Taylor indicated that the reason for off sales being sought to 9:45pm was to enable events to take place however, he would be agreeable to reducing the hours for off sales of alcohol to 6:00pm if that is helpful to residents.

### **Responsible Authorities**

There were no representations received from Responsible Authorities.

### **Interested Parties**

There have been eight representations from residents living in the vicinity of the premises objecting to consumption of alcohol within the external seating area on the basis that this will undermine the prevention of public nuisance and public safety licensing objectives.

Objectors expressed concerns regarding safety and access issues for residents – particularly disabled people - in relation to the external seating area. They indicated that use of the external area was problematic in any event but felt that it would be worsened as a result of customers drinking alcohol.

Furthermore, they were concerned by the nuisance they would be caused from noise generated by customers sitting in the external seating area and consuming alcohol as late as 9:45pm, given that they live in apartments above the premises.

### **Members**

Members noted that this variation application was to add the sale of alcohol for consumption off premises to allow the operation of an alcohol delivery service and

for customers to consume alcohol purchased in the indoor café within the external seating area.

Members found that none of the Interested Parties had objected to off sales for the purpose of the operation of the alcohol delivery service; concerns and objections centred around the consumption of off sales in the external seating areas of the premises.

Whilst Interested Parties raised concerns in relation to planning issues Members reminded themselves that planning and licensing are separate regimes and that the onus is on the applicant to ensure that they have all necessary permissions in place to run their business within the law.

Members were mindful that any concerns raised regarding covenants between the landlord and tenant were a private matter and not the remit of the LSC for whom the licensing objectives are paramount.

Furthermore, members had sympathy with the Interested Parties for the concerns raised in relation to access for residents with disabilities. They reminded themselves again though, that the licensing objectives were paramount in their decision making for this application.

Members understood the concerns raised by the Interested Parties however, they did not find on the information before them that the proposed variation application would have a detrimental effect on the licensing objectives raised, which could not be adequately mitigated by the measures offered in the application. Members noted however, that the Interested Parties could call for a review of the licence at any time were there to be evidence that the licensing objectives were being undermined.

Accordingly, authority is delegated to the Licensing Officer to issue the licence with conditions consistent with the operating schedule which members found to be appropriate and proportionate in the promotion of the licensing objectives of prevention of public nuisance and promotion of public safety.

### **Note**

Members noted that any business that provides goods, facilities or services to members of the public are required in accordance with the Equality Act 2010 to

make reasonable adjustments to ensure their premises are accessible to disabled people.

Whilst members did not take the forthcoming meeting into account in reaching their decision, they welcome the fact that the premises representatives are meeting with residents and encourage them to resolve the issues and concerns raised around access.

The meeting ended at 12.10 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**