

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 24th September, 2020

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

Also in attendance: Terrill Wolyn (Senior Licensing Officer) and Shaine Lewis (Team Leader Resources - Legal Team)

15 WELCOME & INTRODUCTIONS

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

16 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

17 DECLARATIONS OF INTEREST

The Chair informed those present that she had been copied into an email from another councillor regarding Piplely Barn Cafe, querying the licensing application. She added that she had only acknowledged receipt of the email, had not discussed the application and had disregarded any observations made 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.

18 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

19 MINUTES OF PREVIOUS MEETING - 9TH JULY 2020

These were approved as a correct record.

20 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.

21 NEW PREMISES LICENCE APPLICATION - PIPLEY BARN CAFE, LANSDOWN, BATH. BA1 9BZ

The Senior Licensing Officer outlined the application from Charles Simpson to the Sub-Committee. She explained that it was for a new Premises Licence for Piplely Barn Café, Brockham End, Lansdown, Bath. BA1 9BZ.

She said that the application proposes the following licensable activity:

The Sale of Alcohol for consumption on and off the premises:

Monday to Thursday 08:00 – 21:00

Friday to Sunday 08:00 – 23:00

The application proposes the following opening times:

Monday to Thursday 08:00 – 21:30

Friday to Sunday 08:00 – 23:30

She informed the Sub-Committee that twenty four representations of objection had been received from interested parties within the statutory period, all expressing concern that the applicant's proposals are likely to have a detrimental effect on the Prevention of Public Nuisance licensing objective; three of these representation of objection also make reference to the Public Safety licensing objective.

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

She reminded those present that matters such as Planning, Parking, Traffic and Highways were not matters that could be considered by the Sub-Committee.

Charles Simpson stated the case for the applicant and was questioned by Members and the interested parties present.

He said that since submitting the application he had been made aware of a planning permission restriction on the hours that the café is allowed to open, and while he had been opening 10.30-17.00, the planning permission limits the hours to 9.00-16.00. He said that he has now changed the opening hours to 10.30-16.00 to bring it into compliance.

He added that he would still be seeking a licence to allow him to serve alcoholic refreshments to guests of the bunk barn to the hours specified in the application, which are until 9.00pm Monday to Thursday and 11.00pm on Fridays, Saturdays and Sundays. He stated that they are not currently operating the bunk barn, but this is only due to current Covid-19 restrictions.

He said that Piple Barn is designed and set up to accommodate up to 19 guests and that they plan to reopen the accommodation as soon as possible, though it was unlikely to be this year.

Councillor Mark Roper stated the case on behalf a number of the interested parties and was questioned by Members and the applicant. He said that the local area surrounding the café was a tranquil outdoor space that was seen as an essential resource for local health and mental health needs.

He also stated that they objected to the applicant's proposal of 4 events per month as the site was not suited to large events.

He said that there had been a growth in activity on the site since the date for representations had closed. He added that the interested parties he was representing would request the sale of alcohol to be restricted to 09:00 to 16:00 to bring it in line with the current planning permission which details the café as being ancillary to a bunk barn.

Decision and reasons

Members have determined an application for a new Premises Licence at Piple Barn Café and Bunk Barn, Lansdown. 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 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 on the information before them. Members reminded themselves that each application must be considered on its own merits.

The application was not for a public house but rather a café offering alcoholic refreshments to passing trade, guests staying in the bunk barn and people attending pre-booked musical events, talks, lectures and private functions in the evenings. Such events must be pre-booked and will be low key given the space limitations.

The applicant stated that since making the application he has been made aware of the planning restriction relating to opening hours and that the opening hours of the café have now been changed to comply whilst also complying with any Covid-19 requirements. He further stated that he was aware that any Licence granted could only ever operate in alignment the planning consent.

In terms of the bunk barn whilst the hours sought are until 9.00pm Monday to Thursday and 11.00pm Fridays Saturdays and Sundays the barn is not currently operational due to Covid-19 and in any event can only accommodate up to 19 guests.

With regards to the café providing alcohol after 6pm the following additional conditions were offered: -

- After 6.00pm on any day, alcohol will only be served to persons who have previously booked, or bought tickets, to attend an evening event pre-organised for that particular date; no admission would be permitted to any members of the public after 6.00pm who had not booked or purchased tickets.
- Events held at the premises after 6.00pm hours shall be limited to a maximum of four per calendar month.

The Interested Parties raised the Prevention of Public Nuisance and Public Safety Licensing Objectives by way of representation. With regards to Public Nuisance there was a strong possibility that the tranquillity of the area would be detrimentally affected if the application was granted and large weekly events ran until 11pm. This was on the basis that the café had already caused nuisance from noise and most recently when an event held in a marquee created noise until after midnight. The Interested Parties did, however, state that if the applicant were able to comply with the many planning conditions and reduce the sale of alcohol to between 9am and 4pm the premises might not cause a noise nuisance.

In determining this application Members reminded themselves of the Statutory Guidance and their Statement of Licensing Policy and were careful to take account of relevant written and oral representations and balance their competing interests. Members were, however, careful to disregard matters such as those governed by other statutory regimes and issues not attributable to the requested licenced activity. For example, planning consent, amenity and enforcement, traffic risks, noise and parking, wellbeing and need, the character, appearance and wildlife of an area and the health and safety of those not on the premises. Accordingly, and whilst Members were mindful of other statutory controls, the Statement of Licensing Policy is clear in that there shall be no duplication of other regimes by condition or restriction and licensing should not be used as a re-run of the planning process as different considerations apply.

With regards to public nuisance Members reminded themselves that, whilst licensing authorities and responsible authorities should consider what constitutes public nuisance, conditions to mitigate the effects of sound escaping from live or recorded music may not be enforceable where the activity itself is not a licensable activity. In this regard Members noted the applicant had not applied for regulated entertainment which includes, for example, the performance of live or recorded music, plays or dance.

In terms of nuisance Members noted incidents of noise escaping from the premises was raised by Interested Parties. Members noted, however, that there had been no representation from Environmental Protection or the Police and the Interested Parties confirmed they had made no complaint to them in terms of noise. Whilst Members acknowledged the genuine concerns held by the Interested Parties the activities complained of are not subject to this application and cannot be conditioned or prohibited by the Licensing Sub Committee.

Members empathise with the Interested Parties' legitimate concerns and representations. Nevertheless, the general thrust of the representations related to noise associated with music and voice on the premises and separate statutory regimes. Accordingly, Members considered they were unable to regulate such activities. In terms of the application for the sale of alcohol from the café and bunk barn Members find the application reasonable, and appropriate conditions were contained in the operating schedule as agreed with the Police and put forward by the applicant in additional information. Moreover, there has not been any evidence, or information, put forward to base a reasonable belief that the sale of alcohol from the premises would have a detrimental effect on any of the licensing objectives. Accordingly, Members do not depart from Policy or Guidance and grant the application as applied for with the additional conditions offered by the applicant.

Authority is therefore delegated to the licensing officer to issue the licence with conditions consistent with the operating schedule and the additional conditions as follows:

- After 6.00pm on any day, alcohol will only be served to persons who have previously booked, or bought tickets, to attend an evening event pre-organised for that particular date; no admission would be permitted to any members of the public after 6.00pm who had not booked or purchased tickets.
- Events held at the premises after 6.00pm hours shall be limited to a maximum of four per calendar month.

The meeting ended at 11.05 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services