

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 12th November, 2020

Present:- Councillors Manda Rigby (Chair), Michael Evans and Steve Hedges

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

39 WELCOME & INTRODUCTIONS

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

40 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

41 DECLARATIONS OF INTEREST

The Chair informed those present that from being a previous Ward Councillor for the area she knew Sally Rothwell, Chair of CARA but she had not discussed the application with her. 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.

42 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

43 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.

44 APPLICATION TO VARY A PREMISES LICENCE: COMMON ROOM, 2 SAVILLE ROW BATH BA1 2QP

The Senior Licensing Officer outlined the application to the Sub-Committee. She explained that it was for a variation of a Premises Licence for Common Room, 2 Saville Row Bath BA1 2QP.

She explained that the variation application seeks to:

ADD the sale of alcohol for consumption off the premises:

- Monday to Thursday 10:00 to 02:00 the following morning
- Friday and Saturday 10:00 to 03:00 the following morning
- Sunday 12:00 to 02:00 the following morning

REMOVE the following conditions attached to Annex 1 of the current licence:

- There shall be no off sales.
- Sales of intoxicating liquor to be limited only to bona fide members of a club existing on the premises and their guests.

She informed the Sub-Committee that three 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

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

Harry Bret stated the case for the applicant and was questioned by Members and the interested parties present.

He explained that the premises were more a cocktail bar than a club and that it had been trying to adapt in a number of ways during the pandemic, including serving teas and coffees and opening earlier in the day.

He stated that the variation would offer the option to sell take away cocktails to customers who were present on the premises and be able to deliver cocktails to homes when ordered. He added that he anticipated that the delivery option would probably only be a couple of times a week during the early evening.

He said that there was no charge to becoming a member of the premises and that contact details of all customers were taken on arrival. He added that regular ID checks were carried out.

Sally Rothwell, CARA (Circus Area Residents Association) stated her case as one of the interested parties and was questioned by the Members. She said that an important aspect to be considered was that, if granted, the licence would be in place for any future businesses that use the premises. She asked the Sub-Committee to consider restricting off sales to cease at 11.00pm.

Thomas Dimitroff was present as a witness on behalf of CARA. He said that he had witnessed noise and anti-social behaviour that could be traced to the Common Room and had on a number of occasions visited the premises to ask for them to be quiet.

David Daniels stated his case as one of the interested parties and was questioned by the Members. He said that of the four premises in the area he considered the Common Room to be the most disruptive.

He added that he was concerned that the premises could become the off sales venue to go to if the idea was developed in the future.

Councillor Andrew Furse stated his case as one of the interested parties. He said that as the residents have made clear, noise is a concern for the area and that he felt that the addition of off sales from the premises would only add to this.

He added that in his opinion no reason had been given for the removal of the existing conditions on the licence

Decision and reasons

Members have determined an application to vary a Premises Licence at Common Room, Bath. 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 Licensing Act is a permissive regime, they must be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate to promote the licensing objectives on the information before them. Members also reminded themselves that each application must be considered on its own merits, Cumulative Impact does not apply to off sales and this hearing is a variation to not a review of the licence.

The applicant stated this is a small venue trading more as a cocktail bar and is seeking to adapt its trading model. The application is primarily to give them flexibility to provide a delivery and carry out service of pre-made cocktails enabling the business to diversify in the current lockdown restrictions. It was envisaged that this would be low key given the costs involved. The application offered a number of measures designed to promote the Licensing Objectives. For example, staff training, maintaining an incident and refusal log, erection of signage, Challenge 21 and where consumption was not within the Pavement Licence area all off sales must be sold in sealed containers.

The Interested Parties raised the Prevention of Public Nuisance objective. For example. It was feared that off sales would add to the noise nuisance already experienced, encourage groups to congregate outside the premises after closing and cause further nuisance including increased vehicular traffic. Further they were disappointed that the applicant appeared unwilling to take responsibility for any nuisance associated with his premises.

Members noted the application was to remove the conditions restricting off sales and limiting alcohol sales to bona fide members of the club. Further, that the application sought to add off sales to align with the current authorisation.

In determining this application Members were careful to take account of relevant written and oral representations and balance their competing interests. Members also reminded themselves that the application must be considered on its merits and they must not speculate on past issues or future uses.

Whilst noting the content of the Interested Parties' representations, and being mindful of other statutory regimes, Members were careful not to duplicate other regimes and disregarded issues not directly attributable to the activity under

consideration namely off sales. For example, allegations of crime and antisocial behaviour within the premises, the business case, need, community benefit and traffic were disregarded.

In terms of the interplay between off sales and Pavement Licences Members reminded themselves that off sales associated with a Pavement Licence are limited to consumption only at the tables and chairs and not off sales in the traditional sense.

With regard to nuisance Members further reminded themselves that it is a matter for Licensing and Responsible Authorities to consider what constitutes public nuisance and noted that neither the Police nor Environmental Protection had made a representation.

In terms of the removal of the conditions Members noted the Interested Parties accepted that the membership condition was of little if any effect and accordingly Members believed this could reasonably be removed without detrimental effect. Whilst empathising with the Interested Parties' legitimate and genuine concerns Members noted there was little evidence, or information, presented upon which to base a reasonable belief that aligning off sales would have a detrimental effect on the Licencing Objectives. In all the circumstances it was considered that the addition and alignment of off sales as requested, and the removal of the off sales restriction condition, was reasonable and appropriate. Accordingly, Members grant the application as applied for and delegate authority to the licensing officer to issue the licence with conditions consistent with the operating schedule.

The meeting ended at 11.32 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services