

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 14th July, 2022

Present:- Councillors Rob Appleyard (Chair), Steve Hedges and Sally Davis

Also in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and Geoff Cannon (Public Protection Officer (Licensing))

32 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

33 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

34 DECLARATIONS OF INTEREST

There were none.

35 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

36 MINUTES OF PREVIOUS MEETING: 30TH JUNE 2022

The Sub-Committee **RESOLVED** that the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

37 LICENSING PROCEDURE

The Chair explained the procedure for the meeting and all parties confirmed that they had received and understood it.

38 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR VINO VINO, 5 - 6 SEVEN DIALS, SAWCLOSE, BATH. BA1 1EN

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He explained that an application had been received from Rosh Limited Suite 2, Gascoyne House, Upper Borough Walls Bath to vary the Premises licence for VINO VINO restaurant 5-6 Seven Dials, Saw Close, Bath.

He stated that the application proposes the following variations to the existing licence:

Add Regulated Entertainment by way of Live and Recorded Music:
Monday to Saturday - 23:00 to 01:00 hours the following morning
Sunday - 23:00 until midnight.

Extend the terminal hour for the sale of alcohol on Monday to Saturday to 01:30 hours the following morning and on Sundays to midnight.

Vary the start time for the sale of alcohol on Sundays from 10:00 hours to 08:00 hours.

Extend the terminal hour for late night refreshment on Monday to Saturday to 01:30 hours the following morning, and on Sundays to midnight.

Extend the closing time Monday to Saturday to 02:00 hours the following morning and on Sunday to 00:30 the following morning thus providing a 30- minute drinking-up period after the last proposed sale of alcohol.

Vary the opening time on Sundays from 09:00 hours to 08:00 hours.

Add non-standard activity timings for regulated Live and Recorded Music, the Sale of Alcohol & Late-night Refreshment as detailed within the operating schedule.

Add non-standard opening times as detailed within the operating schedule.

Remove the following conditions as stated within the current operating schedule:

- There will be no use of outside areas after 00:30
- No cans of beer or lager shall be available.

Offer new conditions to further promote the licensing objectives, following preapplication consultation with the Police.

No change is proposed to the existing non-standard timings in relation to the sale of alcohol and late-night refreshment on New Year's Eve which shall remain as per the current licence.

He added that the following measures have been offered by the applicant to promote the licensing objectives in addition to existing conditions attached to the operating schedule:

- Waiter/waitress service shall be available at the premises.
- Regulated Entertainment by way of the performance of live music or the playing of recorded music shall not be provided outdoors beyond midnight.
- The premises shall operate a "Challenge 21" age verification policy.

A notice advising that such a policy is in operation shall be prominently displayed at the premises.

Decision and Reasons

Members have determined an application to vary a Premises Licence at Vino Vino, 5-6 Seven Dials, Sawclose, Bath, BA1 1EN. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy which includes the Cumulative Impact 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 proposed premises falls within BANES' Cumulative Impact Area which means that pursuant to the Council's policy there is a rebuttable presumption that for variations relating to "on trade", premises will be refused if relevant representations are received, unless the applicant can demonstrate that the operation of the premises will not add to the cumulative impact already being experienced. "On trade" means the sale of alcohol for consumption on the premises.

Members noted that the applicant had submitted three lots of additional information prior to the hearing comprising, a 10 page bundle of documents, premises licence summaries for other premises in the vicinity and e-mail correspondence with Paul Kendall, Licensing Officer for Avon & Somerset Police, all of which they had regard to and which are appended to the Minutes of the LSC.

Terrill Wolyn, agent for the applicant addressed members in oral representations and noted that there had been no representations from Responsible Authorities or residents' associations; the police had been consulted in pre-application discussions and had expressed no concerns about the proposals, furthermore, they had indicated that no premises from Saw Close were on the list of impactful premises since 2020 and this was relevant in relation to the Cumulative Impact Policy.

Expanding on Cumulative Impact, Ms Wolyn explained that members should consider the style and characteristics of the premises; this is not a nightclub or high-capacity pub, the police did not consider it necessary to object to any of the proposals nor necessary to make representations to engage the policy, further the heat map appended to BANES' Policy, details no incidents in Saw Close.

The applicant had addressed the measures to be considered to be added to a licence to rebut the presumption of refusal and these could be found at pages 5-7 of the additional information bundle 1. The applicant had also carefully considered the times applied for to not coincide with any other premises in Saw Close. Ms Wolyn noted that in relation to regulated entertainment, between 0800 and 2300, the music currently benefits from government deregulation, and it does not matter what genre of music is played as that is not regulated. Ms Wolyn indicated that there was no requirement for permission in relation to the mounted speakers under the Licensing Act 2003.

There was a written representation of objection from Mr & Mrs Digney who are residents in Bath and business owners of the Garrick's Head which is a business

premises in close proximity to the application premises. Mr & Mrs Digney had submitted additional information prior to the hearing comprising two photographs of external speakers at the premises, a Register plan from the Land Registry and a statement from Darron Wisdom, all of which are appended to the Minutes of LSC and which Members had taken into account.

Mr & Mrs Digney objected to the application based upon the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety licensing objectives. They addressed members orally at the licensing committee and indicated that the extended trading hours proposed would make the business a destination for late night drinking types and that this would fundamentally change the dynamic of the customer mix in the Saw Close area away from families and couples in favour of large groups of younger individuals.

Mr Digney indicated that the music from the speakers is a nuisance, which they and their customers complain about. It was noted that the proposed closing time was the same as Flan O'Brien's of 2am. Mr Digney noted in relation to the police response regarding impactful premises that that included a timeframe covering lockdown.

Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members noted that when there had been a perceived issue with the music from the objectors, they had raised this with the applicant who had turned the music down, they commended them for this co-operative approach and encourage positive communication to continue.

Members noted that there had been no representations from Responsible Authorities which includes the police, Highways, Planning, Environmental Protection and the licensing authority. Notably, the police had indicated that there are no impactful premises in Saw Close.

Members noted that there have been no complaints received by BANES regarding Vino Vino in the last three years. There had been one incident where an EHO and licensing officer who were passing the premises had observed music playing from the outside speakers at a volume above conversation level at 00:05 on 23/11/21, but this was not excessively loud, was the opinion of the EHO and this was deemed to not warrant a formal warning letter.

Whilst Members took on board the concerns of the objectors, on balance, on the evidence before them, they did not find that the application if granted would fundamentally change the dynamic of the customer mix in the Saw Close area, nor was there evidence to suggest there was a risk of creating a high potential of violent and disorderly behaviour.

The premises is a licensed restaurant and wine bar with table service. No vertical drinking is permitted at the bar and there is no dance floor, and members were satisfied that the measures offered by the applicant in their operating schedule such as waiter/waitress service being available and no regulated entertainment outside after midnight, would promote the licensing objectives.

Members were satisfied that the applicant had demonstrated that the operation of the premises would not add to the cumulative impact already being experienced, for reasons noted above including the style and characteristics of the premises and the fact that there are no impactful premises in Saw Close.

Members were satisfied on the evidence they heard and read that the application would promote the licensing objectives of prevention of crime and disorder, prevention of public nuisance and public safety.

Authority is therefore delegated to the licensing officer to issue the licence as applied for.

The meeting ended at 12.18 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services