

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 27th June, 2024

**Present:-** Councillors Steve Hedges (Chair), Toby Simon and Michael Auton

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

#### **10 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

#### **11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **12 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **14 MINUTES OF PREVIOUS MEETING: 13TH JUNE 2024**

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 13<sup>th</sup> June 2024.

#### **15 LICENSING PROCEDURE**

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

#### **16 APPLICATION FOR A NEW PREMISES LICENCE FOR FLY FITNESS LTD. 3 - 4 BATH STREET, BATH. BA1 1SB**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that the application proposes the following licensable activities:

The sale of alcohol for consumption on and off the premises 09:00 to 22:00 every day.

He informed the Sub-Committee that the application also proposes the following opening times: 09:00 to 22:00 every day.

He stated that following consultation with the police, a number of measures have been offered by the applicant to promote the licensing objectives and that these were contained within the report.

He said that all interested parties were made aware of the proposed measures which replace those offered by the applicant in the original application.

Councillor Toby Simon stated that he did not feel that the wording in relation to the types of glasses used on the premises was drafted well enough and said that if the Sub-Committee were minded to grant the application he would provide them with a form of words.

Chris Clinton and Joe Suckling addressed the Sub-Committee and informed them that they were both a director of the business, Mjolk Float, that operate the mobile café in the area outside of Fly Fitness.

Chris Clinton explained that this business was a spin-off from his city centre café Mjolk and that the sale of alcohol would be an additional offer for tourists and locals to enjoy in a relaxing atmosphere. He said that they have no intention of operating late into the evening regularly.

Joe Suckling said that the premises had operated under similar conditions to those being applied for during a May Bank Holiday under a Temporary Event Notice. He added that alcohol sales were quite low, the atmosphere was good and that no issues of concern had been raised.

Chris Clinton stated that having the option to sell alcohol and stay open later would give them the opportunity to host private events, such as wine tasting, accompanied by Swedish style food. He added that they seek to run a family friendly premises and that staff were well aware of how to handle certain types of customers.

The Chair asked if they would be willing to have signage in place at the premises that asks customers to be quiet when leaving the premises.

Chris Clinton replied they would put in place such notices.

Ann Crooke, an objector to the application, said that she was concerned that Bilbury Lane would be turned into a dumping ground and asked where would the tables and chairs be stored when not in use.

Chris Clinton replied that they are stored in Bilbury Lane, but stressed that every attempt is made to keep the area as clear as possible. He added that their bins could be moved closer to Fly Fitness if that would help and stated they use seagull proof bags when disposing their rubbish.

Ann Crooke addressed the Sub-Committee and explained that Bath Street was a quiet place during the evening and not generally part of the tourist area. She queried

who would be able to monitor the CCTV if a problem should occur and the gym is closed.

She said she was concerned should customers purchase an alcoholic drink and then proceed down Bilbury Lane as there would be no toilet facilities available.

She added that she was concerned that the mobile outlet itself would block a right of way and access to the cash machines situated near the vicinity of the premises.

She stated that she felt that if the application was granted it would change the area as a whole and was worried that the use of the later hours would grow incrementally.

The Chair asked for both parties to make a summing up statement.

Ann Crooke said that she was concerned about the effect the extension of the operating hours would have on the residential community.

Chris Clinton acknowledged that he understood the concerns that have been raised and said that he would guarantee that the staff would respond to any problems raised by the residents. He added that they would do their best to keep Bilbury Lane clean and quiet.

He informed the Sub-Committee that they are able to access the premises of Fly Fitness once it has closed for the day should the CCTV need to be observed or to open the toilets if they are operating under their later hours for their customers to use.

### Decision & Reasons

Members have determined an application for a new Premises Licence at FLY Fitness Limited, 3-4 Bath Street, Bath BA1 1SB. 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.

Chris Clinton and Jo Suckling addressed Members in oral representations in support of the application. They indicated that the sale of alcohol is proposed to supplement their existing offering of coffee and pastries. For the most part they are likely to close at 5 or 6pm but would like to have the option to put on private and special events and that is where the licence until 10pm comes in. In addressing Members and the objector they indicated that they would be agreeable to a condition in relation to signage to say that in relation to noise, customers should respect the neighbours. They also indicated that the neighbours are a priority for them and their staff.

Members had regard to the written objections from Mr and Mrs Crooke and Mr Lapraik. They also had regard to oral representations from Mrs Crooke on behalf of

herself and her husband. In summary the objections were based on the prevention of public nuisance licensing objective. The objectors expressed concerns that the proposal would result in intoxicated people hanging around an otherwise quiet residential area at all hours, which they felt was totally inappropriate for the sale of alcohol and they said that the presence of drunk people could be frightening to them and disrupt the use of the ATM and access to vehicles. In response to a question from Members, Mrs Crooke indicated that she was concerned about anti-social behaviour.

In determining this application 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 disregarded irrelevant representations such as the potential impact of the proposal on film and tv productions and matters which are the subject of other statutory regimes.

Members noted at paragraph 2.27 of the Statutory Guidance it provides that *“beyond the immediate area surrounding the premises, these are matters for the responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area.”*

Members noted that there had been no representations of objection from Responsible Authorities and the police had recommended a suite of conditions to promote the licensing objectives, all of which had been accepted by the applicant.

The Sub-Committee carefully considered the noise likely to emanate from the normal operation of an outside seating area. On balance the Sub-Committee did not consider the likely nuisance level to be such as to justify restrictions on the opening hours beyond those applied for, as Members were satisfied that the measures offered by the applicant would promote the prevention of public nuisance licensing objective.

Authority is therefore delegated to the licensing officer to issue the licence as applied for subject to the conditions proposed by the police and accepted by the applicant and subject to the following additional condition:

*“Signage to be erected at the premises to ask customers to respect neighbours and to keep noise to a minimum when leaving the premises.”*

And amendment to the following condition:

Change the proposed condition relating to drinking receptacles from:

*“All drinking glasses used within the premises must be made of plastic and toughened or safety glass to the appropriate safety standard, in that they shall not produce sharp shards when broken.”*

Change to:

*“Plastic drinking vessels shall be such that they will not produce sharp shards when broken. Any drinking glasses used within the premises must be made of toughened or safety glass to the appropriate safety standard.”*

The meeting ended at 11.25 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**