

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Thursday, 1st August, 2024, 10.00 am

**Councillors:** Steve Hedges (Chair), Ann Morgan and George Tomlin

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

### **1 EMERGENCY EVACUATION PROCEDURE**

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

### **2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Cllr Toby Simon and Cllr George Tomlin was present as substitute for the duration of the meeting.

### **3 DECLARATIONS OF INTEREST**

There were no declarations of interest.

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

There was no urgent business.

### **5 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.

### **6 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR: BEST ONE, 8 TERRACE WALK, BATH. BA1 1LN**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that the applicant was seeking the following variations to the existing premises licence:

To extend the permitted hours for the sale of alcohol for consumption off premises from 6am to midnight every day to 8am to 3am every day and to amend opening hours accordingly.

He informed the Sub-Committee that two representations had been received within the statutory period from a Councillor and a member of the public. They expressed concerns that the applicant's proposals are likely to undermine the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety Licensing Objectives.

He also explained that following consultation with the police, additional measures to those already contained in Annex 2 of the current Premises Licence have been offered by the applicant to promote the licensing objectives.

Mr Donne, Licensing Consultant, addressed the Sub-Committee on behalf of the applicant. He outlined the reasons for the request to vary the Licence and explained that the Licensee is a very experienced operator.

Mr Raichura, the applicant, explained that he is trying to rebuild his business post-Covid and that he also trades from a premises in Broad Street, Bath. The Broad Street premises currently opens until 3am on Fridays and Saturdays and until 1am on Wednesdays and Thursdays. The Terrace Walk premises sells a wide range of goods and not just alcohol.

Mr Donne also pointed out that if there were any incidents in the area, then CCTV would be available for the Police to view. The applicant would also have access to the Pub Watch system and so would be aware of any individuals who should not be permitted to buy alcohol. He stated that the representations raised did not provide any evidence to support their claims.

In response to a question from Cllr Tomlin Mr Raichura stated that he expected that the Terrace Walk store was likely to open at the same times as the Broad Street store and so was unlikely to be open until 3am every day.

Cllr Steve Hedges asked whether the applicant would consider an additional condition requiring a sign to be placed near the exit asking customers to be quiet when leaving the area. The applicant stated that he would be happy to accept this as an additional condition.

Cllr Paul Roper addressed the Sub-Committee stating that, whilst he supported the nighttime economy, he felt that a number of his constituents were not aware of this request to open the store until 3am. He raised concerns about anti-social behaviour such as increased noise, people congregating in the area and disruption for local residents.

Mr Donne highlighted the fact that there is a statutory requirement to advertise the request to vary the licence and that signs have been displayed in the shop window, the request has been advertised in the local newspaper and was also available on the Council's website. In response to a question, Cllr Roper confirmed that he has not received any complaints about the shop itself but had been made aware of residents' concerns about anti-social behaviour in this area.

Mr Mason, Site Director for the Labyrinth nightclub addressed the Sub-Committee and raised concerns about the impact of people being able to purchase alcohol from the shop up until 3am. He explained that a nightclub can ID check its customers, prevent people from buying more alcohol if already inebriated and has trained staff and a medic on site. There are also dispersal policies when people are leaving the nightclub. These mitigations would not be in place for off-licence sales. He did not believe that there is a need for people to be able to purchase alcohol at the times proposed.

Cllr Tomlin asked whether staff would be able to access the Disc system to access the Pub Watch information. Mr Mason explained that this can take some time to be updated and noted that retail staff may require assistance from the Police and Security staff if there were any issues.

Cllr Morgan asked whether the proposed licence variation would affect the nightclub's business. Mr Mason stated that the shop was well run but that he had some concerns for people's safety and for the homeless community.

Cllr Hedges asked why Mr Mason felt that one SIA (Security Industry Authority) worker who would be highly trained would not be adequate for the shop. Mr Mason explained that with a retail premises it would not be possible to see who is consuming the alcohol and this could encourage underage drinkers who could ask other people to purchase it on their behalf.

Cllr Paul Roper summed up by stating that he had concerns regarding the application for a variation to the licence in this location and at the times proposed.

Mr Donne summed up by stating that this is a well-run business and that no objections have been received from either the police or local residents. He believed that the proposed conditions are appropriate and noted the option to review the licence if there were any issues at a future date.

### Decision and Reasons

Members have determined an application for a variation to the Premises Licence at Best One, 8 Terrace Walk, Bath, BA1 1LN. 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.

Members had regard to additional information comprising a skeleton argument and witness statement that had been submitted in advance of the hearing, in support of the application. This had been shared in advance, with the parties that had objected to the application.

Bill Donne Licensing Consultant and Pankaj Raichura (Director and Premises Licence Holder) addressed Members in support of the application. Mr Donne explained to Members that the police had been consulted prior to the submission of the application and had recommended conditions which the applicant considered to be appropriate and proportionate. He noted that the police, being the authority that takes the lead in relation to crime and disorder and anti-social behaviour, had not made any objections to the application. Looking at crime statistics mapping Mr Donne noted that the concentration of criminal behaviour appeared to be elsewhere rather than in the area of the premises. In addressing Members on the objections to the application, Mr Donne submitted that Terrace Walk did not seem to be the issue, rather other areas further afield and he suggested that within the representations

Members had not been provided with any evidence to support the assertions. Mr Donne noted that the applicant was a very experienced operator and Members heard from Mr Raichura who referred to his written statement which Members had considered. On questioning, Mr Donne and Mr Raichura indicated that they would be agreeable to signage at the exit to the premises, asking patrons to be quiet until they leave the area and to be respectful of neighbours.

Members had regard to the written and oral objections from Councillor Roper and John Mason who is the Site Director of Labyrinth Nightclub. The objectors expressed concerns that the proposal would undermine the prevention of public nuisance, prevention of crime and disorder and public safety licensing objectives.

Councillor Roper expressed the view that the proposed extension of hours until 3am would lead to late night disturbances, encourage street drinking and public nuisance in the locality. He referred to problems relating to anti-social behaviour reported to him by his constituents in areas within his ward, issues related to urinating in cellars and streets, the noise, people playing on scooters and general disruption. Councillor Roper acknowledged on questioning that he had not received any representations from his constituents in relation to this application. He also acknowledged the extent of the statutory consultation process in relation to the application. Councillor Roper said his primary concern was the impact of noise, in extending the hours. In addressing Members in closing submissions, he said it was not about the operator, or training of the staff or what they do, but the time of day at which it is proposed to operate, that is the issue.

Mr Mason expressed concerns that access to take away alcohol from Best One would exacerbate issues with people who have been refused entry to premises. He believes that people who had purchased alcohol for consumption off the premises would stay on the benches, walls and around the area causing more of a nuisance. Mr Mason also expressed concern regarding proxy sales to enable people who had been refused alcohol at other licensed premises, or to enable underage people, to access alcohol. He indicated that he has a good relationship with the business and made no criticism of the operator.

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 noted that there had been no representations from the police who had engaged with the applicant on appropriate conditions, prior to the submission of the application. Members further noted that the statutory guidance under section 182 of the Licensing Act 2003 provides as follows:

*In relation to Crime and disorder*

*2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.*

*In relation to the Prevention of Public Nuisance licensing objective:*

*2.27 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

Members were satisfied on the evidence they had heard and read that the application would not undermine the prevention of crime and disorder, prevention of public nuisance or public safety licensing objectives. Authority is therefore delegated to the licensing officer to issue the licence as applied for subject to the following additional condition as agreed to by the applicant, which Members consider to be appropriate and proportionate in the promotion of the prevention of public nuisance licensing objective:

*Signage shall be erected in a prominent position at the exit to the premises asking patrons to be quiet until they leave the area and to be respectful of neighbours.*

The meeting ended at 11.55 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**