

Licensing Sub Committee-Alcohol and Gambling

Monday, 2nd October, 2017

3.40 - 4.50 pm

Attendees	
Councillors:	David Willingham (Chair), Mike Collins and Tim Harman
Also in attendance:	Phil Cooper and Donna Marks

Minutes

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

The Councillors present wished to put on record the fact that they had visited the site.

3. LICENSING ACT 2003: DETERMINATION OF AN APPLICATION TO VARY A PREMISES LICENCE

The Licensing Officer, Phil Cooper, explained that an application to vary a premises licence was received on 8 August 2017 from 131 The Promenade Limited in respect of 131 The Promenade, Promenade, Cheltenham, GL50 1NW. The variation was to amend the permitted times for licensable activities as outlined in paragraph 1.2 of the report. He reported that during the statutory consultation no representations had been made from the responsible authorities and 8 representations were received from other people as summarised in Appendix E. He referred to the model core hours for licensable activities listed in Table 1 at paragraph 5.25 and stated that on the basis that the terminal hour was 3am it complied with the policy and a decision should be taken on the merits of the application and the focus on the promotion of the four statutory licensing objectives of

- Prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

In response to a question by a Member the Licensing Officer confirmed that neither the licensing department nor the police had received any complaints about the premises. A Member asked that in view of the fact that the premises was expanding to the adjoining buildings whether those premises would be covered by the licence under consideration. It was confirmed by the Licensing Officer that should the owners wish to include these buildings as part of the licensed premise there would be a requirement for a new licensing application which would be subject to the statutory consultation process.

There were no questions to the applicant and the objectors had no questions to the licensing officer.

Mrs Paulette Faulkener as objector to the application was invited to address the Licensing Committee on behalf of local residents. She referred to the licensing objectives and explained that this was a residential area and the noise from the establishment would be intrusive. The consumption of alcohol outdoors between 2am and 3am would create a disturbance and would be tantamount to a public nuisance. She highlighted that this was a conservation area where residents were not allowed to install double glazing in their properties. She questioned why alcohol consumption outside was necessary and concern was expressed that if the premises were extended to include 129 and 131 the Promenade there would be more space available for customers and as a result the noise levels heard from Imperial Square from music and voices would increase. She requested that the current outside area should not be expanded to include space from 129. The current hours should also not be extended as the increase in the number of people and increase in noise levels could lead to crime and disorder and public nuisance in the area.

She referred to paragraph 5.2.5 of the report and the core hours. Earlier closing would mean less alcohol consumed outdoors and less disturbance to residents. She referred to paragraph 6.11 of the report and requested that a condition be imposed that the doors and windows be kept closed and no persons should be permitted in the garden area after a certain time. This was a local neighbourhood area and residents should have the right to sleep undisturbed and as such she requested that the application be refused.

In response to a question as to whether the existing licensed premises in the area had an effect on the residents who lived nearby and whether this application would exacerbate existing problems Mrs Faulkener (as objector) said she had understood that she was not allowed to refer to any other premises in the area. However, she confirmed that residents had suffered many years of noise from Subtone and had made formal complaints. The Queens Hotel was however regarded as a good neighbour with no problems experienced. She emphasised that noise from groups of people talking outdoors did resound around Imperial Square.

In response to a question, the objector specified that outdoor drinking, raised voices and music were the core problems. She believed that drinking at 2am outside was considered to be unnecessary and that local residents should not be subjected to sleep disturbance in their own homes.

A Member asked what objections had been raised with regard to the other premises in order to seek confidence that the objections were correctly being attributed to this premises. In response the objector said that increased noise from the garden at 131 would affect residents more as it was located nearer to the residents' side of the Broadwalk than Subtone.

The Applicant, represented by Mr Chris Connor, Project Manager (Capital Works & Procurement) for the company, was invited to ask questions of the objector. He explained that he had expected that this application would still contain the conditions on the existing licence, i.e. that the external area of the premises should not be used after 11pm in the evening for any licensable activities. He confirmed that the front terrace would not be used for the sale of alcohol or music. It was a busy hotel and they were developing either side of the

building in order to incorporate more bedrooms and host events. They would not be serving alcohol until 2am outside and emphasised that 131 had its own resident clientele. He intended to mitigate the majority of the residents' concerns and stated that there would be no outdoor drinking after 11 pm and no music.

The Licensing Officer confirmed that for the current licence there was an existing condition limiting licensable activities to 23:00 on the terraced area. However the officer clarified that the condition only referred to *licensable activities*, so it did not prevent people gathering on the terraced area after 23:00 to consume drinks, smoke and talk, as these were not licensable activities.

Cllr Seacome, representing Mr Stennett was invited to address the committee. He explained that there were now more residential properties in this area of the town due to the attempts to repopulate the town centre over the last 15 years or so. He said that 131 the Prom had a responsibility to its neighbours.

He made the following points :

- 1) Only recorded music should be permitted and only designed for indoors. He suggested that a condition be added that windows be shut as well
- 2) If the licence was granted until 3am then there should be sufficient supervision to assist the situation and there should be a notice to patrons to treat residents with consideration
- 3) There should be no use of the outside bar after midnight

He also suggested that there was an emergency phone number residents could use. Finally he added that if property owners had made complaints about a licensed premise these had to be declared to the potential purchaser and as such could potentially devalue the property.

Mr Stennett wished to put on record his support to Mrs Faulkener and supported her in that drinking until 3am was irresponsible and unnecessary, particularly in a conservation area.

In response the Applicant said he understood the frustrations of living near a licensed premises. He highlighted that the objective of 131 The Prom was to run a reputable establishment and as such it was priced above the average for the town. A robust door policy was in operation, compliant with the condition to have 2 SIA door supervisors on a Friday and Saturday evening. He emphasised that 131 The Prom was a hotel and as such had no interest in running an operation which would devalue the business or upset residents. They would be investing £8m in the area in 2018. The request was for an extension to late night hours until 3am Thurs-Sunday. The aim was to continue to trade in a controlled manner and referred to the fact that in terms of the Licensing Team and the Police there had been no issues. The applicant would be happy to continue to liaise with residents and to provide the contact details of the Duty Manager who would be available 24hours a day. He clarified that music was solely for use in the bar area and there was no intention to serve alcohol in the outside area. He informed that the Designated Premises Supervisor already requested patrons to move out from the front of the terraced area from 22:30. Finally he added that there were licensed premises in the area which operated later than they would intend to.

In response to questions, the applicant responded as follows :

- There was no intention to have music until 3am outside

- In terms of access he explained that Clarence house to the left was the main entrance to the hotel and all access to the residential part was through magnetic hard lock. Access to the premises would remain through the existing gate at the front so patrons would still be required to pass the door supervisors and there would be no entrance/exits from the other 2 buildings
- The planning application related to dining space to the rear, nothing to the front.

Due to some confusion with regard to the application and what the committee were being asked to determine the Licensing Officer stated that the conditions could remain as current and could be amended to include a restriction on the use of the outside area.

Donna Marks, Legal Officer, referred to table F in the application and noted it did not refer to serving alcohol to the outside areas. The bar area outside was currently only used as a service area but understood that it could be used as a bar. The applicant had stated that the premises would serve alcohol in later hours for consumption inside and would clear the outside area from 11pm-11.30.

When asked about occupancy levels on a Friday/Saturday the applicant said that in July/August occupancy was at 94 % and stated that the bar was generally used by its own clientele who would be disturbed if the business operated out of control.

In terms of dispersal policy the aim was to avoid causing a disturbance to local residents. Standard signage was in place requiring guests to leave quietly. He emphasised that door supervisors engaged with customers and if noisy were reminded politely they were in a residential area.

The Applicant reiterated that he would be keen to maintain the existing conditions. The Chair reminded Members of the condition that the management and DPS of the premises will ensure that after 23:00 hours, no alcohol will be sold outdoors.

Mrs Faulkener, objector, sought clarification of the condition. In response the applicant confirmed that whilst he could not confirm that there would be no one on the outside terrace after 11 pm at night there would be no music as the music would be inside. He believed they operated a reputable venue in the town and they would be happy to continue to maintain the conditions and continue to invest in that area of the town as well as engaging with local residents.

The Legal Officer asked whether the objectors felt they could withdraw their objections in light of the questions raised and the condition put forward.

The Chair asked whether the committee should consider an extension of the use of doorstaff to Thursdays so that the DPS could undertake all reasonable measures to avoid causing a nuisance to neighbours of activity after 11 pm. It needed to be necessary, reasonable and proportionate but also enforceable.

The applicant did not feel that the use of door staff every Thursday was proportionate unless there was a late premises event or private hire event. He reiterated that neither the licensing team nor the police had received complaints from the current arrangement and adding this as a condition had not been

debated thus far in the meeting. Members considered whether a special condition could be applied to Thursdays when it was intended to be open that late.

The Licensing Officer confirmed that a condition could be added to the effect that when the premises intended to hold a planned event on a Thursday including licensable activities later than normal, then a minimum of 2 SIA staff would need to be engaged.

The Legal Officer asked how the applicant would propose to satisfy councillors and objectors with regard to operating hours on a Thursday.

The applicant considered that this should only be relevant if there was an event planned and he would be satisfied with a condition to that effect.

Having considered all relevant issues, the sub-committee

RESOLVED (unanimously)

To grant the application as applied for subject to the following conditions :

- 1. The management and DPS of the premises will ensure that after 23:00 hours, no alcohol will be sold outdoors and customers will not be permitted to take drinks outdoors.**
- 2. On any Thursday when the premises has a planned event including licensable activities after 00:00 hours, a minimum of 2 SIA door staff will be engaged at the premises between 00:00 and the premises closing.**
- 3. All reasonable steps will be taken to ensure that the activities at the premises do not cause any nuisance to members of the public or residents within the vicinity.**

David Willingham
Chairman