

LICENSING SUB COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Tuesday, 19th December, 2017 at 10.00 am

Present: Councillor Cathy Mason in the Chair;
Councillors Tony Brewer and Paul Roberts.

In Attendance: Councillor David Griffiths (Substitute Member)

Officers Present: Julian Alison, Alan Maher, Kieran Stockley

In Attendance: Lee Clement, S. Clement, S. Westerman

LC.1 Declarations of Disclosable Pecuniary or Personal Interests and Non-Disclosable Pecuniary/Other Interests

There were no Declarations of Interest.

LC.2 Hearing for Application for a new Premises Licence: Havana Blue, 4A-6A Annesley Road, Hucknall, Nottinghamshire, NG15 7AB.

The Chair introduced herself and asked the Members of the Sub-Committee, officers and those others present to introduce themselves.

The Applicant for the New Premises Licence, Mr Lee Clement, accompanied by S. Clement and L. Westerman supporting the application, were in attendance. It was confirmed that the Interested Party was not in attendance, but that their representation about the proposed businesses was attached to the report at Appendix 'C'.

The Chair outlined the procedure to be adopted throughout the duration of the hearing.

The Licensing Team Leader, Julian Alison, outlined the application to the Sub-Committee. Following on from this the Chair then invited the Applicant to put forward their case to the Sub-Committee. In accordance with adopted procedure, the Sub Committee Members and Legal Officers were given the opportunity to question him.

Finally, the Chair invited the Applicant to sum up the case for the application. The Chair and Sub-Committee then withdrew from the hearing in order to deliberate on the application and representations made in respect of it. The hearing was adjourned at 10.17am.

The Chair and the Sub-Committee returned to the room at 10.40am. The Legal Officer presented the Sub-Committee's findings.

RESOLVED

The decision of the Licensing Sub-Committee (in exercise of its powers delegated by Ashfield District Council as Licensing Authority) was to:
Grant the application for a premises licence subject to the following conditions:

- A The mandatory conditions, the conditions below agreed with the Applicant, the conditions consistent with the Operating Schedule and the embedded restrictions on the use of the premises; and
- B The conditions agreed with the applicant being:
1. The Premises Licence Holder shall ensure that all staff employed at the premises whose duties include the sale or supply of alcohol shall undertake and complete a relevant programme of training prior to them being authorised to sell or supply alcohol. Records of the training programme shall be maintained and made available to Authorised Officers upon request. Such training shall consist of providing staff with an understanding of:
 - The need to ensure the responsible sale and supply of alcohol
 - The need to refuse the sale and supply of alcohol to persons who are intoxicated or underage
 - The need to seek credible age verification from persons seeking to be sold or supplied alcohol who may appear under the age of 18 years old
 2. The Premises Licence holder shall provide a “refresher” training session to all relevant staff members as and when deemed necessary on a case by case evaluation, but as a minimum requirement the refresher training session shall be provided to all staff on at least one occasion every six months.
 3. A Premises Daily Register shall be held at the premises. The Designated Premises Supervisor shall check the Premises Daily Register on a weekly basis ensuring that it is completed and up-to-date, sign the Premises Daily Register each time that it is checked, and make the Premises Daily Register available for inspection by any Authorised Officer throughout the trading hours of the premises. This Register shall be maintained for a rolling minimum period of 12 months, and shall record:
 - The name of the person responsible for the premises on each given day.
 - The name of the person authorising the sale of alcohol each day.
 - All calls made to the premises where there is a complaint made by a resident or neighbour of noise, nuisance or anti-social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call and the time and date of the incident about which the call is made and any actions taken to deal with the call.
 - Any refusals on grounds of age and/or intoxication (to include date, time, member of staff involved, reason for refusal as well as a brief physical description of the person refused)
 - Any calls to or visits by Nottinghamshire Police or the Licensing Authority in relation to any crime and disorder / public nuisance or like related matter.

4. The premises shall implement written policies and procedural statements and/or management action plans. The policies and procedural statements shall be “live” documents, subject to amendment following consultation with the Licensing Authority, Environmental Health Department, and Nottinghamshire Police. Such documents shall include, but not be limited to, the following:
 - Safeguarding Children & Vulnerable Adults
 - Responsible Service of Alcohol
 - Underage Sales and False Identity
 - Acceptable Form of Identification
 - Challenge “25”
 - Zero Tolerance of Drugs
5. The Premises Licence holder shall ensure that all staff employed at the premises are aware and understanding of the policies / procedures referred to at Condition 4 and the content of such policies and procedures and that they carry out their duties in accordance with them. Any necessary and justifiable deviation from those agreed shall be fully documented within the Premises Daily Register.
6. A CCTV system shall be installed and operative in the premises when licensable activities are taking place. Recordings to be made available for inspection to the Police or any other authorised person when requested. All recordings used in conjunction with CCTV shall:
 - Be of evidential quality
 - Indicate the time and date
 - Be retained for a period of 31 days
7. One licensed SIA door supervisors shall be on duty on Friday and Saturday evening from 21:00 hours until the premises is closed to the public. A bound and sequentially paginated book or electronic record containing names, addresses and full SIA licence number(s) of door supervisors shall be maintained and kept for a period of twelve months and be available for inspection by the police or any other authorised person upon request.
8. No person shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage, other than to any external area owned or legally occupied by the Premises Licence Holder.
9. Challenge 25 notices shall be displayed in prominent positions throughout the premises. All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will include a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.
10. All external doors (save for when persons are entering and leaving premises) and windows at the premises shall remain closed at all times when regulated entertainment is provided.
11. Regulated entertainment shall be held internally only and no music or speakers shall be provided to external areas of the premises.
12. Prominent, clear notices shall be displayed at all exit points to advise customers to respect the needs of the local community and of acceptable behaviour in public spaces.

Recommendations:

Whilst the following were not made conditions, the Panel recommended to the Applicant that:

1. The Premises Licence holder should participate in the designated local Pubwatch / Licensed Premises Partnership scheme and ensure that a representative of the licensed premises attend arranged meetings.
2. Details of taxi companies or a taxi calling service/facility be available to customers to access should they wish to.

Facts and Reasons

Facts – The Sub-Committee decided the following:

1. No representations were received from any Relevant Authority;
2. No representations were received from Nottinghamshire Police;
3. There was no evidence of anti-social behaviour or crime & disorder connected to this Premises. The Police made no representation in this respect.
4. The premises is currently derelict; granting the application would bring this premises back into use.
5. The objector did not attend the hearing but the panel considered the representations made and found that they were speculative. The Panel were satisfied that the Applicant had taken steps to address the objectors concerns.
6. There was no evidence that the Licensing Objectives would be undermined by granting this application.

Reasons – The Sub-Committee's reasoning behind its decision was based on being satisfied that:

As to 1 and 2 above, the Applicant was committed to being a responsible Licensee and evidenced good management practices/policies;

As to 3 above, the Applicant indicated he was willing to work with the community, responsible authorities etc. to address any concerns relating to the promotion of the Licensing Objectives.

As to 4 above, licensing Law is not the primary mechanism for the general control of nuisance or anti-social behaviour but rather a part of a holistic approach to the management of the District. The Sub-Committee felt that there were other mechanisms available and in place for controlling problems of crime and disorder and public nuisance in the area.

As to 5 above, the conditions agreed with the Applicant would address the objectors concerns and were appropriate for to the promotion of the Licensing Objectives.

As to 6 above, if a Responsible Authority and/or Interested Party feel that the licence cannot be or is not being adhered to then a review application can be made to the Licensing Authority for the licence to be reviewed.

Decision

The Sub-Committee considered all the evidence carefully submitted by the Applicant and took into account the District's Licensing Policy, the Secretary of State's Guidance issued under s182 of the Licensing Act 2003 (April 2017), the Human Rights Act and the four licensing objectives, namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Each objective being of equal importance.

On consideration of the evidence and by virtue of the guidance issued under section 182 of the Licensing Act 2003 (April 2017) the Sub-Committee only imposed conditions which it regarded as necessary and proportionate to the promotion of the Licensing Objectives or were offered by the Applicant.

The Sub-Committee were also satisfied that the agreed conditions would address the concerns of the Interested Party going forward. If a Responsible Authority and/or Interested Party felt that the licence was not being adhered to then a review application could be made to the Licensing Authority for the licence to be reviewed.

Appeal

The parties to the hearing are reminded that there is a right to appeal against the decision to the Mansfield Magistrates Court, Rosemary Street, Mansfield, and Nottinghamshire, exercisable within 21 days of receipt of this notification.

Reasons

To enable the Sub-Committee to make an unbiased decision on the evidence and in line with the Home Office statutory guidance issued under Section 182 of the Licensing Act 2003.

The meeting closed at 10.45 am

Chair.