

Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Tuesday, 30th April, 2019.

Present: Cllr Paul Kirton (Chairman), Cllr Evaline Cunningham, Cllr Bill Woodhead(MBE)

Officers: Jonathan Nertney (HR,L&C), Leanne Maloney-Kelly, Sarah Whaley (DCE).

Also in attendance: Applicant Paulo Arceri, Norman Honeyman. Mr Maggiore, Mr Holland and Mrs Swainston who had all made representation.

Apologies: N/A

**SLS
31/18** **Evacuation Procedure**

The Evacuation Procedure was noted.

**SLS
32/18** **Declarations of Interest**

There were no declarations of interest.

**SLS
33/18** **Draft Minutes from the Statutory Licensing Sub Committee meeting dated the 28th January 2019**

Consideration was given to the Statutory Licensing Sub Committee minutes from the meeting which were held on the 28th January 2019 for signature.

RESOLVED that the minutes be signed as a correct record by the Chairman.

**SLS
34/18** **LICENSING ACT 2003
APPLICATION FOR VARIATION
MACY BROWN'S
48A HIGH STREET, YARM TS15 9AH**

Members were asked to consider an application for the variation of a premise licence under the Licensing Act 2003 for Macy Brown's 48A High Street, Yarm TS15 9AH to which there had been representations made from Interested Parties.

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of a summary report, including supporting documents and statements, had been provided to the Sub Committee and to all persons present.

The Committee noted that the application was for the variation of a Premise Licence to remove the following condition:-

"Intoxicating liquor shall not be sold or supplied at the premises otherwise than to persons taking table meals and for consumption by such persons as ancillary to their meal. However, an exception is made for a maximum of 20 people to consume alcoholic drinks without a table meal in the premise at any given time"

The Applicant outlined the basis of the application to the Committee and informed the Committee that he had not applied for any extension of the licensing hours.

The application was for the removal of one condition which currently restricted the provision of alcohol to persons who were eating a meal or for a maximum of 20 persons. The Applicant stated that the intention was to operate as a cocktail bar and the kitchen had been removed from the premise.

The Applicant stated that he operated other premises on Linthorpe Road in Middlesbrough and in Guisborough.

The premise was located on the first floor and there were self-closing doors to the entrance which would prevent noise escaping from the premise. The premise was located in a busy commercial area of Yarm High Street with the taxi rank located close by. The Applicant highlighted that some objections had raised concerns that the premise was going to operate an external terrace to the rear. The Applicant gave assurances to the residents and the Committee that this was not the intention and that the double doors had been installed from an aesthetic perspective and to make the rear of the premise look more attractive. It was also highlighted that the double doors had replaced an existing window. The Applicant noted that conditions had been agreed with Cleveland Police and there were no objections from any other responsible authorities.

Following discussions with Cleveland Police the Applicant had agreed to vary the operating schedule so that the following conditions would be attached to the premises licence if granted by the Committee;

1. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped. The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed, whilst complying with Data Protection legislation. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition. Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of alcohol occurs. There will be a minimum of 31 days recording and the system will record for 24 hours a day. The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer. The Digital recorder will have the facility to be password protected to prevent unauthorised access, tampering, or deletion of images.

There will be at all times a member of staff on duty who is trained in the use of the equipment and upon receipt of a request for footage from a governing body, such as Cleveland Police or any other Responsible Authority, be able to produce the footage within a reasonable time, e.g. 24hrs routine or immediately if urgently required for investigation of serious crime.

2. All staff will be fully trained and the training must include the laws relating to the sale of alcohol to underage persons, persons buying on behalf of under 18's (proxy sales), persons appearing to be under the influence of alcohol and also the operation of the associated Challenge 25 policy. Staff will receive refresher training at least every 6 months;

3. Training records signed by both the staff member and the Designated Premises Supervisor/Store manager/Business Owner will be retained for future reference and shall be updated at least every 6 months. All staff training records will be made available to the Licensing authority and/or Responsible Authorities on request;

4. The business will maintain a refusals book to record all instances where the sale of alcohol has been refused. This shall include the date and time of the attempted sale, together with a description of the incident. The Designated Premises Supervisor/Store manager/ Business Owner will check and sign each page and the refusals book will be made available to the Licensing authority and/or Responsible Authorities on request;

5. The business will maintain an incident book to record all instances where the staff deal with people who have been unruly, drunk, abusive, aggressive or have committed criminal acts or have had to call police for such incidents. This shall include the date and time of the incident together with a description of the incident and whether the police were called/attended. The Designated Premises Supervisor/Store manager/ Business Owner will check and sign each page and the incident book will be made available to the Licensing Authority and/or Responsible Authorities on request;

6. There will be a minimum of two notices displayed on the premise indicating that the sale of alcohol to those under the age of 18 is illegal and that those adults who buy alcohol for immediate disposal to those under age the age of 18 are committing an offence;

7. A minimum of two (2) SIA registered door supervisors must be employed at the premises from 21:00 hours until closing on a Friday and Saturday night. Sundays preceding a bank holiday, Christmas Eve, Boxing day and New Year's Eve, in order to control entry to the premises and to keep order in the premises.

8. The DPS and all other members of staff shall ensure that no open vessels are taken off the premises by customers.

9. Children under 18 years of age shall be accompanied by a responsible parent/guardian. Children will not be allowed at the bar or to remain in the premises after 21:00 hours;

The Committee were invited to attach these conditions to the licences if they were minded to grant the application.

The Committee had regard to the submissions made to them by Mr Maggiore, Mr Holland and Mrs Swainston who were in attendance at the meeting and had made representation.

Concerns were expressed that as the residents lived in close proximity to the premise they may be affected by noise from the premises as it was felt it was likely that the change from a restaurant to a bar would increase noise levels. The residents explained to Members that they already suffered some noise nuisance from other premises in Yarm and they were concerned that the changes to the conditions the applicant was seeking would exacerbate the disturbance. Residents also stated that they were very concerned that the

premise intended to operate an external terrace area as double doors had been installed to the rear. The residents noted the reassurance that the Applicant had given to them and although they were sceptical that the doors had been installed for aesthetic reasons had to take the Applicant at his word that there was no intention to operate an external terrace for customers to the rear.

The Committee read and considered all of the written representations which had been received and were appended to the Committee papers. The Committee noted that the representations were from persons who lived in relatively close proximity to the premise, the majority of whom resided in Merryweather Court which was located to the rear of the premise.

All parties present were given an opportunity to sum up their case.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, and to the oral submissions made by all parties at the meeting.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under Section 182 of the Licensing Act 2003 (as amended) and the Council's Licensing Policy.

The Committee were of the view that the application should be granted but with conditions being attached to the licence to ensure that the licensing objectives would not be undermined.

The Committee noted that the conditions as agreed with Cleveland Police (1 – 9 as detailed in the report) would be attached to the licence in order to ensure that the licensing objectives would not be undermined.

The Committee also resolved to attach the following conditions:-

- The licence holder or his representative must conduct periodic assessments of the noise coming from the premises between 21:00 hours and the terminal hour when the premises closes and when used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments and shall include, the time and date of the checks, the person making them and the results including any remedial action. All records shall be retained for one year.

The Committee felt that this was reasonably necessary to attach the condition to ensure that the management take proactive steps to assess whether the use of the premise when being used for licensable activities was causing a disturbance to local residents. The current condition only required such steps to be taken when regulated entertainment was taking place and the Committee felt that such steps should be taken on an evening between 21:00 hours and closing time (normally 01:00 hours) which was likely to be more noise sensitive for local residents.

- The doors which open to the rear of the premises marked 'X' on the plan must not be used by any customer of the premise except in the case of an

emergency.

The Committee agreed with the comments made by local residents that if the rear of the premise was to be utilised as an external terrace then it was highly likely to lead to a substantial increase in noise for residents located in the residential area to the rear of the premise. To ensure that such public nuisance was not caused the Committee felt it was reasonable and necessary to attach a condition which would restrict the use of the double doors by customers of the premise and that the doors should only be used by customers in an emergency.

RESOLVED that the application for the variation of a premise licence under the Licensing Act 2003 for Macy Brown's 48A High Street, Yarm TS15 9AH be granted with conditions as detailed above.

**SLS
35/18 Licensing Act 2003
Application for Variation of a Premise Licence for The Oddfellows, 500
Thornaby Road, Thornaby, Stockton on Tees, TS17 0AA**

As there were no representations made the item was withdrawn.

RESOLVED the item be withdrawn

**SLS
36/18 Licensing Act 2003
Application for Grant of a Premise Licence for Sydney Street Food Store,
42 Sydney Street, Stockton on Tees TS18 1NR**

As there were no representations made the item was withdrawn.

RESOLVED the item be withdrawn