

Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Tuesday, 15th December, 2020.

Present: Cllr Paul Kirton (Chairman), Cllr Eileen Johnson, Cllr Bill Woodhead MBE

Officers: Simon Grundy (EG&DS), Stephanie Landles (EH), Jonathan Nertney (HR,L&C), Peter Bell, Polly Edwards, Sarah Whaley (MD)

Also in attendance: Applicant Craig Robinson and his agent John Taylor of Parker Barras, Cllr Nigel Cooke, Cllr Norma Stephenson (observing)

Apologies: N/A

SLS 13/20 Declarations of Interest

There were no declarations of interest.

SLS 14/20 LICENSING ACT 2003 APPLICATION FOR GRANT OF A PREMISE LICENCE THE HARDWICK, 2 HIGH NEWHAM ROAD, STOCKTON-ON-TEES, TS19 8RQ

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee were asked to consider an application for Grant of a Premise Licence for The Hardwick, 2 High Newham Road, Stockton-on-Tees TS19 8RQ.

A copy of the report and supporting documents had been provided to all persons present and to members of the Committee.

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing. It was noted that this was a remote meeting and all parties were in attendance via Microsoft Teams either by video link or via the telephone. All parties confirmed that they could see and/or hear each other.

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee considered the above application, full details of which appeared before Members in their agenda and the background papers.

The Committee noted that the application was for the grant of a Premise Licence to authorise licensable activities as detailed in the application appended to the Committee report.

The Applicants Agent Mr John Taylor from Parker Barras informed the Committee that he was representing the applicant Mr Craig Robinson.

Mr Taylor stated that the building in which the premise was located had been vacant for approximately 2 years and prior to this had operated as a shop which had a licence to supply alcohol for consumption off the premises.

Mr Taylor highlighted that the Police and Environmental Health had both agreed conditions which addressed their concerns. It was of note that the outside area to the front of the premise would be vacated by customers by 20:00 hours.

Mr Taylor also stated that the business would be a benefit to the locality as it would create jobs, and the intention was for it to be a community based licensed premise.

The applicant owned two other licensed premises and was a responsible businessman.

Councillor Cooke was given an opportunity to ask questions of the applicant.

The applicant confirmed that the intention was to fit a self-closing device to the door to prevent noise escaping from the premise.

Members of the Committee asked questions of the applicant.

It was noted that Cleveland Police had initially made a representation but that the applicant had indicated amendments to his operating schedule which would be attached by way of conditions should the application be granted. A copy of the conditions signed by the applicant was appended to the Committee report.

It was noted that the Police had requested that the outside area be cleared of customers by 8 p.m.

Environmental Health had initially made a representation however the applicant had indicated amendments to his operating schedule which would be attached by way of conditions should the application be granted. A copy of the conditions signed by the applicant was appended to the Committee report.

The Environmental Health Team Manager attended the meeting to offer clarification required from the applicant, objectors or the Committee.

The applicant was asked to provide clarification of the terminal hour for use of the external area as he had agreed 8.00 p.m. with the Police and 10.00 p.m. with Environmental Health. The applicant confirmed that the external area to the front of the premise would have a terminal hour for its use of 8.00 p.m. and would be cleared of customers at or before that time.

The Committee noted that condition 3 of the Environmental Health conditions would be amended to:

“the use of the external area by customers shall be limited from 11:00 hours to 20:00 hours”

The Planning Services Manager on behalf of the planning department confirmed that as a responsible authority under the licensing act, the planning service had submitted a representation as they had concerns that the licensing objectives would be undermined if the application was granted on the hours sought given the location of the premise close to residential properties. There was concern over the potential for nuisance with patrons drinking socialising and leaving the premise late at night. The premise was on the fringe of a smaller commercial

area and the closest residential property was approximately 14 metres away. The Planning Services Manager highlighted that the premise currently had planning permission to be used as a shop and would require a change of use under planning rules.

The Committee read and had regard to the representation received from Ward Councillor Nigel Cooke, and that he also represented 9 residents who resided in properties on Westerton Green, Wheatley Road and Scurfield Road. In addition to the residents represented by Councillor Cooke other objections had been received which were appended to the Committee report.

Councillor Cooke addressed the Committee on behalf of the residents and noted that residents had lived there for many years and had a reasonable expectation that a pub would not operate close to their homes.

Councillor Cooke expressed concern that smoke may drift into the gardens of nearby residential properties and there could be issues with vehicles parking irresponsibly.

Members of the Committee and other parties were given an opportunity to ask questions.

All parties present were given an opportunity to sum up their case with the applicant invited to speak last.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made on behalf of the Applicant and the other 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 noted and wished to reiterate to the applicant the comments made by Environmental Health in their letter to the applicant. The applicant had been informed that, to date, planning permission had not yet been determined and therefore the premise did not have the necessary permission for a change of use. It was also noted that the appropriate planning application had been submitted by the applicant but had not yet been determined by the planning authority.

The Applicant was also aware that a Building Control application was required to be submitted for the change of use and internal alterations. Until that had been received, the Building Control team and the Fire Safety Auditor could not deem the building and its use to be safe.

The applicant must ensure that all required planning, building regulation and fire safety approvals were granted before the premise was open to the public.

The Committee made the following findings in reaching their decision: -

- The Committee noted that extensive conditions had been agreed between the applicant and the responsible authorities including Cleveland Police and Environmental Health. The Committee were of the view that they had to give considerable weight to the fact that the relevant appropriate authorities had considered the application and were of the view that the proposed conditions would ensure that the premise would not undermine the licensing objectives. These conditions addressed almost all the concerns which had been expressed by residents who had objected to the application.

- The Committee noted that the applicant was involved in other licensed premises and there was no evidence before the Committee that would suggest that the premise would be operated in a manner which would undermine the licensing objectives. The Committee were satisfied that the applicant understood his responsibilities and would operate the premise in a responsible manner ensuring the licensing objectives were not undermined.

- The Committee noted that the residents who had objected to the application were extremely concerned at the potential for noise nuisance and disorder at the premise. The Committee were mindful that they had refused an application at the same premise recently, but this was a new application and it must be considered on its own merits. This application included a whole host of conditions which would address the potential for noise nuisance and disorder at the premise. The Committee were mindful that an application could not be refused based solely on a resident's concern or fears as to what may transpire especially when specific conditions could be attached to the licence in order to seek to address those concerns.

- Some of the issues raised on behalf of the residents such as the possibility of smoke drifting from the smoking shelter and potential highways enforcement matters were issues that were not relevant considerations under the licensing regime. In any event the Committee were not persuaded that the location of the premises with the smoking shelter to the front would lead to any form of public nuisance. The premises were located on a busy road used by many vehicles and any nuisance from smokers would be minimal and was not a factor that could lead to the refusal of the application.

After considering all the evidence the Committee were of the view that the application could be granted subject to amendment to the hours of operation sought by the applicant. The Committee noted that the premise was in a residential area albeit it was within a small parade of shops and had previously operated as 'Simply Drinks', a premise supplying alcohol for consumption off the premises. Residents could therefore expect that there would be a degree of noise within the locality given that members of the public would be visiting the shops and other businesses close by. However, the Committee did appreciate that a licensed premise had the potential to create some degree of public nuisance and they therefore had to consider what conditions could be attached to the licence to address the licensing objectives. The Committee were satisfied that the conditions agreed by the applicant with the Police and Environmental Health did address the licensing objectives and would ensure the licensing objectives would not be undermined.

There was the potential for customers to congregate outside the premise while

they were leaving while waiting for taxis etc. The Committee were of the view that the terminal hour should be reduced from that sought by the applicant given the location of the premise and that late at night there was likely to be much more sensitivity to noise from customers leaving, the Committee agreed that a terminal hour for the closing time of the premises should be set at 23:00 hours.

The Committee granted the application with the following hours: -

Licensable activities including the supply of alcohol were granted as set out in the application with an amendment for a terminal hour of 22:30 hours

Hours premises were open to the public would have a terminal hour/closing time of 23:00 hours.

As well as conditions as detailed in the operating schedule the Committee also attached the following additional conditions to the premises licence: -

Conditions to address Crime and Disorder

1. An incident book will be kept on the premises at all times. The book will detail in brief, incidents of injury/ejection/refusals/drug misuse/seizure/age challenge. Such matters will be timed, dated and signed by the author and produced to Police and other Responsible Authorities immediately upon request.

2. The outside area will be vacated at 8pm each day, patrons will not be allowed to congregate and will be encouraged to leave the area.

3. All staff will be fully trained and retrained on a 6 monthly basis in relation to 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.

4. Polycarbonate/plastic or toughened glasses will be used for alcohol.

5. 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 Premise Supervisor/Premises 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 upon request.

6. Training records, signed by both the staff member and the Designated Premise Supervisor/Premises 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 upon request.

7. 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 Premise 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 upon request.

8.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 the 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 30 days recording. 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.

9.All persons under the age of 18 must be escorted by an appropriate adult or legal guardian and must be entering the premises for food and soft drinks only and will have vacated the premises by 21.00 hours.

10.A "Challenge 25" policy will be implemented with all staff insisting on evidence of age from any person appearing to be under 25 years of age and who is attempting to buy alcohol. There shall be notices displayed at all points of sale and at all entrances and exits to inform customers and remind staff that the premises is operating a "Challenge 25" policy.

11.Only valid passports, UK "photo card style" driving licence, PASS approved proof-of-age cards or Ministry of Defence "Form 90" identification cards shall be accepted as proof of age.

12.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.

13.There will be a minimum of two notices displayed in the premise, with one being easily visible on the way out of the premise, asking customers to leave the premise quietly and respect the nearby residents.

Conditions to address Public Nuisance

1.Any noise from the premises shall not cause a disturbance at the nearest residential premises.

2.The LFMax sound from amplified and non-amplified music and speech shall not exceed the typical minimum L90 (5min), 1m from the façade of any sensitive

receptor in all third octave bands between 63Hz and 8kHz.

3.The use of the external area by customers shall be limited from 11:00hrs to 20:00hrs.

4.All external doors and windows shall be kept closed (excluding for access and egress) while entertainment is in progress.

5.Doors to the external area shall be fitted with a lobby or self-closing device to prevent ingress of smoke and egress of noise.

6.There shall be no use of lighting likely to cause a nuisance to local residential properties.

7.Any music shall be played indoors only.

8.All music played in the premises should be background music only.

9.Refuse, including bottles shall only be disposed of from the premises between the hours of 07:00hrs- 18:00hrs.

10.There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained, and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

11.The licence holder or his representative shall conduct periodic assessments of the noise coming from the premises 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.

12.Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when vacating the premises. This should include placing at all exits from the premises, in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly. (Note, this may also include a reference to vehicles)

13.The smoke shelter shall comply with the requirements of the Health Act 2006 and The Smokefree (Premises and Enforcement) Regulations 2006. To comply with these requirements the sides of shelters shall not be "enclosed" or "substantially enclosed." Food and drink shall not be consumed in the smoking area after 22:00. There shall be no music played in the external smoking shelter, and no use of lighting likely to cause a nuisance to adjacent premises. Receptacles for the purpose of containing litter will be provided adjacent to the smoking shelters for use by the patrons of the premises and maintained in a tidy condition to the satisfaction of the Local Authority.

RESOLVED that the Application for grant of a premise Licence, The Hardwick, 2 High Newham Road, Stockton-on-Tees TS19 8RQ be granted for the reasons

as detailed above. In addition to the conditions detailed in the operating schedule the Committee attached additional conditions to the premises licence which were also detailed above.