

LICENSING SUB-COMMITTEE 3

FRIDAY 28 MARCH 2014 AT 2.00PM

PRESENT: Councillors Cape, Mrs Parsons and Mrs Stevenson.

ALSO PRESENT: Councillor S Bowman was present at the meeting as the substitute Member.

Mr R M Wood, Applicant

Mrs D Wood, Applicant

Mr D M Ward, Person making Representations

Sergeant Higgin, Cumbria Constabulary

OFFICERS: Director of Governance
Licensing Manager
Licensing Officer (Observer)

There were no objections to the three Members of the Licensing Sub Committee so Councillor S Bowman left the meeting before the consideration of the agenda items.

LSC3.01/14 APPOINTMENT OF CHAIRMAN FOR THE MEETING

RESOLVED – That Councillor Mrs Parsons be appointed as Chairman of Licensing Sub-Committee 3 for this meeting. Councillor Mrs Parsons thereupon took the Chair.

LSC3.02/14 APOLOGIES FOR ABSENCE

There were no apologies for absence.

LSC3.03/14 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

LSC3.04/14 APPLICATION FOR A PREMISES LICENCE 18-22 DEVONSHIRE STREET, CARLISLE.

The Licensing Manager submitted report GD.15/14 regarding an application for a new Premises Licence to allow the sale and supply of alcohol, Regulated Entertainment and Late Night Refreshment for 18-22 Devonshire Street, Carlisle.

In addition to the Council's Licensing Manager, Director of Governance and Lead Committee Clerk, the following people attended the meeting to take part in proceedings:

Premises Licence Holder/Designated Premises Supervisor:

Mr Ronald Wood, Home and Dry Total Services

Accompanied by Mrs Denise Wood, Home and Dry Total Services

Other Person making Relevant Representations:

Mr David Ward

The Director of Governance outlined the procedure for the meeting. All parties confirmed that they had received and read the Licensing Manager's report and that they were happy to represent themselves.

The Licensing Manager reported that an application had been received for a Premises Licence under Section 17 of the Licensing Act 2003 for 18-22 Devonshire Street, Carlisle. The premises had previously been a bank and was being converted and refurbished to provide a venue that would operate as a cafe/wine bar. The Licensing Manager outlined the details of the operating schedule and the hours of licensable activities.

The application had been advertised as per regulations in the newspaper and on the Council's website. He clarified that the advertisement title stated that it was an application for Premises Licence/Club Premises Certificate and that the words Club Premises Certificate should have been deleted. He confirmed that it had been clear in the body of the text that it was a premises licence being applied for and not a Club Certificate.

No representations had been received from Responsible Authorities. Two representations had been received from Other Persons. Both representations came from owners of premises in Devonshire Street. One of the representations had been withdrawn following mediation between the objector, licensing office and the applicant who had agreed to reduce the terminal hour for licensing activities from 0300hrs to 0200hrs with the premises closing at 0230hrs.

A resolution could not be reached with Mr Ward, the remaining person making representations.

Mr Ward was the owner of commercial properties in Devonshire Street and had concerns regarding a premises licence being granted in that area and contended that there was reasonable evidence of factors which could adversely affect the prevention of crime and disorder, public safety and public nuisance. His letters of representation and the responses from the Licensing Manager and the applicant had been included in the report.

The Licensing Manager drew Members' attention to appendices 5 and 6 of the report which showed ten licensed premises in the vicinity of the application and a comparison chart of licensable activities and closing times for those premises.

Mr Wood, the applicant, addressed the Sub-Committee, highlighting the following:

- He had been in the licensing trade for a number of years purchasing or leasing properties within the Carlisle area, refurbishing them to a high standard and making them successful;
- As good practice he contacted relevant departments within the City Council as well as other Responsible Authorities informing them of his plans before submitting a Premises Licence application;
- He had a number of pubs as well as cafe/bars and none were classed as nightclubs, the application for 18-22 Devonshire Street was not a nightclub;
- The plans for the Premises was to create a cafe/bar style property on the ground and lower ground floors and to convert the upper floors into high quality letting accommodation;
- He would be defeating the aim of high quality letting accommodation if the Premises underneath was a nightclub;
- He was an experienced licensee who would not allow any adverse impact on the area. The age and type of customers would be tightly controlled by the managers as well as door security unlike some nearby competitors;

- He questioned Mr Ward's motive in making objections to the application and asked if his representations were because his family possibly owned properties in the area which were leased out and being run as cafe/bars and did not want the competition, he felt Mr Ward was using the right to object under the Licensing Act as a tool in order to be malicious;
- He questioned why Mr Ward had not objected to other premises licence applications that had been issued recently within the Devonshire Street area, he believed Mr Ward's representations were vexatious and his intention was to inconvenience the plans for the Premises as well as attempt to cause him further expense;
- He did not feel that Mr Ward had offered any reasonable representation that related to the objectives of the Licensing Act 2003;
- He highlighted Mr Ward's representations which suggested that Devonshire Street was located in a quality area of Carlisle and that premises in Botchergate were of a lower standing. Mr Ward also suggested that all licensed premises should therefore be located in Botchergate. Mr Wood disagreed as licensed premises had always been located in all parts of the City, he objected to the way Mr Ward attempted to diminish the character of Botchergate;
- He did not agree that the premises would prompt the movement of clubbers from and to Botchergate/Devonshire Street;
- Cumbria Police had not made any representations;
- The application clearly showed that it was for a premises licence a for cafe/bar;
- The terminal hour of the premises had been changed from 3am to 2am as a result of the consultation.

In response to questions Mr Wood stated:

- Mr Ward was the freeholder of the Gilded Lily and Eaten by Monsters and Mr Walton owned Concrete nightclub.

Mr Ward, the representative, then addressed the Sub-Committee, highlighting the following:

- He owned two properties opposite 18-22 Devonshire Street and he was converting 6 apartments;
- He had considered the application in isolation;
- The advert stated that it was application for a Premises Licence/Club Premises Certificate, he emphasised the word Club. It also stated that the opening hours were 1000 to 0300am and it invited representations;
- The application was for a late night venue with music, dancing and an off licence;
- He understood there had been mediation and asked the Sub Committee to note that his letter and the letter from the Licensing Manager had crossed in the post;
- He asked if it was legal for an application to be varied or if a new application should be submitted with the change to the time included.

The Director of Governance confirmed that it was acceptable to vary an application during application process providing the amendment was clear and transparent.

Mr Ward continued to address the Sub-Committee:

- Page 31 - the application included permission for dance within the building until 2.00am, he was concerned that this would cause people to be lively and noisy when exiting the premises;
- Page 32 – it was unclear what was being applied for and he questioned how this could be approved;
- The application had no mention of a smoking solution

- He was concerned for the City that there would be more late night drinking until 2am;
- Page 34 – he objected to the application for a premises off licence as this would result in extra noise and drinking. He was most concerned about this part of the application and its relevance to the four licensing objectives;
- He felt strongly that, should the application be granted, a condition be included on the licence that door supervisors to be employed after 9pm. He suggested that there should be two door supervisors, one inside and one at the door and one should be male and one female. He understood from the Council's Policy that this condition could be added;
- There was no mention of capacity in the application and he was concerned how the flow of people between two floors would be controlled;
- The application stated that a fire risk assessment would be completed, he felt that this was not satisfactory and a fire risk assessment should be carried out before any licences were granted;
- He felt that a usage assessment should be carried out before the licence was granted;
- He asked that noise monitoring be put in place and a condition to prevent the movement of bottles etc before 8am and after 8pm;
- He was developing 6 apartments and the noise needed to be controlled. The Council had the option of controlling urban regeneration or having vacant properties;
- The Challenge 21 policy was not acceptable and should be Challenge 25;
- New premises should have double access to allow for an entrance and exit;
- The premises would affect the flow of people in the area and he questioned how this would affect the Police;
- He did not think that the Premises needed an additional 30mins to empty before closing;
- He felt that there was a lot of work to be undertaken before a licence could be given.

In response to questions Mr Ward stated:

- He felt that there needed to be improvement in the offer in the area;
- If the Police and Fire Service did not consider licences more carefully then it would lead to urban decay;
- It was not clear how many people would be using the premises and how it would affect the area;
- He challenged the Licensing Authority to be more proactive and asked that Environment Services sign applications off;
- He stated that he took a step back from premises that were in his buildings;
- He felt Carlisle was becoming increasingly desolate and tired. Devonshire Street was managing in a backdrop of urban decay and the City needed everyone to improve the offer otherwise there would be more vacant properties. Carlisle needed to create an atmosphere to encourage people to live here.
- He wanted all businesses in Carlisle to succeed and he encouraged anyone to complain to Environmental Services about excessive noise in his premises;
- He had not made any representations against Eaten by Monsters as he felt he could control the premises to some extent as he was the landlord;
- The licence needed a condition attached to it to ensure door supervisors were employed and it also needed a noise assessment before it was granted;
- A fire assessment must be carried out before the licence was granted;
- He accepted that there was a number of similar premises in the locality and that there was an option for a review if the premises were not being run properly;
- He clarified that he was the landlord only and not involved in the two premises he owned.

The Licensing Manager explained that the Licensing Act Guidance from the Home Office stated that where there was other primary legislation, it took precedent over the Licensing Act. The Regulatory Reform (Fire Safety) Order 2005 was clear that a fire safety risk assessment must be carried out before the premises could open. The fire risk assessment would also set the capacity for the premises. He added that conditions could only be placed on licences as a result of representations and any conditions would be at the discretion of the Sub-Committee.

Although there were no representations from Responsible Authorities the Sub-Committee asked questions of Sergeant Higgin who then clarified the following points:

- Some licensed premises in the area had door supervisors as a condition on their licence but each licence was considered individually and there was not a blanket policy for all premises.
- Some premises who had not employed door supervisors initially employed door supervisors following discussions between the Designated Premises Supervisor and the Police but it was not a condition of the licence

In summing up Mr Wood highlighted the following:

- He had no intention of using the premises off licence and highlighted that Hell Below sold take away cocktails
- There were no female door supervisors, decibel monitors or smoking solutions at Mr Ward's premises
- His premises would not allow the entry of underage people and definitely would not sell them alcohol
- Mr Ward had not shown any similar concerns for any other premises in the area including the two he owned
- He clarified that there would not be dancing but the licence would allow for spontaneous dance
- The premises would be a modern laid back cafe/bar
- He had a robust anti drugs policy in place

The Licensing Manager outlined the relevant Legislation and the options open to the Panel.

Mr Ward was happy that he had been given the opportunity to say everything that he wished to and concluded by asking the Sub-Committee to consider the offer in Carlisle for the future.

At 3.08pm, all parties, with the exception of the Sub-Committee Members, Director of Governance and the Lead Committee Clerk withdrew from the meeting whilst the Sub-Committee gave detailed consideration to the matter.

The parties returned at 3.20 pm to hear the Sub-Committee's decision.

The Sub-Committee's decision was:

APPLICATION FOR A PREMISES LICENCE
Section 17, Licensing Act 2003
18-22 Devonshire Street, Carlisle

This matter concerned an application for a Premises Licence 18-22 Devonshire Street by Home and Dry Total Services. Representations had been made by Mr D Ward, owner of nearby property.

The Sub-Committee had considered the application and the representations and had taken into account the evidence before it. In particular, it had listened to the submissions made by:

1. Mr R Wood, Home and Dry Total Services
2. Mr D Ward, Other Person making Relevant Representations:
3. Sergeant Higgin, Cumbria Constabulary

The Sub-Committee has also considered written evidence in the form of letters from the Council's Licensing Section to Mr Ward, letters from Mr Ward and the application and letter from Mr Wood.

After careful consideration, the Sub-Committee has unanimously decided to:

- Accept the notice in the newspaper was a valid notice;
- Accept the variation to the application for 2.00am and the Sub-Committee had considered the application as such;
- To grant the application for a premises licence for 18-22 Devonshire Street with the variation of the 2.00am termination of licensable activities for a 2.30am closure.

The Sub-Committee gave the following reasons for this decision:

1. The Sub-Committee found that there was insufficient evidence to support the concerns of Mr Ward and were satisfied that no further steps were necessary for the promotion of the licensing objectives in accordance with Section 18(4) of the Licensing Act 2003.

The decision would be confirmed in writing.

(The meeting ended at 3.21pm)