

LICENSING SUB-COMMITTEE 4

WEDNESDAY 9 JULY 2014 AT 2.00PM

PRESENT: Councillors Mrs Parsons, Scarborough and Mrs Warwick

ALSO PRESENT: Councillor Mrs Franklin was present at the meeting as the substitute Member.

Mr N Tarn, Applicant

Sergeant Higgin, Cumbria Constabulary

OFFICERS: Director of Governance
Licensing Officer
Licensing Manager

There were no objections to the three Members of the Licensing Sub Committee. Councillor Mrs Franklin remained in the meeting as an observer only.

LSC4.01/14 APPOINTMENT OF CHAIRMAN FOR THE MEETING

RESOLVED – That Councillor Mrs Parsons be appointed as Chairman of Licensing Sub-Committee 4 for this meeting. Councillor Mrs Parsons thereupon took the Chair.

LSC4.02/14 APOLOGIES FOR ABSENCE

There were no apologies for absence.

LSC4.03/14 DECLARATIONS OF INTEREST

Councillors Mrs Parsons, Scarborough, Mrs Warwick declared an interest with regard to the application for a premises licence for 5 Devonshire Street. The interest related to the fact that they are Members of the Council's Development Control Committee. The planning application for the premises had been considered and approved, subject to conditions, by the Development Control Committee without discussion by Members. The Members wanted it noted that they were applying 'Licensing Objectives' in this matter which were distinct from the planning criteria.

LSC3.05/14 APPLICATION FOR A PREMISES LICENCE 5 DEVONSHIRE STREET, CARLISLE.

The Licensing Manager submitted report GD.28/14 regarding an application for a new Premises Licence to allow the sale and supply of alcohol and Regulated Entertainment for 5 Devonshire Street, Carlisle.

In addition to the Council's Licensing Officer, Director of Governance and Democratic Services Officer, the following people attended the meeting to take part in proceedings:

Premises Licence Holder/Designated Premises Supervisor:

Mr Nigel Tarn, Moo Bar, Penrith

Other Person making Relevant Representations:

None

Responsible Authority Representations

Sergeant R Higgins

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

The Licensing Officer reported that an application had been received for a Premises Licence under Section 17 of the Licensing Act 2003 for 5 Devonshire Street, Carlisle. The premises had previously been a bank and was being converted and refurbished to provide a venue that would offer specialist cask ales from Cumbria as well as bottled beer from around the world. Food would also be served to complement the cask ales.

The Licensing Officer outlined the details of the operating schedule and the hours of licensable activities. Mr Tarn had also submitted additional steps to promote the four licensing objectives following discussions with the Police and Licensing Authority, details of which had been included in appendix 1b of the report.

The application had been advertised as per legislation in the newspaper, on the premises and on the Council's website.

No representations had been received from Responsible Authorities. Four representations had been received from Other Persons. Representations came from Mr D Ward and Mr M Ward who were owners of premises in Devonshire Street.

Two representations came from Ms Oleson and Ms McGeorge who were tenants of Mr M Ward. Both Ms Oleson and Ms McGeorge had informed the Licensing Officer that Mr M Ward had produced the written representations to them and they signed them. Neither had been aware of the intentions of the new proprietor of 5 Devonshire Street and both had mentioned historic issues of persons being sick or urinating outside their premises. One had been concerned about existing licensed premises outing empty bottles into bottle bins late at night. The applicant had volunteered a condition in relation to this.

The Licensing Manager gave a brief overview of the City Council's response to the representations which were detail in section 3.7 of the report and included:

- The majority of concerns raised with the representations were planning considerations which was a separate regime to licensing and had been considered by the Council's Development Control Committee;
- The Responsible Authorities were satisfied that the information in the application and operating schedule addressed the Licensing Objectives;
- The proposed licensable activities would terminate at midnight, which was at least two hours prior to closing times of other licensed premises in the area. The exception would be Christmas and New Years Eve when many premises had later hours.

- Both Mr M Ward and Mr D Ward own a number of properties within the Devonshire Street area, some of which were leased out and were liquor licensed premises. Neither Mr M Ward or Mr D Ward had previously made representations regarding their own premises when applications had been submitted under the Licensing Act 2003.
- The issues of too many similar premises and the lack of disabled access fall within Planning and Building Control respectively.
- The applicant had addressed the issue of Door Supervisors within his conditions in appendix 1b of the report;
- Existing problems at Friars Court could not be attributed to the premises as they were not yet open;
- Botchergate was designated in the Local Plan as 'Mixed Commercial Development' and Devonshire Street was 'Primary Retail Area', neither were referred to as a 'Leisure Area'.
- The references to Newcastle City Council taking a stronger line in licensing refers to premises that were in a 'Cumulative Impact' area which held a 2am licence and was applying for a 4am licence. A 'Cumulative Impact' area was an area designated by the Council where there had been serious problems of nuisance and disorder as a result of the number of licensed premises concentrated in one area. Any such area had to be designated by full Council and had to be evidence based. Carlisle had no such 'Cumulative Impact' areas and statistical evidence indicated that there had been a 39% reduction in violent crime in the City Centre over the last few years. The situation in Newcastle could therefore not be compared directly with the application for 5 Devonshire Street.

The Director of Governance informed the Sub Committee that the Licensing Office had received emails from Mr M Ward and Mr D Ward which explained that they would not be able to attend the meeting and outlining their representations.

The Sub Committee, with the consent of Mr Tarn, agreed that the emails be circulated and considered as part of the representations.

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

- He thanked the Sub Committee for the opportunity to speak;
- He had volunteered conditions on the licence which included a risk assessment to determine whether or not door supervisors would be required, exits through the front of the building only and refuse disposed of at a time when it was not likely to cause disturbance to residents in the vicinity;
- In the 2011 census the population of the City was 107,500 with a Countywide catchment area of 499,900. The population of Carlisle grew 6.7% in 10 years. There were 894 licenses granted within the City and only 132 were traditional on trade, therefore, only 14% of the licenses operated as a pub or bar. There were 26 pubs in the licensing district that sold any form of real ale which was less than 1 in 5.
- Moo Bar catered for people with a discerning taste for cask ales and world beers, therefore the product, positioning and pricing would alienate those looking for cheap drink or a more uptempo night out.
- Moo Bar in Penrith attracted visitors from all over to sample ale which was not sold anywhere else and it was hoped that the new Moo Bar would attract visitors to Carlisle.
- The premises would close two hours earlier than the other premises in the vicinity.

- If the objection was an over saturation of bars in the City, he felt that he had outlined the numbers to the contrary.
- It was down to market conditions in a free market economy to determine the offer not legislation.

In response to questions Mr Tarn stated that the food offer would be minimal and would come from local farmers to match the locally sourced ales.

Mr David Ward, a person making representations concerning the application, had submitted his representation as set in the Licensing Manager's report; he had been unable to attend the Sub Committee meeting and submitted the following further comments via email;

- He apologised for not being able to attend the Sub Committee meeting due to work commitments;
- He wanted to clarify that there would not be any subsequent increase in the licensing hours (as was often the position). The licence hours applied for were set out in Appendix 1a of the report and this did not accord with the stated position made at the Development Control Committee when the planning permission (14/0378) was considered.

The extract stated:

"6.6 The applicant has not specified the proposed opening hours on the application form but has confirmed that the proposed opening hours will be 12:00-24:00 hours Sunday-Thursday and 12:00-1:00 hours on Friday, Saturdays and Bank Holidays. Although the applicant has indicated that they wont open until midday they have applied for a trading license from 11am. The applicant has confirmed that patrons of the premises will be encouraged to use the front of the building for smoking opposed to the outside terrace at the back of the premises which is for fire escape purposes. The back of the premises will house the bins for recyclable and non recyclable waste which the applicant has agreed as a condition of the license will only be accessed during daytime trading hours. The area to the rear of the premises is to be locked by the existing gate and will therefore not be accessible from Friars Court. The premises will have CCTV inside the premises and with a new front door constructed from solid oak to provide secure closing during non business hours. A secondary internal entrance door is proposed to ensure sound is retained within the building"

Mr Ward asked that the Sub Committee took into account the statement when considering the licence application i.e if it was decided that a licence should be granted that it was limited to 24.00 at the maximum and there was no subsequent increase in hours.

Mr Malcolm Ward, a person making representations concerning the application, had submitted his representation as set in the Licensing Manager's report; he had been unable to attend the Sub Committee meeting and submitted the following further comments via email;

- He apologised for not being able to attend the Sub Committee meeting
- There was a need for the greatest care and control of licences so, particularly the Centre of the City, moved onto an enhanced basis;
- He appreciated the difference in outlook between Licensing and Planning and that national guides lines had to be followed but felt there was possibly a need to look for change and degrees of co-ordination with the Planners;

- The factor which had appeared was the need for the conversion of upper floors to residential. When that occurred in the City Centre the aim, hopefully, should be a quality immediate and long term impact which would be achieved only via careful planning and continuous control of licence allocation/renewal terms.

At the request of the Sub Committee the Licensing Officer confirmed that the hours of licensable activities applied for were:

1200hours to midnight for Regulated Entertainment Sunday to Saturday
1100hours to midnight for Sale by retail of alcohol (on/off sales) Sunday to Saturday with an extension until 0300hours on Christmas Eve and New Years Eve.

The Director of Governance clarified that the hours set out in the planning application were different to those in the licensing application and this may have caused some confusion for Mr Ward in the preparation of his representation.

Although there were no representations from Responsible Authorities the Sub-Committee asked Sergeant Higgin for his comments. Segeant Higgin confirmed that there were no objections from the Police and that, as far as he understood, there were no issues with Moo Bar in Penrith. He added that any issues which occurred in Carlisle would be addressed with Mr Tarn.

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

At 2.25pm, all parties, with the exception of the Sub-Committee Members, Director of Governance and the Democratic Services Officer withdrew from the meeting whilst the Sub-Committee gave detailed consideration to the matter.

The parties returned at 2.30pm to hear the Sub-Committee's decision.

The Sub-Committee's decision was:

APPLICATION FOR A PREMISES LICENCE
Section 17, Licensing Act 2003
5 Devonshire Street, Carlisle

This matter concerned an application for a Premises Licence 5 Devonshire Street by Mr Tarn, Moo Bar. Representations had been made by Mr D Ward, owner of nearby property, Mr M Ward, owner of nearby commercial property, Ms M Oleson, tenant of Friars Court and Ms D McGeorge of Friars Court.

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 F Watson, Licensing Officer, Carlisle City Council
2. Mr N Tarn, Moo Bar, King Street, Penrith
3. Sergeant Higgin, Cumbria Constabulary

And the written submissions made by

1. Mr D Ward, Other Person making Relevant Representations
2. Mr M Ward, Other Person making Relevant Representations

The Sub-Committee has also considered written evidence in the form of correspondence between the Licensing Officer and Mr M Ward and Mr D Ward and written submissions from Ms M Oleson and Ms D McGeorge,

After careful consideration, the Sub-Committee has unanimously decided to grant the application for a premises licence for 5 Devonshire Street as set out in the application and additional voluntary conditions.

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 D Ward and Mr M Ward and were satisfied that the application had put the necessary steps in place to address the concerns of Ms M Oleson and Ms D McGeorge. Further, some of the matters raised were planning matters, not licensing objectives.
2. The Sub Committee 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 2.32pm)