

Licensing Sub-Committee 3

Date: Monday, 27 June 2022

Time: 16:00

Venue: Flensburg Room

Present: Councillor Ms Jo Ellis-Williams, Councillor Mrs Linda Mitchell, Councillor Miss Jeanette Whalen

Also Present: Assistant Solicitor
Licensing Manager
Senior Democratic Services Officer

Councillor Dr Tickner attended the meeting as a substitute but was not required to stay for the meeting.

LSC3.01/22 APPOINTMENT OF CHAIR FOR THE MEETING

Nominations were sought for the appointment of a Chair for the meeting.

Councillor Mrs Mitchell nominated Councillor Ms Ellis-Williams and Councillor Miss Whalen seconded the nomination.

RESOLVED - Councillor Ms Ellis-Williams be appointed the Chair of the Licensing Sub Committee 3 for the meeting.

Councillor took the Chair.

LSC3.02/22 APOLOGIES FOR ABSENCE

No apologies for absence were submitted.

LSC3.03/22 DECLARATIONS OF INTEREST

In accordance with the Council's Code of Conduct Councillor Mrs Mitchell declared a personal interest in agenda item B.1 - Application for a Personal Licence. The interest related to the fact that the Applicant's Support was known to her.

The Licensing Sub Committee and those present had no objections to the Members of the Sub Committee; Councillor Dr Tickner left the meeting.

LSC3.04/22 PUBLIC AND PRESS

It was agreed that the items in Part A be dealt with in public and the items in private be dealt with in Part B.

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraph numbers (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

LSC3.05/22 LICENSING ACT 2003 – APPLICATION FOR A PERSONAL LICENCE

(Public and Press excluded by virtue of Paragraph 1)

The Licensing Manager submitted report GD.32/22 regarding an application for a Personal Licence made under the Licensing Act 2003. A representation had been made in respect of the application from Cumbria Police due to the view that granting the application would undermine the Licensing Objectives.

In addition to the Council's Licensing Manager, Assistant Solicitor and Senior Democratic Services Officer, the following people attended the meeting to take part in proceedings:

Applicant

Applicant's Support

The Police Licensing Officer, Cumbria Police

The Assistant Solicitor 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 set out the application process and the details of the application that was under consideration including the results of the DBS Basic Disclosure that the Applicant had submitted.

The Licensing Manager reported that Cumbria Police had submitted an objection in respect of the original application, a copy of the objection had been included in the report for the Sub Committee's consideration.

The Police Licensing Officer, addressed the Sub Committee. She gave details of her involvement in the application process and the information she had been provided with. She set out details of the Applicant's conviction and the reason the application had been referred to the Sub Committee.

The Applicant addressed the Sub Committee. He expressed remorse with regard to the conviction and the impact it had on his personal and work life. He wanted to move on with his life and gaining the licence would help him to do that.

The Applicant responded to Members questions.

The Applicant's Support detailed his relationship with the Applicant and spoke in support of the Applicant and the application before the Sub Committee.

The Applicant's Support responded to Members questions.

At the request of the Chair the Licensing Manager confirmed that the Applicant had submitted all other aspects of the required paperwork for the application.

At 4.17pm the respective parties withdrew from the meeting to enable the Sub Committee to give detailed consideration to the matter.

The respective parties returned at 4.30pm to present their decision.

The Sub Committee's decision was:

**Licensing Act 2003
Application for a Personal Licence**

The matter concerned an application for a Personal Licence. In accordance with Section 120 (5) of the Licensing Act 2003 an objection notice was received from Cumbria Constabulary and in accordance with Section 120 (7) the application had been referred to the Licensing Sub Committee for a hearing.

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

1. The Police Licensing Officer, Cumbria Constabulary
2. The Applicant
3. The Applicant's Support

After careful consideration, the Licensing Sub Committee had unanimously decided to refuse the application for a Personal Licence.

The Licensing Sub Committee gave the following reasons for the decision:

1. The Licensing Sub Committee's discretion was limited and it could only grant or refuse the licence if it was necessary to do so in regard to the promotion of the prevention of crime and disorder.
2. The Licensing Sub Committee has had regard to the provisions of the Licensing Act, the National Guidance, the Local Licensing Policy and the Licensing Objectives in particular the prevention of crime and disorder.
3. The Licensing Sub Committee felt that the conviction was very recent and involved a severe level of alcohol in the blood, in addition the carrying of spirits whilst driving over the legal limit was concerning.
4. The Licensing Sub Committee had a duty of care to the public and must uphold the Licensing Objectives.
5. The Licensing Sub Committee appreciated the remorse shown by the Applicant and the support provided to the Applicant's application and advised the Applicant to reapply at a later date.

The Applicant was informed that the decision would be confirmed in writing and would include details of the right of appeal.

The Meeting ended at: 16:34

Licensing Sub-Committee 2

Date: Tuesday, 06 September 2022

Time: 10:00

Venue: Flensburg Room

Present: Councillor Dr Les Tickner, Councillor Mrs Linda Mitchell (for Councillor Keith Meller),
Councillor Mrs Marilyn Bowman (for Councillor Tim Pickstone)

Officers: Senior Lawyer
Licensing Manager
Licensing Officer

LSC2.01/22 Appointment of Chair for the Meeting

Nominations were sought for the appointment of a Chair for the meeting.

Councillor Mrs Mitchell nominated Councillor Mrs Bowman and Councillor Dr Tickner seconded the nomination.

RESOLVED - Councillor Mrs Bowman be appointed the Chair of the Licensing Sub Committee 2 for the meeting.

Councillor Mrs Bowman took the Chair.

LSC2.02/22 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Pickstone and Councillor Meller.

LSC2.03/22 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

LSC2.04/22 PUBLIC AND PRESS

It was agreed that the items in Part A be dealt with in public and the items in private be dealt with in Part B.

LSC2.05/22 AGENDA

RESOLVED - That agenda item B.1 be taken as the first item on the agenda.

LSC2.06/22 PUBLIC AND PRESS

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that they involved the likely disclosure of exempt information as

defined in the paragraph numbers (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

LSC2.07/22 NO. 15 GIN BAR – OBJECTION TO APPLICATION TO TRANSFER THE PREMISES LICENCE

(Public and Press excluded by virtue of Paragraph 1)

The Licensing Manager submitted report GD.48/22 which contained the sensitive information relating to the public report considered as agenda item A.1. Members were asked to consider the confidential information when reaching their decision on the objections to applications to Transfer a Premises Licence and to Specify a Designated Premises Supervisor for No.15 Gin Bar, Warwick Road, Carlisle.

RESOLVED - That the sensitive information contained in report GD.48/22 be noted and would be considered as part of the decision for agenda item A.1 applications to Transfer a Premises Licence and to Specify a Designated Premises Supervisor for No.15 Gin Bar, Warwick Road, Carlisle.

The meeting moved into public.

LSC2.08/22 NO. 15 GIN BAR – OBJECTION TO APPLICATIONS TO TRANSFER THE PREMISES LICENCE AND TO SPECIFY A DESIGNATED PREMISES SUPERVISOR

The Licensing Manager submitted report GD.48/22 regarding an objection from Cumbria Constabulary under the Licensing Act 2003 for applications received from Rose and Thistle Carlisle Ltd to Transfer the Premises Licence (PL583) and to Vary a Premises Licence to Specify a Designated Premises Supervisor (DPS) for No.15 Gin Bar, Warwick Road, Carlisle.

In addition to the Council's Licensing Manager, Senior Lawyer and Senior Democratic Services Officer, the following people attended the meeting to take part in proceedings:

Mr Agnew, Rose and Thistle Carlisle Ltd, Applicant
Mr Vickery, Rose and Thistle Carlisle Ltd, Applicant
PC Underwood, Police Licensing Officer, Cumbria Police

The Senior Lawyer 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 set out the application received from Rose and Thistle Carlisle Ltd. Mr Agnew and Mr Vickery were named Directors of Rose and Thistle Carlisle Ltd.

Where a licence holder of a premises licence had applied to transfer a premises licence or vary a licence the applicants must serve copies to the Chief of Police for the area. If the Chief of Police was satisfied that the exceptional circumstances of the case were such that the granting of the application would undermine the crime prevention objective, they must give the relevant licencing authority a notice why they were so satisfied within a period of 14 days beginning with the day on which they were notified of the application.

Such a notice for each application from Rose and Thistle Carlisle Ltd had been received by the

Licensing Authority. Redacted notices were attached to the report. Due to the sensitive personal information contained in the notices, full versions were submitted for the Sub-Committee as Part B on the agenda.

The notices provided the reasons that Cumbria Constabulary thought granting the applications would seriously undermine the crime prevention objective. The reasons included details of the management of a licensed premises, Mamoa located in Carlyle Court. The applicants held the premises licence and Mr Agnew was the DPS. The notice set out details of disorder, breach of conditions, Covid breaches and lack of assistance with Cumbria Police in the investigation into a murder outside of the premises.

PC Underwood, Cumbria Constabulary, addressed the Sub-Committee setting out the reasons that the Police considered were exceptional circumstances regarding the application and why they considered granting the application would seriously undermine the crime prevention objective:

- The applicants held the licence for Mamoa Bar, Carlisle with Mr Agnew being the DPS;
- Since Mamoa opened in 2020 the premises had come to the attention of the Police in relation to issues with the management of the premises and breaches of Covid regulations;
- On the first night of opening in July 2020 the Police received a report of 20 people fighting within the premises. Two off duty officers who had been in neighbouring premises had to assist, one male was arrested for drunk and disorderly;
- On 8 August 2020 there was a report of mass fighting with more than 30 people involved;
- On 14 August 2022 there was a report of around 30 people smashing glasses and causing issues. Only two members of staff were on duty, they could not cope with the matter and there was no help from the manager;
- In August 2022 a licensing visit was carried out and concerns were raised, all of which were put into writing to Mr Agnew including the lack of door staff, however the issues continued:
- During the Covid pandemic the premises continually breached guidelines and they were issued with a fixed penalty notice;
- On 13 May 2021 a report was received of 3 males fighting, one of the males was the manager and another a member of staff at the premises. Officers attended and no one would speak to the Police. CCTV footage was requested and the Police were informed by the owner that the CCTV was not working at the time. A follow up by agencies suggested the CCTV had been wiped, a clear breach of the licence conditions;
- On 18 September 2021 there was a murder in the courtyard directly outside Mamoa involving people who had been in the premises. Following the incident the manager failed to co-operate with the Police making it difficult to obtain CCTV. Eventually the CCTV was seized due to Mr Agnew being difficult and not making himself available to Police when requested.
- In December 2021 during a meeting with Mr Agnew he was asked to submit a minor variation to amend their licence conditions to include a requirement for door staff, along with several other conditions which would help prevent crime and disorder, but this did not happen;
- further reasons were detailed within the confidential report considered as agenda item B.1.

Mr Agnew, the applicant, addressed the Sub-Committee. he had submitted a letter of representation, a copy of which had been included as appendix 4 in report GD.50/22. Mr Agnew read out part of the letter stating:

- The applicants had taking the lease of the bar in Carlyle's Court with the dream of starting a new vibrant bar that would compliment what was already in the area at the time;
- The premises opened on 5 March 2020 and 13 days later on 18 March the premises had to close due to Covid, they did not open again until 5 July 2020;
- During the closed period Mr Agnew had suffered huge personal emotional stress and financial hardship;
- The landlord of the premises provided no financial support for lease payment, government grants that were received did not cover the costs and the business had arrears;

- Further closures due to the pandemic added to the debt and the financial issues continued to take a toll on Mr Agnew's mental health;
- A recommended bar manager was employed but it became clear they had little bar management experience and were unable to fulfil the role;
- Staff were recruited but, due to the applicants own inexperience in running a bar, there were numerous issues including theft, this led to a high turnover of staff and lack of leadership;
- Given both the applicants mental health and emotional issues it was difficult to manage at the time;
- In September 2020 restrictions came in requiring a 10pm closure and a rule of six bookings, this impacted the business and takings were significantly down. At that time the business was losing more than it was making;
- In November 2020 government closed businesses again. Money had been invested in preparation for Christmas and the pressure of mounting debts was immense;
- The business tried a delivery service, however, the premises were prevented from delivering alcohol without food. At that point there had been no chance or money to install a kitchen or employ a chef;
- The November closure was supposed to be for four weeks, due to staffing issues, Covid, Finances and a further lockdown the business did not reopen until 6 May 2021, six months later;
- During this time the initial bar manager, who had been sacked due to poor performance, had made unsubstantiated complaints;
- Discussions took place with the neighbouring businesses and none of them had issues with the premises and no formal complaints had been made to the Police;
- Following this there was constant contact with the Licensing Authority about issues at the bar, meetings were held and the applicants were made to feel intimidated and stupid;
- At no point did anyone acknowledge the stress that the applicants had been under or any sort help offered to support a fledgling business;
- During this time Mr Agnew's relationship broke down, he lost two family members and the family was broken;
- Mr Agnew started drinking more and was trying to 'bury his head in the sand' about the family; finances; the possibility of losing everything, his home and his two other businesses which were struggling along with the breakdown of his relationship;
- Mr Agnew made a huge mistake one night when driving when he had too much to drink and he was convicted of this in August 2021.

Mr Vickery, the applicant, addressed the Sub-Committee referring to the statement from Cumbria Constabulary and made the following comments:

- There had been one Covid breach, the Police had visited the bar and spoke with the manager for 15 minutes, during this time someone had switched tables. This had resulted in a harsh fine of £6,000. All restrictions imposed on premises had been met;
- The premises had had 4 or 5 bar managers and the applicants had learned from the experience;
- The applicants had not refused to hand over the CCTV, the Police had downloaded the footage twice and it had not worked, the only option left was to take the whole unit, it had not been seized.

The applicants responded to questions from the Sub-Committee clarifying the following:

- They did not provide any supervision to new bar managers. The bar managers were employed to be the supervisor;
- There had been issues in employing the right staff at the previous premises, however, the staff and bar manager at No.15 Gin Bar were well experienced and were being retained;
- There were no issues with No.15 Gin Bar and there were non expected moving forward;
- The applicants asked, if the Sub-Committee had genuine concerns regarding the new premises, that they grant a trial period to see if there were issues;
- The applicants also asked for more help in understanding the licence requirements.

At 10:31 am the respective parties withdrew from the meeting to enable the Sub Committee to give detailed consideration to the matter.

The respective parties returned at 10:52 to present their decision.

The Sub-Committee's decision was:

**Transfer of Premises Licence Application
No.15 Gin Bar, Warwick Road, Carlisle**

The matter concerned an objection from Cumbria Constabulary under the Licensing Act 2003 for an application from Rose and Thistle Carlisle Ltd to transfer the Premises Licence for No.15 Gin Bar, Warwick Road, Carlisle.

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

1. PC Underwood, Cumbria Constabulary
2. Mr Agney, Rose and Thistle Carlisle Ltd
3. Mr Vickery, Rose and Thistle Carlisle Ltd

After careful consideration the Sub-Committee unanimously decided to allow the objection to Transfer the Premises Licence and reject the application as made.

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

1. The Sub-Committee has had regard to the provisions of the Licensing Act 2003, the National Guidance, the Local Licensing Policy and the Licensing Objectives, in particular the prevention of crime and disorder and public safety.
2. The Sub-Committee were concerned about the breach of licensing conditions at the applicant's previous premises and the apparent lack of understanding that the applicants had with regard to the conditions of their licence.
3. The Sub-Committee had been concerned about the number of violent incidents that had occurred at the applicants previous licensed premises and the lack of door supervisors employed to deal with issues and support staff.
4. Cumbria Police had asked the applicants to submit a variation to amend their previous licence conditions to include a requirement for door staff, along with several other conditions which would help prevent crime and disorder but no such application was submitted.

The decision would be confirmed in writing and would include details of rights of appeal.

**Application to Specify a Designated Premises Supervisor (DPS)
No.15 Gin Bar, Warwick Road, Carlisle**

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

1. PC Underwood, Cumbria Constabulary
2. Mr Agney, Rose and Thistle Carlisle Ltd
3. Mr Vickery, Rose and Thistle Carlisle Ltd

After careful consideration the Sub-Committee unanimously decided to allow the objection for the application to Specify a Designated Premises Supervisor (DPS) and remove Mr Agnew as DPS for PL583.

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

1. The Sub-Committee has had regard to the provisions of the Licensing Act 2003, the National Guidance, the Local Licensing Policy and the Licensing Objectives, in particular the prevention of crime and disorder and public safety.
2. The Sub-Committee were concerned about the breach of licensing conditions at the applicants previous premises and the apparent lack of understanding that Mr Agnew, Designated Premises Supervisor, had with regard to the conditions of the premises licence and his personal responsibility in the role.
3. The Sub-Committee had been concerned about the number of violent incidents that had occurred at the applicant's previous licensed premises and the lack of door supervisors employed to deal with issues and support staff.
4. The Sub-Committee had concerns regarding Mr Agnew's conviction history, the most recent conviction was a relevant offence under the Licensing Act 2003.

The decision would be confirmed in writing and would include details of rights of appeal.

LSC2.09/22 CONSIDERATION OF SUSPENSION OR REVOCATION OF A PERSONAL LICENCE

The Licensing Officer submitted report GD.50/22 regarding a Personal Licence holder who had been convicted of an offence contrary to the Road Traffic Act 1988. This was a relevant offence under the Licensing Act 2003.

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

Mr Agnew, Personal Licence Holder

The Licensing Officer reported that Mr Agnew had held a Personal Licence since November 2019. An application had been received for Mr Agnew to the Designated Premises Supervisor (DPS) of the No. 15 Gin Bar. Cumbria Constabulary had objected to the application and this had been considered by the Sub Committee earlier in the agenda.

Relevant checks had been made by Cumbria Constabulary on the applicants in consideration of the applications to transfer the premises licence and specify Mr Agnew as the DPS for No. 15 Gin Bar. The outcome of the relevant checks brought to the attention of the Licensing Authority that, in April 2021, Mr Agnew has been convicted for the offence under the Road Traffic Act 1988 of driving a vehicle with alcohol concentration above the prescribed limit. This was a relevant offence under the Licensing Act 2003 and Mr Agnew had been informed, via letter in August 2022, of the requirement to inform the Licensing Authority of the recent conviction and that the licence should be returned in order for it to be endorsed with the conviction.

Mr Agnew returned his Personal Licence card and was sent a further letter detailing a notification that the Licensing Authority was to consider suspension or revocation of his Personal Licence and he had 28 days to forward representations regarding this.

A letter of representation was received from Mr Agnew detailing his circumstances around the time of the offence and the reasons for not informing the licensing authority at the time.

Mr Agnew informed the Sub-Committee that he had nothing further to add to his letter of representation which had been included in the report as appendix 4.

At 11:02 the respective parties withdrew from the meeting to enable the Sub-Committee to give detailed consideration to the matter.

The respective parties returned at 11:15 to present their decision.

The Sub-Committee's decision was:

Consideration of Suspension or Revocation of a Personal Licence following conviction of a Relevant Offence under the Licensing Act 2003

The matter concerned a holder of a Personal Licence, Mr Agnew, who had been convicted of an offence contrary to the Road Traffic Act 1988. This was a Relevant Offence under the Licensing Act 2003.

The Sub-Committee had considered the application and taken into account the evidence before it, in particular the statement submitted by Mr Agnew.

The Sub-Committee had unanimously decided to revoke the Personal Licence held by Mr Agnew (PA1953).

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

1. The Sub-Committee had regard to the provisions of the Licensing Act 2003, the National Guidance, the Local Licensing Policy and the Licensing Objectives in particular public safety.
2. Mr Agnew had committed a Relevant Offence under the Licensing Act 2003 when he was convicted for an offence under the Road Traffic Act 1988 whilst driving a vehicle with alcohol concentration over the prescribed limit.
3. Mr Agnew did not produce his personal licence to the Magistrates Court as required when charged with a relevant offence, nor did he inform Licensing Authority of the conviction.

The decision would be confirmed in writing including the details of rights to appeal.

The Meeting ended at: 11:17