

LICENSING SUB COMMITTEE

10 July 2017
1.00 - 2.35 pm

Present: Councillors Benstead, Bird and Gehring

Officers

Licensing Enforcement Officer: Alexander Nix

Legal Advisor: Virginia Lloyd

Committee Manager: James Goddard

Present for the Applicant

Applicant: Mr Simon Fraser

Applicant's Assistant: Mr Sean Lynch

FOR THE INFORMATION OF THE COUNCIL

17/1/Lic Appointment of a Chair

Councillor Bird was appointed as Chair for the meeting.

17/2/Lic Declarations of Interest

No declarations of interest were made.

17/3/Lic Meeting Procedure

All parties noted the procedure.

17/4/Lic Hot Numbers - Hearing Report

The Licensing Enforcement Officer presented the report and outlined the application.

Member Questions

In response to Members' questions, the Licensing Enforcement Officer made the following statements:

- i. The premises was not in a cumulative impact zone.
- ii. The Out of Hours Noise Service had received 2 calls about the premises in the last 12 months. Visits had not been made because the noise had

stopped or the complainant had not requested site visits. The Licensing Enforcement Officer was not aware of any substantive noise from the premises. The complaints had been made in the last 3-12 months. Officers had discussed some intermittent noise complaints with the licence holder.

- iii. Statutory consultees had been contacted and made no objections. The Police had suggested some conditions. The premises owner had negotiated some conditions upon application for a licence and at a subsequent variation hearing. He appeared to be a fit and proper person.
- iv. Some representations were made during the previous licence application and variations objections were addressed through conditions. There was usually a positive reaction towards the premises.
- v. Officers had checked notices were on display in the premises window to ensure they were in-place and visible. It would be recorded if they were not.

Applicant

Mr Fraser made the following points:

- i. His licence had been granted on the first day of the Live Music Act (2012) this had led to some confusion hence the applications for a variation.
- ii. He ran a community café which was also a jazz venue. There were no noise problems.
- iii. He had spent £3,000 in the last two months on ceiling acoustic measures to mitigate any noise issues.
- iv. One complainant had raised various issues and behaved in an anti-social behaviour towards the premises and the licensee.
- v. The licence extension was sought so that drinks could be served until 23:00. Music should stop 22:30.

The Legal Advisor said music could be played until 23:00 without a licence under the Live Music Act 2012.

- vi. Complaints about noise had reduced over time.

Mr Fraser tabled some notes to address points made in representations. The Committee adjourned to read these.

Applicant's Assistant

Mr Lynch made the following points about incidents of anti-social behaviour that he had witnessed:

- i. A meetup event was held 6 June. Mr Lynch heard a noise at closing time and saw a man he recognised as raising a representation against the current application to vary the licence. There was spit on the door. The same man kicked and rattled a bike belonging to the café (which was parked at the top of the street).
- ii. This kind of behaviour happened several times before. The same individual had also made rude gestures to staff.
- iii. Staff found the individual's complaints of anti-social behaviour about the shop odd due to his own behaviour towards them.

Applicant

Mr Fraser made the following points:

- i. The café was a safe community space.
- ii. He had applied for various temporary event notices to show these could go ahead without disturbing others.
- iii. There was no intention to become a rock club, just a low key jazz club.

Member Questions

In response to Members' questions, Mr Fraser made the following statements:

- i. He was applying for a licence variation from 22:30 to 23:00 to give greater scope for events and more variety of beer to offer (including coffee with beer). Pubs could open until 23:00 so Mr Fraser would like the opportunity to do so too, to extend customers' enjoyment longer into the evening.
- ii. The intention was to remain a café, not become a pub. There would be 1-2 bar machines that could sell draught beer, wine and coffee.
- iii. Live music was proposed Thursday and Friday nights, Sunday afternoon and possibly Saturday evening.
- iv. The intention was to stop music circa 22:30 so there was a buffer before a rigid cut off at 23:00.

Members said that if a licence were granted, it would apply to the premises not the licensee. Mr Fraser asked if it could be time limited so that it would only apply to him (as a 'responsible' person) if Members were worried the licence would transfer to someone who was not a fit and proper person. Members said a licence could not be granted on a time limited basis.

Members withdrew at 13:30 and returned at 14:30. Whilst retired, and having made their decision, Members received legal advice on the wording of the decision.

Decision

The Sub Committee resolved:

- i. To grant a variation to the premises licence to permit the sale of alcohol between 12:00 and 23:00 Monday to Sunday;
- ii. To allow the removal of conditions 2, 3, 4, 5 and 7 from the current premises licence but to refuse the request to remove condition 8 from the current premises licence, namely that "*there shall be no sale and / or supply of alcohol off the premises.*"

Reasons for reaching the decision were as follows:

The Sub-Committee refused to remove condition 8 from the current premises licence to reduce the probability of customers purchasing alcohol to drink outside, in the vicinity of the premises.

The Sub-Committee reached this decision with a view to promoting the licensing objectives, namely:

- i. The prevention of crime and disorder;
- ii. Public safety;
- iii. The prevention of public nuisance.
- iv. The protection of children from harm.

The meeting ended at 2.35 pm

CHAIR

