

Licensing Sub Committee

Friday, 28 June 2019

Present: Councillors J O'Shea, T Mulvenna and W Samuel

13 Appointment of Chair

Resolved that Councillor T Mulvenna be appointed Chair for this meeting.

14 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

15 Woods, 1 and 2 King Edwards Court, Front Street, Tynemouth, NE30 4DZ (Tynemouth Ward)

The Sub-committee met to consider an application for the grant of a Premises Licence in respect of Woods, 1-2 Kings Edwards Court, Front Street, Tynemouth.

The Applicant, Mr S Smallwood, initially sought permission to:-

- supply alcohol by way of on sales at the Premises each day of the week from 12.00 hours to 22.00 hours,
- the provision of live music each Friday and Saturday from 17.00 hours to 22.00 hours,
- the provision of recorded music Monday to Friday from 08.00 hours to 22.00 hours and Saturday and Sunday from 09.00 hours to 22.00 hours,
- open the Premises to the public Monday to Friday from 08.00 hours to 22.00 hours and Saturday and Sunday from 09.00 hours to 22.00 hours.

Prior to the commencement of the hearing Mr Smallwood indicated that he wanted to amend the application that was being made and sought a reduction in the trading hours at the premises and the hours that the Premises are open to the public to reflect the trading/opening hours permitted under the planning restrictions. That is the:-

- supply alcohol by way of on sales at the Premises each Monday to Saturday 12.00 hours to 21.00 hours and each Sunday and Bank Holiday from 12.00 hours to 19.00 hours.
- the provision of recorded music Monday to Friday from 08.00 hours to 21.00 hours each Saturday from 09.00 hours and 21.00 hours and each Sunday and Bank Holiday from 09.00 hours to 19.00 hours
- Premises to be open to the public Monday to Friday from 08.00 hours to 21.00 hours each Saturday from 09.00 hours to 21.00 hours and each Sunday and Bank Holiday from 09.00 hours to 19.00 hours.

Following introductions, the Chair set out the procedure which would be followed during the course of the hearing.

Mr J Young, Licensing Officer, presented details of the application, the representations received and the options available to the Sub-committee

Mr Smallwood, the applicant was present and accompanied by his wife Mrs D Smallwod.

Of the representation received Mrs F McClen, Environmental Health Officer, Mr & Mrs Rice and Mr & Mrs Renwick were in attendance and addressed the Sub-committee.

Members of the Sub-committee considered representations and clarified areas through questioning.

Mr & Mrs Smallwood were also given the opportunity to ask question of the objectors. Mr & Mrs Smallwood addressed the Sub-committee in relation to their application.

Members of the Sub-committee asked several questions which were responded to by Mr & Mrs Smallwood.

Mrs F McClen, Environmental Health Officer, Mr & Mrs Rice and Mr & Mrs Renwick were given the opportunity to ask questions of Mr & Mrs Smallwood.

All parties were given the opportunity of summing up their respective submissions.

The Sub-committee withdrew from the meeting to make its decision in private.

The Sub-committee returned and the Chair announced its decision.

Resolved that the application for the grant of a Premises Licence in respect of Woods, 1-2 Kings Edwards Court, Front Street, Tynemouth be approved subject to the following conditions:

1. The noise level from the licensable activity at the Premises and noise associated with such activity when assessed in any of the residential premises in King Edwards Court must not exceed 35 dB LAeq during the operation of the Premises Licence measured over a 15 minute period with the windows of the residential premises closed.

The Sub-committee considered that imposing this condition would afford the residents a degree of protection that they do not currently have. If there is a suggestion that the level of noise from the Premises is causing a nuisance, it will be possible to install noise monitoring equipment in the properties of the residential properties in the areas referred to so as to ascertain if noise levels from the Premises exceed 35 dB LAeq in those properties. The Sub-committee preferred the imposition of a condition that imposes certainty rather than a condition that requires a noise survey to be undertaken at some future date that will put the Applicant Company to additional expense over and above the costs of the renovation of the Premises that is already underway.

The Sub-committee considered that a condition requiring doors and windows to be kept closed from between 12.00 hours to 21.00 hours or 19.00 hours to be too onerous. The imposition of a condition dealing with acceptable noise levels in the flats this will avoid the need for such a condition and if noise from inside the Premises causes a nuisance to residents and is above 35 dB LAeq there will be a breach of the Licence condition set out above.

2. A CCTV system will be installed at the Premises and maintained in proper working order at all times and the Premises Licence Holder will ensure that:

- i. The CCTV cameras are located at the Premises so as to provide coverage of entrances and exits, both internally and externally and areas where the consumption of alcohol takes place.
- ii. The CCTV system is able to capture clear images permitting identification of individuals.
- iii. The CCTV system will be in operation whenever licensable activities are taking place at the Premises.
- iv. The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
- v. The CCTV system is capable of constantly generating an accurate date and time.
- vi. The CCTV system is fitted with security functions to prevent recordings being tampered with e.g. password protection.

3. There will be at least one member of staff present at the Premises during the operating hours trained to provide viewable copies of CCTV images as soon as possible following a request from representatives of Northumbria Police or the Licensing Authority made in accordance with the Data Protection Act 2018 (or any successor legislation).

4. All staff at the Premises who are responsible for selling and supplying alcohol will seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol. Such credible evidence, which shall include photograph of the customer, will either be a current passport, photographic driving licence or proof of age card carrying a PASS logo and hologram. If no such evidence is provided then the sale must be refused.

5. No alcohol will be sold or supplied at the Premises other than to persons taking table meals at the Premises and for the consumption of such alcohol to be ancillary to their meal.

The Sub-committee considered that such a condition would prevent the Premises from becoming part of the "circuit" as the only persons being able to purchase an alcoholic drink will be those taking a meal. Such a condition also reinforces that the Premises are not alcohol led but rather coffee/food led.

6. There will be clear and legible notices displayed at exists and other circulatory areas of the Premises requesting customers to leave the Premises quietly having regards to the needs of local residents and in particular emphasising the need to refrain from shouting, slamming car doors and the sounding of car horns.

7. No refuse or glass containers will be deposited in any skip, bin or other container of a similar nature located on the Premises or any areas in the immediate vicinity of the Premises under the control of the Premises Licence Holder between the hours of 20.00 hours and 08.00 hours and no skip, bin or other container will be removed from the Premises or the immediate vicinity of the Premises under the control of the Premises Licence Holder or Designated Premises Supervisor between those hours.

The Sub-committee considered that imposing such a condition would avoid disturbance to residents in King Edwards Court and Middle Street from by refuse/waste/glass being disposed of or collected at times that would disrupt residents.

8. No deliveries will be made to or from the Premises between the hours of 20.00 hours and 08.00 hours.

Such a condition will limit the disturbance to residents.

9. At the close of business each day there will be a clean-up of any litter and waste in the immediate vicinity of the Premises.

Such a condition will address the issue of “general littering” as referred to by Mr Davinson and Mr Renwick including any cigarette butts that customers may discard outside the Premises.

The breach of a Licence condition is a serious matter. It is an offence to operate licensed premises otherwise than in accordance with the terms of a Licence including failure to adhere to a Licence condition. On conviction, a Licence Holder can be given an unlimited fine and/or a term of imprisonment up to 6 months. In addition to prosecution, or as an alternative, a breach of condition can also lead to a review of the Licence. It is therefore vital that the Applicant Company and its staff fully comply with the terms of the Licence, including the conditions.

In arriving at this decision, the Sub-committee wishes to make it clear to the parties that should there be evidence of the Premises being operated in a manner that undermines any of the licensing objectives then either a resident or Responsible Authority can seek a review of the Premises Licence at any time. So for instance, if the level of noise from customers or the licensable activity at the Premises exceeds 35 dB then it would be possible for local residents to apply for the review of the Licence. If there is an issue with noise caused by live or recorded music at the Premises then again a review of the Licence could be applied for. The review process is described in the Guidance as a key protection for the community in relation to problem licensed premises. Any Sub-committee at the conclusion of a review hearing has a number of steps available to it. These steps can include reducing the hours of trading, removing the Designated Premises Supervisor, suspending the Licence for a period of up to three months or ultimately revoking the Licence. It is therefore very much in the interests of the Applicant Company and its staff to ensure that the Premises operate in accordance with the terms of the Licence and in such a way that will promote the licensing objectives.

The Sub-committee is aware that in making its decision it must have due regard to the matters set out in section 149 of the Equality Act 2010. The Sub-committee does not consider that there are any equalities implications flowing from the decision to grant a premises licence.

The Sub-committee is also aware that under the Code for Regulators the Sub-committee should avoid imposing unnecessary regulatory burdens on business operators such as the Applicant Company. In the view of the Sub-committee the conditions attached to the Licence are proportionate and promote the licensing objectives without being overly burdensome. Most of the conditions are consistent with the conditions offered in the Applicant Company’s operating schedule as modified by the Sub-committee. Others are considered appropriate to address the issues raised by residents, some of whom live above the Premises, including the condition relating to audibility of noise from the Premises.

The Sub-committee, as it must do in these reasons, make it clear to the parties that they have a right of appeal against the decision of the Sub-committee. Any such appeal must be made to North Tyneside Magistrates Court, Tynemouth Road, North Shields within 21 days

of receipt of the written Reasons.