

REPORT TO LICENSING & APPEALS SUB-COMMITTEE

Agenda Item

3.

Hearing Date: 21st August 2013

Contact Officer: Ruth Boam – 01283 595716

HEARING FOR AN APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003

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|------------------------|---|
| Applicants Name | Elizabeth and Adam Devey Smith |
| Premises Name | Amalfi White Bar and Restaurant |
| Address | 50, Derby Road Melbourne, Derbyshire, DE73 8FE |

1. PURPOSE

To determine an application for a premise licence received by this Authority on the 27th June 2013 from Elizabeth and Adam Devey Smith. (**application attached at Appendix 1**) pages 5 to 30.

2. BACKGROUND

- 2.1 The applicant is seeking a new premises licence to permit Plays, Films, Live Music, Recorded Music, Performances of Dance, Late Night Refreshment and the Sale by Retail of Alcohol. The full details are indicated below in paragraph 3.

3. APPLICATION DETAILS

- 3.1 The applicant requests the Licensing Authority to permit the following:

| Activity | Days | Times |
|---------------------------------|---|--|
| Plays – indoors | Monday to Sunday | 10:00 to 23:00hrs |
| Films – indoors | Monday to Sunday | 10:00 to 23:00hrs |
| Live Music - indoors | Sunday to Thursday Friday and Saturday | 10:00 to 23:00hrs 10:00 to 00:00hrs |
| Recorded Music - indoors | Sunday to Thursday Friday and Saturday | 08:00 to 23:00hrs 08:00 to 00:00hrs |
| Performances of Dance - indoors | Sunday to Thursday Friday and Saturday | 10:00 to 23:00hrs 10:00 to 00:00hrs |
| Late Night Refreshment | Monday to Sunday | 23:00 to 00:30 |

| | | |
|--|---|-------------------|
| Sale by Retail of Alcohol for consumption on the premises only | Monday to Sunday | 10:30 to 00:00hrs |
| Hours premises to remain open to members of the public | Monday to Sunday | 08:00 to 00:30hrs |
| Seasonal variation for live music and recorded music | New Years Eve | until 01:30hrs |
| Seasonal variation for late night refreshment | New Years Eve | 23:00 to 02:30hrs |
| Seasonal variation supply of alcohol | New Years Eve | 10:30 to 02:00hrs |
| Seasonal variation for opening hours | New Years Eve | 08:00 to 02:30hrs |
| Non standard timings for Live music and Recorded Music | Live music may be played in the White Ballroom and White Bar until 00:30hrs twenty four times a year for pre booked events only. The Licensing Authority and the Police will be notified by email when these events are to take place. | |
| Non standard timings for Late night refreshment | During events in the White Ballroom and White Bar late night refreshment may be provided until 30 minutes past the terminal licensing hour | |
| Non standard timings for Supply of alcohol | Alcohol may be served between 08:00 and 10:30 for pre booked champagne breakfasts only. Alcohol may be served until 00:30 twenty four times a year in the White Ballroom and White Bar for pre booked events only. The Licensing Authority and the Police will be notified by email in advance of these. | |
| Non standard timings for Hours premises are open to the public | The White Ballroom and White Bar will be open until 30 minutes past the terminal licensing hour twenty four times a year for pre booked events only. The Licensing Authority and the Police will be notified by email in advance of these events taking place. | |

- 3.2 The steps the applicant intends to take to promote all four licensing objective can be seen in the application form (pages 21 and 22).

4. CONSULTATION RESPONSES

4.1 Responsible Authorities

Environmental Health -

Representation received during the 28 day consultation period. Full details can be found in **Appendix 2** (page 31 to 44).

Derby Constabulary -

Representation received during the 28 day consultation period. Full details can be found in **Appendix 2** (page 45 to 60).

4.2 Other Parties -

Written representations have been received from the following persons during the 28 day consultation period. Full details can be found in **Appendix 3**.

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|---|-----------------------------|
| Councillor Jim Hewlett, The Lilypool, Melbourne, Derbyshire, DE73 8GL | Appendix 3 pages 61 to 72 |
| S Wilkins, South Street, Melbourne, Derbyshire, DE73 8GB | Appendix 3 pages 73 to 78 |
| W.N.K Rowley, Derby Road, Melbourne, Derbyshire, DE73 8FE | Appendix 3 pages 79 to 84 |
| J Baron, Derby Road, Melbourne, DE73 8FE | Appendix 3 pages 85 to 90 |
| S Fletcher, Derby Road, Melbourne, DE73 8FE | Appendix 3 pages 91 to 94 |
| Resident A | Appendix 3 pages 95 to 116 |
| Resident B | Appendix 3 pages 117 to 138 |

No other representations have been received.

5. AGREEMENT BETWEEN PARTIES

- 5.1 The applicant has agreed to have the conditions requested by Environmental Health added to their licence, subject to point 4 being amended. Environmental Health have agreed to amend point 4 (page 43).
- 5.2 Upon receipt of the representation from Derbyshire Constabulary (22nd July 2013) the applicant and the Police continued mediation and the applicant has agreed to have the 22 conditions contained in the documentation submitted by Derbyshire Constabulary on 25th July 2013 (**Appendix 2**) pages 55 to 60 added to their licence.
- 5.3 Confirmation from the applicant of their agreement can be found in **Appendix 4** page 139.

6. OTHER RELEVANT CONSIDERATIONS

- 6.1 The Authority should consider its responsibilities under the Crime and Disorder Act 1998, and the Human Rights Act 1998 when considering the fair balance between the interests of the applicant and the rights of local residents.
- 6.2 Any decision taken by the Sub-Committee must be appropriate and proportionate to the objective being pursued.
- 6.3 Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives.

- 6.4 When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance to the application of each representation.
- 6.5 In making its decision, Members must also have regard to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy. If Members depart from either, they must specify their reasons for doing so.

7. DETERMINATION

- 7.1 The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
1. Grant the licence in accordance with the application.
 2. Modify the conditions of the operating schedule by altering or omitting or adding to them.
 3. Exclude or restrict from the scope of the licence any of the licensable activities to which the application relates.
 4. Reject the whole of the application.
- 7.2 The Sub-Committee may also grant the licence subject to different conditions for different parts of the premises or the different licensable activities.
- 7.3 Members are asked to note that they may not modify the conditions or reject whole or part of the application merely because they consider it desirable to do so. It must actually be appropriate to do so in order to promote the licensing objectives and any such step must relate to any outstanding representation made.
- 7.4 If Members grant the application, the details of the operating schedule will be incorporated into the licence as conditions. The licence will also be subject to certain mandatory conditions.

8. RIGHT OF APPEAL

- 8.1 Members should note that the applicant or persons making representations have the right of appeal against any decision made by the Sub-Committee.

9. APPENDICES

1. Application for a premises licence to be granted under the Licensing Act 2003 – pages 5 to 30
2. Responsible Authorities representations – pages 31 to 60
3. Other representations – pages 61 to 138
4. Agreement from applicant to accept Police and Environmental Health conditions – page 139