

LICENSING AND APPEALS SUB-COMMITTEE

27th May 2021 at 10.00am

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillor Gee (Chair), Councillor Rhind (Labour Group), and Councillor Angliss (Independent Group).

District Council Representatives

Elisabeth Page (Principal Legal Officer), Faye Norman (Licensing Officer), Mark Lomas (Licensing Officer(Enforcement)), Patricia Hill (Democratic Services).

LAS/01 **APOLOGIES**

The Sub-Committee was informed that no apologies had been received.

LAS/02 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

MATTERS DELEGATED TO SUB-COMMITTEE

LAS/03 **HEARING FOR AN APPLICATION FOR A PREMISES LICENCE TO BE VARIED UNDER THE LICENSING ACT 2003 – AMALFI WHITE BAR AND RESTAURANT**

The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman then outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

The hearing was held to determine the application to vary a Premises Licence under the Licensing Act 2003.

The applicants, Elizabeth and Adam Devey Smith, attended the hearing in person and were represented by Mr Shields.

The applicants submitted additional documentation prior to the hearing.

The Chairman invited the Council's Licensing Representative to present the facts of the matter and an outline of the application.

The Sub-Committee, the Applicant and their representative and PC Fowler (Derbyshire Constabulary) had opportunity to ask questions of the Council's Licensing Representative.

The Chairman invited the Licensing Officer (Enforcement) to make representations to the Sub-Committee.

The Sub-Committee had opportunity to ask questions of the Licensing Officer and invited the Applicant and their representative to put questions to him as well.

The Chairman invited PC Fowler (Derbyshire Constabulary) to make representations to the Sub-Committee.

The Sub-Committee had opportunity to ask questions of PC Fowler and invited the Applicant and their representative to put questions to him as well.

The Chairman invited the Applicant's representative to make representations to the Sub-Committee

The Sub-Committee asked questions of the Applicant and their representative and invited the Licensing Representative and PC Fowler (Derbyshire Constabulary) to put questions to them as well.

The Chairman invited the Licensing Representatives, PC Fowler (Derbyshire Constabulary) and the Applicant to sum up their representations.

The Sub-Committee retired from the Council Chamber to deliberate.

RESOLVED:

1. ***To grant the variation of the Premises Licence with regard to the rear of the Premises to allow consumption of alcohol until 23.00hrs.***
2. ***To add a condition to the Premises Licence that CCTV at the rear of the Premises should extend to the full extent of the rear garden. This condition is to be implemented before the varied Licence is issued.***
3. ***To refuse the variation of the Premises Licence with regard to the front and side of the Premises.***

REASON FOR THE DECISION

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.

The Sub-Committee also had regard to the four 'Licensing Objectives' namely:

- ***Prevention of crime and disorder***
- ***Public safety***
- ***Prevention of public nuisance***
- ***Protection of children from harm***

The Sub-Committee considered in detail the representations of the Council's Licensing Representative, Derbyshire Constabulary, the Applicant and the Other Persons.

Having taken into account the four Licensing Objectives, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and the representations made by the Other Persons.

In relation to the application concerning the Rear of the Premises

1. ***The Sub-Committee accepted that the Premises were well run and that there were measures in place to monitor the behaviour of Patrons in the rear outside space of the Premises.***
2. ***The Sub-Committee noted that the nearby public house Premises Licence allowed the consumption of alcohol in the rear outside space until 23.00hrs***
3. ***The Sub-Committee concluded that there had been no substantiated complaints regarding breach of the Licensing Objectives since the application to vary in 2016.***

The Sub-Committee felt that it was reasonable and proportionate to grant the application to vary the Premises Licence, subject to the conditions specified, which are imposed to specifically address the concerns raised by the Licensing Officer, Other Parties and Police.

In relation to the application concerning the front and side of the Premises

1. ***The Sub-Committee noted the Police and Licensing officers' submissions in relation to the use of the front of the premises and accepts that the police submission was on Crime and disorder grounds as well as Public Safety and Public Nuisance.***
2. ***The Sub-Committee considered that size and extent of the front of the Premises and concluded that this could only be used for standing drinking and fully accepted the Police and Licensing Officers' submissions that extending the hours of consumption of alcohol from 20.00hrs to 23.00hrs would increase the likelihood of noise nuisance for residents on Derby Road and of conflict between members of the public and patrons on the highway.***
3. ***The Sub-Committee did not consider that moveable barriers would provide sufficient protection to mitigate against the concern and therefore meet the Licensing Objectives***

- 4. The Sub-Committee concluded that in light of the above it would not be reasonable or proportionate to vary the premises Licence as requested in relation to the front and side areas of the Premises.**

LAS/04 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

The Meeting terminated at 12:05 hours.

COUNCILLOR GEE

CHAIRMAN