

LICENSING SUB-COMMITTEE
31st July, 2007

PRESENT – Councillors Dunstone, Newall and Nutt.. (3)

APOLOGIES – Councillors Hartley and D. Jones. (2)

LS4. ELECTION OF CHAIR – RESOLVED – That Councillor Nutt be appointed Chair for this meeting only.

LS5. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

LS6. APPLICATION FOR PREMISES LICENCE - The Director of Development and Environment submitted a report (previously circulated) to consider a contested application from Mr. Gary Gibson in relation to the Red Tomatoe Restaurant Bars and Café, Wellington Court Mews Courtyard to grant a Premises Licence.

Mr. Gary Gibson, the applicant and Mr. Alan Brookes-Johnson representing the Red Tomatoe Restaurant Bars and Café addressed the meeting and responded to Members' questions and to the 'points for clarification' highlighted in the submitted report.

As a result of this application representations had been received from Durham Constabulary, the Environmental Health Manager, Executive Contract Services Ltd and Darlington Merchant Credits. Mr. J. Turnbull, solicitor for Durham Constabulary and Miss Sue Robinson, Community Inspector; Mr. Stephen Todd, Environmental Health Officer and Mr. John Wilson representing Darlington Merchant Credits also addressed the Committee and responded to Members questions and to the 'points for clarification' highlighted for each representative in the submitted report.

The meeting adjourned for 30 minutes to enable the Sub-Committee Members to undertake a site visit to the premises, accompanied by officers, the applicant and the representatives.

The Sub-Committee considered the views of the objectors and the applicant in accordance with the Guidance issued Under Section 182 of the Licensing Act 2003 (Hearings) Regulations 2005 and in accordance with the "Licensing Sub-Committees – Full Hearing Procedure for Applications for Personal Licences Where Representations Have Been Received.

Members shared the concerns of the Police and the Environmental Health officer regarding the lack of information from the Applicant. Members were not satisfied that the issues relating to crime and disorder, public safety and public nuisance had been adequately addressed. Members were further concerned that the premises are fully open air and that emanating noise would seriously affect local residents.

RESOLVED – That the application be granted in part only as follows :-

- Sale of alcohol (on and off premises) – permitted hours to be 07.00 to 23.00
- Regulation entertainment (excluding live music) - permitted hours to be 07.00 to 23.00
- Live music - permitted hours to be 12.00 to 23.00

- Non standard times
(24th Dec, 25th Dec, 26th Dec,
31st Dec, 1st Jan, the Friday to
Sunday of the two May Bank Holidays
And the August Bank Holiday) - permitted terminal hour 24.00
- Late night refreshment - as this licensable activity cannot commence until
23.00 this part of the application was refused.

The provision of all licensable activity is subject to the following conditions, which are in addition to the Licensing Act 2003's mandatory conditions in relation to the sale/supply of alcohol and the requirement for door staff to hold SIA registration, as follows :-

- (a) A CCTV system that is compliant with the Durham Constabulary minimum standards document is to be operational at all times when the premises are open to the public. This shall include a minimum of 5 external cameras and 3 internal cameras. Recordings shall be kept for a minimum period identified by the Police and shall be produced on request to the Police or an Authorised Officer of the Council. (NB this equipment must be installed prior to the opening of the premises).
- (b) There shall be a minimum of 3 door supervisors employed from 20.00 hours each evening. Of these 2 shall be based at the entrance/exit gate and one shall circulate within the premise.
- (c) The maximum occupancy of the premises shall be agreed with the Environmental Health Manager and shall not be exceed at any time.
- (d) Any provision of live music shall not be amplified.
- (e) Clear and legible signage shall be prominently displayed at each point of exit requesting that patrons leave in a quiet and orderly manner.
- (f) No adult entertainment of any type, particularly involving nudity or semi-nudity, shall be offered at any time when children under the age of 18 years are present on the premises.
- (g) In relation to adult entertainment involving nudity, semi-nudity or striptease :-
 - (i) a copy of the House rules shall be deposited with the Licensing Authority, these rules shall include the following :
 - Prostitution is forbidden and soliciting shall result in immediate dismissal
 - Performers shall not fraternise with customers away from the premises
 - Performers may only dance to seated patrons
 - Patrons must remain clothed at all times
 - Performers shall not be touched by any patron while they are dancing
 - Performers shall not earn income by commission on the sale of drinks
 - Performers must not leave the premises during a shift unless they are genuinely too ill to remain at work
 - Any performer leaving the premises during a shift shall not be permitted back onto the premises for the remainder of that shift
 - Patrons who fail to conform to the house Rules shall be required to leave the premises.

- (ii) Performers and patrons shall not be less than 18 years of age.
 - (iii) Performances by topless females or nude male/female dancers shall only be seen by patrons inside the premises and by no person outside of the premises.
 - (iv) Signage shall be displayed at the main entrance(s) warning patrons that the performance includes unclothed male or female dancers and that no person under the age of 18 years shall be admitted.
 - (v) A copy of the house rules shall be prominently displayed at the main entrance(s)
 - (vi) All performers shall be given written information advising them of the House rules.
 - (vii) Suitable, secure changing room(s) with restricted access shall be provided for performers, separate from patrons and staff.
 - (viii) There shall be no advertising outside of the premises of strip tease or similar entertainment.
- (h) A written noise management report shall be obtained from a noise management consultant and submitted to the Council's Environmental Health Manager at least 28 days prior to the date on which the premises are to open. A noise management scheme must then be agreed, in writing, with the Environmental Health Manager and must be complied with at all times when the premises are open to the public.