

## LICENSING ACT 2003 SUB-COMMITTEE

17 July 2015

**PRESENT** – Councillors Kane, Lawton and Newall.

(3)

**LS1. ELECTION OF CHAIR – RESOLVED** – That Councillor Newall be elected Chair for the purposes of this Sub-Committee.

**LS2. DECLARATIONS OF INTEREST** – No declarations of interest were made at the meeting.

**LS3. APPLICATION TO VARY A PREMISES LICENCE – AVALON, BLACKWELLGATE** - The Director of Economic Growth submitted a report (previously circulated) to consider an application to vary a premises licence in the light of representations from two Responsible Authorities, namely Durham Constabulary on the grounds of the Prevention of Crime and Disorder and public safety; from Environmental Health on the grounds of public safety; and a representation from “other persons”, namely a local resident on the grounds of Public Nuisance.

Prior to the commencement of the meeting, the Principal Licensing Officer advised the Members that the representations from the two responsible authorities had been withdrawn as a result of discussions between the applicant and the two responsible authorities had agreed a proposed condition as part of the application therefore the two responsible authorities no longer had representations in relation to the application.

Present at the meeting were the applicant Mr David Johnson, his legal representative, Ms Michelle Haszelwood of John Gaunt and Partners, Solicitors; Mr. Mark Charlton, Marstons Brewery; Ms V Mills, other person; Pam Ross, Licensing and Car Parks Manager, Julie Richings, Principal Licensing Officer; and Helen Thompson, Lawyer (Litigation).

The Principal Licensing Officer introduced the application to vary a Premises Licence and the Notice of Hearing pertaining to the application.

Members listened carefully to the representations made by the applicant’s legal representative to vary the application to extend the current external permission to permit regulated entertainment between 11.00 hours and 000.30 hours on Thursday to Monday and also on Christmas Eve, Boxing Day and New Year’s Eve; to remove the restrictions relating to the number of events that may be held per annum or each calendar month; and to remove condition 1 in Annex 2 limiting the occupancy of the premises to 120 in the bar area and 180 in the garden area and replace it with an occupancy level determine by the fire risk assessment.

Representation had been received from Ms V Mills, a local resident who made her representations based on public nuisance.

The applicant’s legal representative responded to the ‘points for clarification’ as outlined in the submitted report.

The Sub-Committee considered the views in accordance with Statutory Instrument 2005 No. 44, The Licensing Act 2003 (Hearings) Regulations 2005; and the Secretary of State's Guidance in relation to the prevention of crime and disorder and the prevention of public nuisance; and Guidance issued under Section 182 of the Licensing Act 2003, and in accordance with the 'Licensing Sub-Committees – Full Hearing procedure for Applications for Premises Licences/Club Premises Certificate Where Relevant Representations Have Been Received'.

In arriving at their decision, Members were particularly mindful of Sections 6.1-6.3 of the Council's Licensing Policy in relation to Public Nuisance/Crime and Disorder and the impact of licensable activities; Section 8.0-8.5 Public Nuisance in relation to Location of Premises; Section 8.7.2-8.7.6 Public Nuisance in relation to noise disturbance; and Section 10-10.4 Prevention of Crime and Disorder in relation to effect in vicinity

In reaching their decision, Members believed that the variation should be granted as there was no evidence of noise nuisance relating to the existing entertainment and that the conditions on the licence would protect local residents from any noise disturbance.

**RESOLVED** – (a) That the application be granted subject to conditions that were agreed prior to the hearing, and in addition to the mandatory conditions attached to the licence, a further condition and amended an existing condition contained in Annex 2 of the Premise Licence as detailed below:-

1. It was agreed to extend the current external permission to permit regulated entertainment between 11.00 hours and 00.30 hours on Thursday to Monday and also on Christmas Eve, Boxing Day and New Year's Eve.
2. It was agreed to remove the restrictions relating to the number of events that may be held per annum or each calendar month
3. It was agreed to remove Condition 1 in Annex 2 limiting the occupancy of the premises to 120 in the bar area and 180 in the garden area and replace it with an occupancy level determined by the fire risk assessment as detailed in 5 below.

(b) It was agreed that the following conditions be included in Annex 2 of the Premise Licence as follows:-

4. The Designated Premises Supervisor or their representative shall conduct checks, no more than 90 minutes apart, of the noise coming from the premises on every occasion the external area of the premises are used for live music or regulated recorded, music and shall take steps to reduce the level of noise where it is clearly audible and recognisable as coming from the premises at or beyond the boundary of any nearby property.

A written record shall be made of those checks in a log book kept for that purpose and shall include the time and date of the checks, the person making

them and the results, including any remedial action. The log book shall be kept onsite and made available for inspection by Authorised Officers of the Local Authority or Police. Section 177A of the Licensing Act 2003 does not apply to this condition

5. A risk assessment submitted to and approved by the Licensing Authority, to determine the occupancy levels of both the interior and exterior of the premises shall be carried out.

Whilst carrying out the risk assessment the applicant shall have due regard to any guidance and documentation available in relation to available floor space and safe means of escape.

Due regard shall also be had to BS 6465 under the provision of adequate facilities for sanitary accommodation. Risk assessment shall also make reference to the provision of door supervision that is necessary to maintain public order and effect emergency evacuation and the measures that shall be employed to facilitate this.

(c) Members also agreed to add the following Condition to the Premise Licence:-

6. The operator shall ensure that the premises have sufficient numbers of SIA registered security staff and shall ensure that they are employed in the following ratio: a minimum of 2 for the first 100 customers, 2 for the second 100 customers and 1 for every 100 customers thereafter.

At least one member of security staff being employed as a floorwalker and constantly monitoring patrons for evidence of alcohol or drugs and also protecting patrons from unwanted attention or harassment. (It was decided that Condition 5 of Annex 3 shall be retained in its current form)

(d) Members also decided to amend a licence condition in relation to the retention of CCTV recordings to remove the ambiguity between Condition 4 of Annex 2 and Condition 4 of Annex 3. It was decided that all CCTV recording were to be kept for a period of 30 days