

## **Licensing Sub-Committee**

**18 September 2018**

Present: Councillors G Madden, D Drummond and L Darke.

### **LSQ17/09/18 Appointment of Chair**

**Resolved** that Councillor G Madden be appointed Chair for this meeting.

### **LSQ18/09/18 Declarations of Interest and Dispensations**

Councillor G Madden declared a non-registerable personal interest that he was a Personal Licence Holder and Designated Premises Supervisor.

### **LSQ19/09/18 Application for the grant of a Premises Licence – 46-60 Park View, Whitley Bay (Whitley Bay Ward)**

The Sub-committee met to consider an application for the granting of a new Premises Licence in relation to 46-60 Park View, Whitley Bay.

On 13 September 2018 the Licensing Authority received additional information from Sintons Solicitors, the Applicant Company's solicitors.

Prior to hearing the application the Mrs Smith on behalf of HT Leisure Ltd addressed the Sub-committee, she presented the view to why it was considered lawful for the letters and petition submitted in support of the applicant to be considered by the Sub-committee and the other parties during the hearing.

Each of the interested parties was given an opportunity to express their views. Given that there was no objection to the letters or petition the Sub-committee agreed that the letters and petition could be considered.

The applicant, HT Leisure Limited, initially sought permission to supply alcohol by way of on and off sales, together with the exhibition of films (indoors), the provision of live music and recorded music, performance of dance and anything of a similar description to live music, recorded music and the performance of dance (all such entertainment to be indoors)

Sunday to Thursday 08.00 hours to 24.00 hours and each Friday and Saturday from 08.00 hours to 01.00 hours.

It was also proposed that the Premises would provide late night refreshment (indoors) Sunday to Thursday from 23.00 hours to 00.30 hours and each Friday and Saturday from 23.00 hours to 01.30 hours.

The Premises would be open to the public each Sunday to Thursday from 08.00 hours to 00.30 hours and each Friday and Saturday from 08.00 hours to 01.30 hours. By way of non-standard timings, the Applicant sought permission for the licensable activities to be provided for an additional hour on the Friday, Saturday and Sunday of a Bank Holiday, Maundy Thursday, Christmas Eve, Boxing Day and New Year's Day in addition to an extension to the licensable hours over the New Year's Eve/New Year's Day night.

The Authority had received no representation from any of the Responsible Authorities.

The Authority had received representations from 29 persons who lived near to the premises and from Councillor O'Shea on behalf of the local Ward Councillors

Following introductions, the Sub-committee's legal advisor set out the procedure which would be followed during the course of the hearing. The Council's Licensing Officer then presented details of the application, the representations received and the options available to the Sub-committee.

The applicant was represented at the hearing by Mrs S Smith Solicitor for the Applicant, Mr S Talbot, Director of the Applicant Company, Mr J Heron, Director of the Applicant Company and Ms D Swanston, Proposed Manager of the Premises.

Mr D Thompson, Mr I Guthrie, Mr S Goodwin and Mr C Hood were present along with Councillor J O'Shea.

Mrs Smith addressed the Sub-committee on behalf of the applicants giving a brief overview of the applicant's background, their business and their application for a premises license.

Mrs Smith also stated that she had met concerned parties prior to the commencement of the meeting and discussed the applicants' willingness to amend their application. Mrs Smith presented the proposed amended application to the Sub-committee.

It was now proposed that the Premises will cease operating each Sunday to Wednesday at 11.00p.m and between Thursday and Saturday up to midnight.

Mrs Smith confirmed that the additional hours of trading over Bank Holiday weekends and New Year's Eve/Day were still being applied for but that those additional hours would be reduced in line with the new hours of trading now being proposed.

Mrs Smith also offered additional conditions to the proposed license to alleviate concerns with particular regard to any noise nuisance.

Members of the Sub-committee and other parties asked questions of clarification and were responded to appropriately.

Councillor O'Shea addressed the Sub-committee in relation to his own representation and as a spokesperson for the residents in attendance at the hearing.

Councillor O'Shea said that it was really helpful to have had an opportunity of speaking to Mrs Smith before the hearing and said that some of the residents' fears had been alleviated as a result of what Mrs Smith had told them. He was grateful for the additional conditions being offered by the Applicant Company including the reduction in trading hours. There were still however concerns in relation to the dispersal of people from the Premises and noise nuisance that would be caused by customers smoking and taxis visiting the Premises.

Councillor O'Shea stated that consideration be given to the need of dedicated door staff to ensure that customers leave the premises in an orderly fashion. He also suggested that the use of the Dispersal Policy should be a condition on the Licence.

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 (1) the application for the grant of a Premises Licence in relation to 46 – 60 Park View, Whitley Bay be granted and the following conditions be attached to the Premises Licence:-

1. All licensable activities are to cease Sunday to Wednesday at 23.00 hours and on Thursday to Saturday at 24.00 hours, save for late night refreshment which will finish 30 minutes thereafter.
2. The Premises shall operate as a restaurant and bar providing food and drink. There shall be no change to the operating style without proper written notice to the Licensing Authority, which shall include details of the operating style proposed. The Licensing Authority shall advise within 21 days whether a formal application for full or minor variation or a new Licence is required and the Licence Holder shall comply with that direction.
3. A substantial food offering will be available until at least one hour before the cessation of the sale of alcohol.
4. Waiter/waitress service will be available throughout the hours that the Premises are open to the public.
5. In that area known as Mr Petit there will always be a minimum of 70 seats available for customer use.
6. In that area known as Giraffe Lounge there will always be a minimum of 100 seats available for customer use.
7. Prior to commencing operation under the Premises Licence a detailed noise survey and a scheme for the sound insulation of the Premises must be submitted to and approved by the Environmental Health Officer of North Tyneside Council. Any required sound insulation must be implemented before the Premises begin to operate.

This condition has been slightly amended to require that any scheme of sound insulation identified as a result of the detailed noise survey must be in place before the Premises is ready to operate. The condition as offered required a noise survey to be undertaken but did not require any insulation to then take place. The condition as amended provides clarity and certainty that appropriate noise insulation will be in place before the Premises open for business. Once the noise survey and insulation work has been completed, the condition will cease to have effect.

8. The music noise level (MNL) when assessed 1 metre from the front, side or rear wall of any noise sensitive premises shall not exceed the background noise by more than 5dB(A) over a 15 minute period.

The condition originally used the term “façade”. In the view of the Sub-Committee that could have been taken to mean the front of a noise sensitive premises. Given that the rear wall of the homes in Roxburgh Terrace face the Premises, it would be inappropriate to take a measurement from the front of the noise sensitive premises, the wall furthest away from the Premises. Similarly other residential properties in the area that are noise sensitive premises may have rear or side walls from which a measurement should be taken, rather than the front of such premises.

9. The Premises Licence Holder or his representative shall conduct regular assessments of the noise level coming from the Premises when regulated entertainment is taking place and shall keep a written record of any steps that are taken to reduce the level of such occasions where it has been judged it is likely to cause a disturbance to local residents.
10. A Policy will be implemented and maintained at all times to ensure that customers smoking outside the Premises are appropriately supervised and made aware of the need to refrain from disturbing local residents.
11. The Premises Licence Holder shall ensure that at all times when the Premises are open for any licensable activity there is sufficient, competent staff, on duty at the Premises for the purposes of fulfilling the terms and conditions of the Licensing Act and for preventing crime and disorder.
12. The Premises Licence Holder and Designated Premises Supervisor shall conduct a risk assessment of the general operation of the Premises and in the case of individual bespoke events.
13. The maximum number of persons permitted on the Premises at any one time shall not exceed a figure prescribed by the risk assessment carried out by the Premises Licence Holder in accordance with the fire safety legislation.
14. The Designated Premises Supervisor shall ensure that there are effective management arrangements in place to enable him/her to know how many people there are in the Premises at times prescribed within the management risk assessment.
15. A CCTV system shall be designed, installed and maintained in proper working order to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such system shall:-
  - Be operated by properly trained staff;
  - Be in operation at all times that the Premises are being used for licensable activity;
  - Ensure coverage of public entrances and exits to the licensed Premises internally and externally;
  - Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police;
  - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained on tape or otherwise (for a period of 28 days) and shall be supplied to the Licensing Authority or Police Officer on request.

16. No glass material or bottles shall be deposited in a skip, bin or other container which is located outside of the building between the hours of 22.00 and 07.30 and any such skip, bin or container shall not be removed from the Premises between those hours.
17. All members of staff at the Premises including door supervisors shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 21 years and who is seeking to purchase or consume alcohol on the Premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence or proof of age card carrying a “PASS” logo.
18. No deliveries will be made to the Premises between 20.00 hours and 08.00 hours.
19. The Premises will operate in accordance with the Licence Holder’s dispersal policy at all times. Such policy will include, but not be limited to:-
  - Preventing the congregation of customers in the immediate vicinity of the Premises;
  - Providing customers with the contact details of local taxi firms;
  - Requesting customers to leave the Premises quietly having regard to the needs of local residents; and
  - Monitoring the behaviour of customers leaving the Premises

The implementation of the dispersal policy will be part of staff training.