



Minutes of the Licensing Sub-Committee

24 October 2019

-: Present :-

Councillors Ellery, Sykes and Kavanagh

6. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

7. Minutes

The Minutes of the meeting of the Sub-Committee held on 25 July 2019, 26 July 2019 and 19 August 2019 were confirmed as a correct record and signed by the Chairman.

8. No 18, 18 Esplanade Road, Paignton

Members considered a report on an application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton.

Written Representations received from:

| Name | Details | Date of Representation |
|----------------------|--|---|
| Police | Representation objecting to the application on the ground of 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'. | 25 September 2018 |
| Public Protection | Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'. | 27 September 2019 |
| Member of the Public | Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'. | 27 September 2019 and 28 September 2019 |

Additional Information:

Prior to the Hearing the Applicant requested the following documents be circulated:

- Drugs Policy;
- Noise Report;
- Noise Management Plan; and
- Proposed Conditions.

With the agreement of the Chairman the time for oral representations was extended to 15 minutes.

Oral Representations received from:

| Name | Details |
|---------------------------|--|
| Applicant | The Applicant presented their application and responded to Members questions. |
| Police | The Police Representative presented their objection to the application and responded to Members questions. |
| Public Protection Officer | The Public Protection Officer presented their representation in respect of the application and responded to Members questions. |
| Member of the Public | The Member of the Public presented their objection to the application. |

Decision

That the application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton be refused.

Reasons for Decision

Having carefully considered all the written and oral representations, Members unanimously resolved to refuse the application before them.

In coming to that decision, Members considered the Independent Noise Report and Noise Management Plan submitted by the Applicant and were impressed and pleased to note that the Applicant had thoroughly addressed the issue of potential noise outbreak from inside the premises. Furthermore, Members were reassured by the Public Protection Officer's (PPO) submissions, that if implemented, the recommendations set out in the Noise Report would in his opinion, eliminate noise outbreak from inside the premises.

However, on the evidence before them, Members were not able to gain the same level of reassurance they required in respect of ensuring that 'the prevention of public nuisance' licensing objective was promoted when determining an application for a 3am licence. Members had careful regard to, what in their opinion, was the high likelihood of risk of residents being unreasonably disturbed by patrons leaving the premises and entering in to areas in the immediate vicinity of the premises which are residential, both commercially and private. As such, Members could not be satisfied that in granting the application, 'the prevention of public nuisance' licensing objective, would not be undermined.

Whilst Members noted the Applicants submission that a dispersal policy had been written, however without having sight of that policy as the Applicant had omitted to provide this at the hearing, Members were unable to determine for themselves whether the dispersal policy had been given the same level of consideration and attention by the Applicant. This was particularly pertinent, given Members highly perceived risk of such disturbance and therefore found the application lacking in this regard.

Members heard oral evidence from one local resident as regards the effect of noise disturbance experienced when the premises, though under a different licence holder, held a 3am licence and were also mindful of the PPO's reservations in this regard. Notwithstanding that the Applicant before them was a different operator, Members noted that the fabric of the surrounding area had not changed and therefore assessed the risk still to be present. The provision of a comprehensive dispersal policy which addressed these concerns may have provided assurances to Members in this regard.

Additionally, Members were concerned to note that the plan forming part of the application did not provide a detailed representation or accurately reflect the internal layout, as shown by the plan that the Applicant presented at the hearing. Members noted that the plan presented at the hearing, was in fact that which the Applicant intended for the premises layout and had not been consulted on, thereby potentially placing members of the public and Responsible Authorities at a disadvantage. In that had the intended plan been included in the application and consulted on, additional representations could have been made.

Notwithstanding this, on examination of the intended plan, Members were concerned to note that the application lacked detail with regard to what they foresaw as a potential 'pinch point' at the premises in respect of the connecting corridor between the two bar areas. A concern which was also raised by the Police in their oral submissions. This in Members opinion had the potential to lead to an undermining of 'the prevention of crime and disorder' licensing objective and found that more detailed considerations was needed in this regard and would need consulting on.

Members were also concerned that the connecting corridor, off of which, the toilets were located could become an issue when patrons are queueing to use the toilets and passing between the bar areas, particularly given the Applicants proposed capacity of 400 persons. In their oral submissions, the Applicant omitted to address how the flow of this area would be managed to avoid conflict between patrons which in Members opinion, could escalate to outside areas if not managed effectively. Again Members found that more detailed consideration was needed in this regard and would need consulting on.

In concluding and notwithstanding the minor breaches of conditions highlighted by the Police in respect of the adjoining premises licence which is also held by the Applicant, Members gave careful consideration as to what if any conditions could be added by them, as an alternative to refusal. However, Members resolved that with the lack detail before them, they would in effect be determining the intended

concept which may not be that intended by the Applicant and therefore maintained that a refusal was appropriate in these circumstances.

Chairman/woman
