

## Licensing Sub-Committee

- Held at: Council Chamber - Civic Centre Folkestone
- Date: Monday, 4 June 2018
- Present: Councillors Mrs Jennifer Hollingsbee, Len Laws and Russell Tillson
- Officers Present: Arthur Atkins (Environmental Health and Licensing Manager), David Campbell (Development Management Team Leader), Nicola Everden (Solicitor), Miss Lisa Farrell (Licensing and compliance officer), Miss Isabelle Hills (Planning Trainee), Mr Alastair De Lacey (Trainee Legal Executive), Olivia McDonagh (Support Assistant), Jemma West (Senior Committee Services Officer) and Briony Williamson (Licensing Officer)
- Others Present: Councillor Dick Pascoe  
Mr Mark Macfarlane (applicant).

### 1. **Election of Chairman for the meeting**

Proposed by Councillor Laws,  
Seconded by Councillor Mrs Hollingsbee; and

#### **RESOLVED:**

That Councillor Tillson be elected as Chairman for the meeting of the Sub-Committee.

### 2. **Declarations of interest**

There were no declarations at the meeting.

### 3. **AN APPLICATION FOR A NEW PREMISES LICENCE FOR BAR BACCHUS, 2 CHURCH STREET, FOLKESTONE, KENT CT20 1SE**

Report DCL/18/04 set out the facts for the Licensing Sub-Committee to consider in determining an application for a new premise licence. The Licensing Sub-Committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is therefore not appropriate for officers to make additional

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comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in the report.

Mr Atkins, Environmental Health and Licensing Manager, presented the Licensing Sub Committee with an overview of the report.

The Chairman introduced those present, and invited the responsible authorities and interested parties to make representations. The Sub-Committee heard a number of representations:

Mr Campbell, on behalf of the council's Planning Department, outlined his representation and made points including the following:

- Planning were objecting to the application in respect of the opening hours and supply of alcohol on Fridays and Saturdays until 1am. Other premises in the vicinity stopped serving alcohol at 11pm, with a 30 minutes allowance for 'drinking up time' until 11.30pm.
- They were also objecting on the grounds of public nuisance, in that the premises was in a residential area.
- The planning application which was due for decision that week had requested opening hours up to 11.30pm on Fridays and Saturday nights, rather than the 1am times set out in the Licensing applications.

The Chairman then sought clarification from the Environmental Health and Licensing Manager as to whether the points raised were a material consideration. The Environmental Health and Licensing Manager advised that the points raised were not necessarily grounds for objection and that representations must be evidentially based.

Councillor Pascoe then outlined his representation, making points including the following:

- He had heard from a large number of residents who were against the application for late night drinking on Friday's and Saturdays.
- He agreed with the points the Planning Department had made, in that there should be no sales after 11pm.
- The premises was in a residential area, where there was a residential home and also a church yard which already attracted drug addicts and drinkers.
- Other premises in the area had a closing time of 11pm.
- Late night drinking leads to increases in public nuisance.

There were no other interested parties present at the meeting. The Sub-Committee stated that they felt that Councillor Pascoe had relayed the residents concerns over late night noise and anti-social behaviour. A small number of letters had been received, although much of the content was inadmissible.

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The applicant, Mr Mark Macfarlane was then invited to outline the application, and address the concerns raised by the interested parties. He made points including the following:

- The premises had not been selling alcohol previously. A 40<sup>th</sup> birthday party had been held the previous weekend but the alcohol had been purchased at a supermarket and had not been sold in the premises.
- He had no desire to go against the wishes of the Planning Department, and would be happy to reduce the hours requested for the sale of alcohol to finish at 11pm on Fridays and Saturdays.
- He was concerned about being blamed for antisocial behaviour from other premises, and therefore felt that reducing the hours requested would prevent the premises being a target.
- He wanted the venue to be a relaxing bar with jazz like music.
- He did not want to be a 'test case' for longer hours.

The Sub-Committee then asked questions of the applicant, which included the following:

- Many of the objections were based on cumulative affect and were therefore not admissible.
- If the applicant wished to apply for a variation for longer hours for the sale of alcohol in the future, he would be able to provide evidence of a well run establishment.
- Were neighbouring residents happy with the application?
- Would door supervisors be appointed if necessary?
- What would the approach be to undesirable customers from other establishments?
- Would the premises have a sound limiter?
- What was the capacity of the premises?

The applicant then responded to the issues raised by the Sub-Committee, and made points including the following:

- The immediate neighbours were happy with the application, but there were several residents in the area who were 'serial complainants'. The party the previous weekend had been a good gauge of what was acceptable. He felt he had made good headway with the neighbours, and he intended to adapt the business to make it fit with the area.
- He was aiming for a higher end establishment, to attract similar clientele to that of the Pullman. He would employ door staff if required, but did not expect large numbers to begin with. He could arrange doormen at short notice.
- He had conducted his own research into noise levels, by going up to the first floor of the premises to see how loud the music sounded. The type of music played would not have much bass. The music system was controlled by an encrypted tablet, which needed to be unlocked for anyone to change the volume limit. His vision was not for loud music, just quiet background music.

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- The seats in the premises were not yet laid out, but there would be enough seats for 56 people, and he would not allow more than 70 people into the premises. Kent Fire and Rescue had set the capacity much higher, but he did not want people 'packed in like sardines'. He did not want a noisy, busy bar, although indicated that this may be permitted on occasions.

The Chairman then asked those present to sum up. The responsible authority and interested parties present felt they had already outlined all their relevant points. The Licensing Officer added that any background music needed to be turned off by 11pm.

The Sub-Committee then adjourned to make a decision, in private, on the application. The Council's Legal Officer remained with the Sub-Committee to help them frame their decision.

The Chairman then read out the decision of the Sub-Committee. He stated that the Sub-Committee were particularly mindful that the cumulative effect of any area had no relevance on their decision. They were solely concerned with matters that were evidence based. This had informed their decision. In this case, there was no evidence, as alcohol had not previously been sold on the premises. The sub-Committee were impressed with the intent of the applicant and his plans to make every effort to ensure the Licensing Objectives were met. He had a clear vision of his desired clientele and gave coherent and convincing arguments.

The Sub-Committee agreed for the License to be granted, as per the hours noted below, and wished the applicant every success, and advised that he had a right to return for a variation of the license in the future.

### **RESOLVED:**

- 1. That report DCL/18/04 be received and noted.**
- 2. That the application be granted, with the following hours:**

#### **Opening hours:**

10am until 11pm Sunday to Thursday  
10am until 11.30pm Friday and Saturdays

#### **Supply of alcohol:**

10am until 10.30pm Sunday to Thursday  
10am until 11pm Friday and Saturdays

No alcohol must be served within half an hour of the closing times.  
Only background music may be played, and this must cease at 11pm.