

Licensing Sub-Committee

Monday, 18th May, 2015

PRESENT: Councillor A Khan in the Chair

Councillors B Flynn and G Wilkinson

131 Election of the Chair

RESOLVED – Councillor Khan was elected Chair of the meeting

132 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of the inspection of documents

133 Exempt Information - Possible Exclusion of the Press and Public

No exempt information was included within the agenda

134 Late Items

No formal late items of business were submitted

135 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests

136 "Bar Fibre" - Application to vary an existing premises licence by Bar Fibre Limited in respect for Bar Fibre, 168 Lower Briggate, Leeds, LS1 6LY

The Sub Committee considered the report of the Head of Licensing and Registration on an application to vary an existing premises licence submitted by Bar Fibre Limited, in respect of the premises known as "Bar Fibre", 168 Lower Briggate, Leeds LS1 6LY.

The application sought retrospective approval for internal alterations to the layout of the premises, including the relocation of the second floor communal toilets to the basement and the relocation of the second floor bar/servery. The report identified the premises as being located within the red area of the Council's cumulative impact policy. The application attracted representations from West Yorkshire Police (WYP) and from the Licensing Authority

The following attended the hearing

Bar Fibre Limited:

Mr P Whur – solicitor

Mr C Rees-Gay – observer

Mr D Rothwell – Director

Mr M Covell - Manager

West Yorkshire Police:

PC C Arkle

Mr B Patterson

Licensing Authority:

Ms S Holden

Ms C Brennand

The Sub Committee heard from Mr Whur on behalf of the applicant. Mr Whur began by expressing the applicants' apologies for undertaking the works prior to submission of the necessary variation application. He explained that it had not been deliberate; rather that Mr Rothwell initially felt the alterations could be dealt with by way of a

minor variation, and the refurbishment works came at a time when Mr Rothwell was planning for his wedding and therefore distracted.

In response to the concern raised by the responsible authorities that the layout changes had the potential to increase capacity at the premises, Mr Whur stated that there was no intention to increase the premises' capacity. He confirmed that the existing condition regarding the capacity of the premises would remain on the premises licence.

Mr Whur provided further information which included:

- The £340k costs of the refurbishment
- the proposed style of operation of the premises
- proposed operation of the second floor which was intended as a high end membership only area with a waitress service
- access to the second floor would be limited to maintain exclusivity and gained only via a concierge to monitor patron numbers to ensure the capacity of the second floor did not exceed 50
- the applicant participated in the local Pubwatch scheme and maintained a good working relationship with WYP

Mr Whur assured the Sub Committee that the premises would not be a vertical drinking establishment and referred to Council's Cumulative Impact Policy (CIP). He stated that the negative impact would not be triggered as existing measures were in place for the operation of the second floor, with the additional concierge element and no increase of the capacity had been requested. Mr Whur also stated that no adverse comments had been made by WYP directly to Bar Fibre regarding crime and disorder issues prior to this application being made.

In response to comments made about the capacity of the premises, Mr Whur referred to Condition 19 (capacity) which featured with the Public Safety Conditions on the existing licence. He suggested that this be relocated to fall within the remit of the conditions set to address the crime and disorder objective.

The Sub Committee then heard from Ms S Holden on behalf of the Licensing Authority who referred to the saturation of licensed premises within the red area of the Cumulative Impact Policy. She referred to the potential for the extended area of the second floor to add to patron numbers in an already saturated area.

PC Cath Arkle then addressed the Sub Committee on behalf of WYP and referred to the Matrix system for reporting/recording incidents of crime and disorder. PC Arkle noted that there had been a recent increase in the number of reported incidents associated with Bar Fibre although she acknowledged that the premises were not at the point of review, rather that more formal closer working with the premises had commenced which included monthly meetings to discuss reported issues.

PC Arkle stated that the clarification provided at the hearing over the chronology of the works, appointment of legal representation and the submission of the variation application put the application in a different light and she did accept that Mr Rothwell had not acted deliberately and that it had been a genuine mistake.

In respect of capacity, PC Arkle noted the existing condition currently lay within the public safety section, bringing concerns that the Fire Regulatory Order would supersede the condition and that the capacity conditions could not be enforced under the Premises Licence. PC Arkle welcomed the suggestion made by Mr Whur to relocate the capacity condition to the crime & disorder section. Additionally, PC Arkle suggested a condition requiring a concierge operate on the second floor would further ensure the 50 capacity would be maintained. Noting the intention to prevent patrons use of the far staircase to the second floor, PC Arkle suggested one further condition to ensure it would not be accessible to the public.

In response to the comments of WYP, Mr Whur offered to accept an amendment to Condition 177 of the existing premises licence, if this application was granted, to include measures to install a lock or similar device to prevent public access via the far staircase between floors and to ensure that a concierge service would be maintained.

The Sub Committee carefully considered the application and the representations submitted, noting the verbal representations made at the hearing and the additional measures offered by the applicant at the hearing to address the licensing objectives. Members noted that the CIP created a rebuttal presumption of refusal of all applications, including those for a variation.

However, the Sub Committee, having listened to all of the evidence and the assurances given by Mr Whur – including the offer of additional conditions on the licence and particularly that the capacity on the second floor was not to be increased.

RESOLVED – That the application be granted as requested – subject to the following amendments:

Conditions:

Condition 19 (capacity) – to be repositioned on the licence so it that it lies within the “prevention of crime and disorder” section – as offered by the applicant’s representative.

Condition 177 (entry and egress) – to be amended to include the additional measures offered by the applicant at the hearing as follows: “

- The Licensee will adopt at the premises written policies and procedures on:
 - Entry and egress to the premises (including monitoring of any capacity limit on each floor level)
 - Evacuation of the premises
- The Licensee will ensure staff are trained on these measures, and all other matters relating to the safety of the public.
- The Licensee will ensure that the written policies and procedures include the following:
 - A concierge will be in attendance at all times that the second floor area is open for licensable activities and the concierge shall ensure that the capacity limit of 50 is not exceeded

- There will be a means for preventing customer access between the first and second floors via the stairway to the far side of the premises (adjacent to the toilet facilities of the second floor) This route will only be available for emergency escape and staff access.

Members expressed their dissatisfaction that the works had taken place before the application had been considered but did accept the apologies offered and that the mistake had been honestly made.

Finally, the Sub Committee also wished for it to be noted that this decision was based on the particular merits and circumstances of the application, in particular that the application did not increase the capacity of the premises, and should not be seen in any way as setting a precedent for applications within the red area of the cumulative impact policy.