

SWT Licensing Sub-Committee - 13 July 2020

Present: Councillors Mark Lithgow, Simon Coles and Ray Tully

Officers: Clare Rendell, John Rendell, Brad Fear and Nicola Dyer

Applicant: Ms Ausra Bulovaite on behalf of Mr Streeter

Interested Parties: Councillors Dave Mansell and Nick Thwaites, Mrs Fran A'brook (Upton Parish Council), Mrs Sarah Buchanan (Brompton Regis Parish Council) and Dr Brian Chaffey.

(The meeting commenced at 10.30 am)

1. **Application for the grant of a Premises Licence under the Licensing Act 2003**

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. An application had been received from **Mark Streeter** for a Premises Licence to be granted for **Coffee Couture, Wimbleball Lake**.

The application was initially submitted to allow for the supply of alcohol – both for consumption on the premises and also for consumption off of the premises – between the hours of 11:00 and 23:30 Monday to Sunday.

Upon receipt of the application, the Licensing Department had duly notified Environmental Health and Avon and Somerset Constabulary. Following the notification, objection notices had been received from Interested Parties.

Mediation between the Applicant and the Interested Parties was held on the 30 June 2020. In discussions that followed, the Applicant was prepared to agree amendments to proposed timings and activities, which included the removal of off-sales from the application (thereby leaving only on-sales) and the reduction of the licensable times to 11am – 4pm daily. Furthermore, they were prepared to introduce an extra condition that restricted the sale of alcohol to purchases of food made for consumption on the premises. However, as both parties were not able to reach an agreed position, officers proceeded with the hearing.

Detailed in the Officer's report were the four licensing objectives. The Sub-Committee was reminded that the Licensing Policy required the Licensing Authority to carry out its various functions to promote these objectives. These were:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and

- The protection of children from harm.

The objectives would be paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective would be given equal importance.

The following comments and points were presented by the Interested Parties in relation to their written objections:-

- The Interested Party appreciated the amendments made by the Applicant, however, they still did not see the need for the sale of alcohol at the premises and believed that it would lead to anti-social behaviour.
- The Interested Party highlighted that the premises was located in a quiet rural area which was accessed via narrow roads and people visited the area due to the beautiful lake and surroundings, it was enjoyed by many but had already experienced problems over the years especially more recently due to lockdown restrictions. The area had attracted groups of young people who had caused damage and littered in the area, they had also contributed to anti-social behaviour. South West Lakes and the Police had found it difficult to control due to the location. The Interested Party had used the café and believed it was a good business and were happy to see some of the amendments made to when alcohol would be sold, but requested further information and were still confused as to why the licence had been applied for.
- The Interested Party reiterated all the comments that had already been made and was confused and concerned on how the rules would be policed to ensure that alcohol was not taken off the premises.
- The Interested Party emphasised that the access and area around the premises meant that a larger amount of people would be affected. It also appeared that there was no support for the application and that there were other public houses in the area that people could visit if they wanted to purchase alcohol.
- The Interested Party reiterated the concern on the public safety issue, especially the consumption of alcohol near the lake. Further concern was raised on anti-social behaviour and that it was difficult to police.

The following comments and points were presented by the Applicant in relation to their written application:-

- The Applicant advised that they already had a large drinks menu and thought it would be good to include some local cider and wine to encourage and support other local businesses and to give more choice to their customers.
- The café was small and the Applicant did not believe the sale of alcohol would lead to anti-social behaviour.
- The Applicant advised that the café and surrounding area was currently visited by families who would sit outside with a picnic and consume alcohol.
- The Applicant did not believe it would be difficult to monitor the sale of alcohol.
- The Applicant gave assurance on how they would monitor the sales of alcohol, which included the use of CCTV.

The following questions were raised by the Sub-Committee of the Applicant
(Responses are shown in italics):-

- Councillors queried whether the meals sold at the café were snacks or main meals.
The Applicant advised that the meals were snacks but if they were granted the licence, they would look to introduce main meals to the menu.
- Councillors queried how many tables there were in the café.
There were 4 big tables and 2 smaller tables due to lockdown rules.
- Councillors queried how many staff were on shift at any one time.
The Applicant advised there were 2 members of staff due to lockdown and social distancing rules.

2. **Decision Notice**

The attached Sub-Committee's decision was read out by the Council's Legal Representative.

(The Meeting ended at 11.30 am)

SOMERSET WEST AND TAUNTON COUNCIL

Decision of the Licensing Sub-Committee 13th July 2020

Application by Mark Streeter for a premises licence for Coffee Couture, Wimbleball Lake, Brompton Regis, Dulverton. TA22 9NU

The premises licence application initially requested the sale of alcohol both on and off the premises between the hours of 11:00 and 23:30hrs Monday - Sunday no further licensable activities were to be included within the premises licence. This is a new premises licence and therefore no conditions and/or licensable activities are currently attached to the premises.

Prior to the sub-committee being held Somerset West and Taunton Council received written representations from 16 individuals which included two Parish Councils and three district councillors and a number of local residents with concerns in relation to the licence. No representations were received from Responsible Authorities.

Prior to the hearing, the persons that made representations, together with the applicant's representative took part in a mediation meeting on 30th June 2020 chaired by Somerset West and Taunton Licensing case manager. During the mediation meeting, the applicant volunteered a number of additional conditions and/or the removal of licensed activities from the premises application. Namely that the sale of alcohol off sales will be removed from the licence, the licensable hours to be reduced to 11.30 -16:00hrs Monday-Sunday and the following condition: "Alcohol must only be sold and supplied to customers who are engaged in a sit down table meal as an ancillary to that meal" was agreed. These amendments were communicated to all persons who had made representations and a number of persons confirmed that their representations still stand and should be considered by the Licensing Sub-Committee.

The local residents and Councillors as Other Persons have raised objections relating to anti-social behaviour, additional traffic, nuisance to local residents, public safety concerns due to the proximity to the water and alcohol, large amounts of rubbish and the potential disruption to the peaceful tranquil area which has dark skies status. Inadequate transport links due to the lack of mobile signal and the risk to livestock and local wildlife. There are concerns that there is already an issue at Bessom Bridge with youths gathering and risk of harm to children from rubbish and intoxicated careers and that this license application had the potential of making the situation worse.

At today's hearing the Sub-Committee has heard from the following people:

Brad Fear – Licensing Case Manager
Ms A Bulvaite on behalf of the Applicant
Ms A'Brook (Upon Parish Council)
Councillor Mansell
Councillor Thwaites
Sarah Buchanan (Brompton Regis Parish Council)
Dr Chaffey on behalf of the Other Persons

The Sub-Committee has also taken into account written evidence from those who had sent in representations within the required time limit but did not attend the hearing. It has

not considered any representations that were not received during the consultation period.

The Sub-Committee addressed:

1. The provisions of the Licensing Act 2003 which confer the powers of the Licensing Authority to deal with the application.
2. The obligation to promote the four licensing objectives.
3. The existence of other statutory provisions such as the Environmental Protection Act 1990; the Anti-Social Behaviour Act 2003 and highways legislation.
4. The relevant sections of the Council's Statement of Licensing Policy and Statutory Guidance

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, set out in Section 4(2) of the 2003 Act. The Licensing Sub-Committee cannot take into account representations which do not relate to one or more of those licensing objectives, and acknowledges that any representations which are received must be relevant and evidenced-based. The Licensing Sub-Committee acknowledges that the Applicant has volunteered a number of amendments to the Licence application in consideration to the representations put forward by the Other persons. The Licensing Sub-Committee must consider whether such amendments are consistent with the licensing objectives and remove any/or all of the representations.

The representations relating to concerns over increased traffic, damage to livestock, the viability of the business, rubbish and lack of mobile signal are not relevant as they do not specifically relate to one or more of the four licensing objectives.

The licensing objective relating to public safety is intended to refer to the safety of patrons using the Premises: for example dealing with health & safety, adequate fire prevention, first aid provisions. It is not intended to apply to the safety of all persons within the local area or within the village, in particular those who frequent Bessom Bridge. The safety of persons who are not at the Premises and have no connection to the Premises (such as those at Bessom Bridge) is not relevant to the public safety objective. However the licensing Sub-Committee feel that the applicant has taken the concerns raised into account by making the amendments to the licensing activities.

The behaviour of persons once they have left the immediate area surrounding the Premises is a matter of personal responsibility of those individuals and should not be placed at the door of the Premises Licence Holder. The Sub-Committee notes that Avon and Somerset Police and Exmoor National Park Authority have made no representations in respect of the application, nor commented on the anti-social behaviour noted by Other persons.

The representation concerning children being risk of intoxicated careers or at risk of rubbish being dropped is also rejected as the prevention of children from harm objection does not relate to children generally within the local area but only to those who are within the Premises.

The Sub-Committee notes that the amendments and condition proposed by the applicants representative at the mediation meeting, address the majority of the concerns raised by Other Persons in terms of drinking outside of the premises, however notes that the area outside of the Premises is not under the control of Coffee Couture which is likely

to be difficult to manage and therefore appropriate procedures and training need to be followed at the Premises to assist in controlling the outside area and how it is used by participants.

The Sub-committee today heard the following submissions from the Applicant:

That the licence enables a further choice to their customers and added to the premises already extensive drinks menu. The layout of the premises were described that the premises were small and that there were currently 6 tables due to the current situation and therefore the drinks going outside of the premises were easy to monitor as they were in the other premises with on sales owned by Coffee Couture. That the people frequenting the premises were well behaved and they did not foresee a problem.

The relevant concerns of the Other Persons have been considered with understanding from the Sub-Committee in respect of the location of Wimbleball Lake and the national park within which it sits. The Sub-Committee understands the position of the resident and the measures that the applicant has taken in order to reduce these concerns.

On the issues of anti-social behaviour, the Sub-Committee is aware that no representation has been made by Avon and Somerset Police and notes that it was noted during the Sub-Committee that anti-social behaviour doesn't stem from the premises but is close to the premises. It was presumed that the sale of alcohol may be a likely impact of the licence. The Sub-Committee appreciates the position but can only consider the application of the basis of the information before them.

The Sub-Committee can only consider the likely impact of the premise licence on the licensing objectives with evidence to do so. Presumptions and speculation about incidents which have not yet happened must be disregarded because they have no evidential basis.

On the evidence before it the Sub-Committee has no reason to believe that the grant of this Application will not promote the licensing objectives. However in order to reduce potential public nuisance and to safe guard the premises and the area it feels it is appropriate to impose additional conditions as set out in this decision notice.

Thus the Sub-Committee is satisfied that the application for a premises licence be granted for the following licensable activities:

- The on sale of alcohol served only between the hours of 11.30 and 16:00hrs Monday-Sunday

With the following conditions to be imposed upon the premises:

- Conditions within the Operating Schedule at Appendix B attached with the amendment to point 2 so that it reads as follows:
"2. All employees to receive regular training with regards to the legal and social responsibilities of supplying alcohol. This training must be capable of being documented and evidence of such training provided to Somerset West and Taunton licensing team on request."
- The Designated Premises Supervisor and/or personal licence holder must be present on the premises during licensable hours (11.30 -16:00hrs)
- Alcohol must only be sold and supplied to customer who are engaged in a sit down

table meal as an ancillary to that meal.

Mandatory Conditions

The licence is subject to the mandatory conditions of the Licensing Act 2003 (insofar as is relevant).

The Designated Premises Supervisor is Fortunatas Bukauskas

Right of Appeal

The applicant has the rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Authority's decision in writing.

Review

All parties are reminded of the procedures contained within the Licensing Act 2003 relating to review of the premises licence. This provision permits nearby residents, businesses or responsible authorities to apply for a review of a premises licence where problems with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Sub-Committee respectfully reminds all parties that for any review to go ahead, evidence would need to be collected of incidents occurring that undermine the licensing objectives.