

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Spennymoor on **Tuesday 21 June 2016 at 10.00 am**

### **Present:**

**Councillor B Glass (Chairman)**

### **Members of the Committee:**

Councillors A Batey, J Lee and P May

### **Also Present:**

Ms S Grigor – Solicitor, Durham County Council

Ms M Hamilton – Trainee Solicitor, Durham County Council

Ms K Robson – Senior Licensing Officer

Mr A Bimbi – On Behalf of the Applicant

Ms A Evans – Other Persons, Crossgate Community Partnership

Ms L Brown - Other Persons, Crossgate Community Partnership

Mr A Doig - Other Persons, Crossgate Community Partnership

Mr B McKeown - Other Persons, Crossgate Community Partnership

Mr P McDermor – Senior Fire Safety Officer, Responsible Authority

### **1 Apologies for Absence**

Apologies for absence had been received from Councillor O Gunn.

### **2 Substitute Members**

There were no substitute Members.

### **3 Declarations of Interest**

There were no declaration of interest.

### **4 Minutes**

The minutes of the meetings held on 13 January 2016, 15 March 2016, 6 April 2016 and 26 April 2016 were agreed as a correct record and were signed by the Chairman.

### **5 Application for the Grant of a Premises Licence - The Basement Bar, 28 Neville Street, Durham**

Consideration was given to the report of the Senior Licensing Officer regarding an application for a Premises Licence in respect of The Basement Bar, 29 Neville Street, Durham (for copy of report, see file of minutes).

A copy of the application and supporting documents had been circulated, together with a list of additional conditions agreed with Durham Constabulary and representations from an 'other person'.

Mr Bimbi, who was speaking on behalf of the applicant, indicated that the premises were located at 29 Neville Street and not 28 as indicated in the report.

The Senior Licensing Officer indicated that no representations had been received from the Fire Authority and Durham Constabulary had mediated additional conditions with the applicant, details of which could be found at Appendix 3 of the report.

The Chairman sought clarification on which police officer had been involved in the mediation. The Senior Licensing Officer confirmed that the officer was PCSO M Haigh.

Mr McKeown, speaking on behalf of Crossgate Community Partnership indicated that the Fish Tank was also owned by Mr Bimbi and the police had approved the extension of that site in principle. The police were now supporting a further application for a second nightclub on the site and there were now more residents in the vicinity.

Mr Doig, speaking on behalf of Crossgate Community Partnership asked if any of the panel had visited the site in question. The Chairman responded that he visited the site at 10.45 pm last night to get a feel of the area.

Mr Doig then referred to the Applicants agent Mr T Robson and asked if the panel were aware of his previous occupation and if he was going to be in attendance.

The Senior Licensing Officer advised all parties that he was currently out of the country and would not be in attendance.

The Chairman responded that they were aware that he was a retired Police Officer who worked in the Alcohol Harm Reduction Unit at Durham Constabulary. He indicated that he was a retired Police Officer and knew Mr T Robson and indicated that he was happy to withdraw from the meeting.

All parties confirmed their agreement for the Chairman to continue to sit as Chairman of the meeting.

Mr Bimbi indicated that he had brought in Mr Robson due to his training but did not feel that he was required to attend the meeting but Mr Robson had indicated that he would change his holiday if his attendance was required.

Mr Bimbi then indicated that The Basement was a new premise with no history which was beneath ground level with no windows. He had been very open with everyone about the application and had liaised with responsible authorities and residents.

The purpose of the premises was to operate as a bar with food and it had never been suggested that it was a restaurant as indicated in the minutes of the Crossgate Community Partnership and he asked for revocation of the minutes. He referred to the green bin which was kept 5 metres away from the premises and was used by the Fish and Chip shop. The bin had been there for 60 years and Environmental Health had not raised any issues with the bin.

The problems with the bin had been of a contractual nature and he had no disputes with residents. The waste from these premises would be minimal as it was not a food premise and he would manage the disposal of refuse.

Reference was made to residents objecting to the application but none had been received. The operating schedule addressed any concerns and went beyond the normal requirements.

The only representation received was from Crossgate Community Partnership.

He went on to say that Durham City Centre had bars and restaurants and Saddler Street which had bars and restaurants had no kerbs. He had agreed that the sound level would be set at a level so as not to cause a nuisance. The premise was at basement level which would prevent noise breakout. Drinking alcohol in the streets was not illegal in the City Centre but he was happy for no drinks to be taken outside except for off sales.

The measures in place would not undermine Crime and Disorder and he had worked closely with Mr Robson of TJR Licensing Ltd to ensure the premises would be a safe establishment. He had a policy and training package in place and was a safe establishment and no representations had been received from Responsible Authorities.

The premises would be an individual establishment and Environmental Health had not raised any objection as there would be no transfer of food as any food would be prepared and served from behind the bar.

This was a new application and he would object to any condition making it non-transferable and they had produced a policy and procedure manual which was not part of the operating schedule but was his guarantee (a copy of the manual was provided for the panel to peruse).

TJR Licensing Ltd would conduct full training which was above and beyond the licensing requirements and he asked that the licence be granted.

The Chairman sought clarification on how they would regulate the numbers so that they were not over capacity.

Mr Bimbi responded that the door supervisors and bar staff would regulate the capacity. The door supervisor would have a clicker and they would have a limit of 90 to ensure that they don't go over the capacity. They would also have cameras at the door.

The Chairman sought clarification on the evacuation process. Mr Bimbi responded that staff would be trained to usher patrons out using the two exits. The Fire Officer was happy with the staircases both of which were wider than other premises. The main entrance was one run of stairs and the proposed security company were very competent in the evacuation of premises.

The Chairman referred to smoking and was this going to be a problem for residents.

Mr Bimbi responded that they would have notices on display to ensure that the noise was kept to a minimum and the Fish and Chip shop was open until 3.00 am and no complaints had been received with regard to noise.

The Chairman responded that the Fish and Chip shop was different as customers left the premises and did not stand outside.

Mr Bimbi referred to the Fish Tank which had not attracted complaints but the area was predominantly commercial with the exception of some student accommodation and they were usually in the premises.

The Chairman sought clarification on the primary purpose of the premises. Mr Bimbi indicated that it was a bar which would serve light bite food which they could produce from behind the bar. If the sale of food was successful then they would install a kitchen and a dumbwaiter.

Councillor Batey referred to the exits for the premises which were a concern and the frequency of patrons going in and out of the premises. Was there going to be a facility on the wall for the disposal of cigarettes. She had looked at the circulated photographs that showed cars parked outside and the path was very narrow.

Mr Bimbi responded that they would install boxes on the wall for cigarettes but the building still required a lot of work.

Councillor May raised concerns at the amount of people that would be congregating outside the premises and sought clarification why the licence was required from 9.00 am.

Mr Bimbi indicated that they may produce breakfasts and if successful they may install a kitchen.

Concerns were raised by 'Other Persons' that they were receiving mixed messages that the premises were not going to be food led then it is going to be food led.

Mr McKeown indicated that he lived in Neville Street and referred to four bins which were controlled by Mr Bimbi. The issue of the bins had been raised in a previous licensing meeting and they had been assured that the problems with the bins would be resolved. The width of the footpath was narrow and the bins on the pavement were affecting the movement of people and nothing had been done since the licensing meeting in 2008.

Mr Bimbi indicated that he only had one bin but he would take responsibility for the bins. The bin shown in the photograph did not belong to him and he was not aware of any issues with the bins.

Mr McKeown then referred to the premises and his concerns with regard to the evacuation of the premises in the event of a fire as the building housed two nightclubs and a Fish and Chip shop which would have to be evacuated simultaneously. There was also a junction in the stairs which could cause major problems.

Mr Bimbi indicated that the Fire Officer was happy with the proposals.

Councillor Batey sought clarification if one bin would be adequate.

Mr Bimbi responded that the bin was only for the takeaway and the rubbish for the Basement Bar would be bagged and collected at 7.00 am on a morning which was the system used by several premises including the Fish Tank.

Ms Evans speaking on behalf of Crossgate Community Partnership referred to the Licensing Act 2003 and the four licensing objectives which were all relevant to this application. Their submission dealt with three of the four licensing objectives.

She then referred to the prevention of crime and disorder which would increase as people would congregate on the pavement outside which is narrow and does not promote but encourages crime and disorder which would be increased when joined by patrons from the Fish Tank.

There was a concern for public safety due to the number of residential properties in the area and if it was congested outside people would be forced onto the road as there was no space on the pavement.

She went on to talk about public nuisance as patrons would come and leave in a party mood which would create noise as well as refuse left outside especially cigarette ends. Did they have a procedure for emptying and sweeping up litter?

They were concerned that the premise was a dwelling but was now three businesses who shared the same exit. They referred to the opening hours and indicated that there was no justification for the premises to be open late.

They would ask that the application be refused but if agreed they would ask that the outside of the premises be not used for smoking and the premises be open no later than 12.00 midnight.

Mr Bimbi responded that the premises had Fire and Evacuation Training in the manual and he already employed someone to pick up cigarette butts twice a week which was sufficient.

The Council's Solicitor asked Mr Bimbi for his comments on revising the opening hours. Mr Bimbi responded that there was a demand for the opening hours as submitted.

Councillor May was concerned at the number of people who could be outside and the litter and asked if they would be prepared to clean up outside. Mr Bimbi indicated that they cleaned rubbish up daily last thing before they closed but they had a designated man to clean up the area twice a week.

In summing up, Mr Bimbi indicated that he had worked closely with authorities especially the Fire Authority and would look at installing a mist system into the premises which would ensure that a fire could not take hold.

Ms Brown indicated that she was disappointed that a representative from the Fire Authority was not in attendance and no correspondence had been received. The Senior Licensing Officer advised Members that they would only receive correspondence if there was an issue with the application.

Mr McKeown referred to the safety of the premises in the event of a fire and raised concerns that no modelling of the two premises been evacuated simultaneously had been done.

At this point, Mr Doig left the meeting.

The meeting adjourned at 11.00 am to enable a representative from the Fire Authority to attend the meeting.

The meeting re-convened at 11.30 am and Mr McDermott, Senior Fire Safety Officer, County Durham and Darlington Fire and Rescue Service joined the meeting.

The Senior Fire Safety Officer indicated that the premises have three floors with two staircases and the middle floor was a Fish and Chip Shop and the Fish Tank was located on the top floor.

A lot of excavation works were required to the lower floor and the proposal was for a single stair case to the premises and a new staircase to the rear which would link to the Fish Tank. The first set of stairs to the Fish Tank was independent to the Fish Tank.

He referred to fires in the Fish and Chip shop which were rare and equipment was fitted with a double isolation unit which would switch off the chip pan. Each level would have a one hour floor and 30 minute fire doors. There was a lot of staff in the Fish and Chip shop and there was no risk as it was a separate unit and no staff would be sleeping at the premises.

The Chairman referred to the staircase from the basement which would have a dog's leg. The Fire Officer responded that the stairs were wider than the minimum requirement and a dog leg was used as a breather. They looked for the width of the stars rather than straight stairs.

Ms Brown sought clarification if staircases should be enclosed. The Fire Officer responded that this was not a condition as they were already separated by a Fire Door.

The Chairman referred to talks about installing a mist system. The Fire Officer responded that they had discussed the installation of a mist system and if there were more than 60 people in a room then there should be more than one exit route as it was about time. This room would have two exits and the fire would be controlled as it would be seen. A mist system is expensive but very good but was not a requirement as the numbers would not require a mist system and two escape routes.

The Chairman asked if they were happy with the fire prevention proposals. The Fire Officer responded that the application met all the requirements.

Ms Evans sought clarification on where the second exit leads to and if it was shared. The Fire Officer confirmed that it led out to Neville Street which was shared by three but the numbers were small.

Ms Evans then went on to ask if there was a major fire could they all get out through one door.

The Fire Officer responded that there was a fire alarm system for the whole building so all would be evacuated. In practise if the fire alarm went off the room would be split as people would leave by the nearest exit which staff would help carry out.

Mr Bimbi advised that staff would initially receive two week training then this would be followed up monthly.

The Fire Officer indicated that the premises would receive a second inspection a year later but any changes or complaints or request for advice would require a further inspection and they would question staff. Mr Bimbi suggested that this could be done after six months.

The Fire Officer indicated that the premises would not open until inspections had been conducted.

Mr McKeown referred to the recent Fish and Chip shop fire at Langley Moor and asked the Fire Officer to describe the damage caused by the fire.

Mr McKeown then indicated that the premises would also consist of a night club and Fish and Chop Shop, the footpath outside was narrow and four bins which were not used responsibly which also blocked the already narrow path.

The Fire Officer explained that in the event of a fire patrons would go down the hill rather than up. Bins should not obstruct an escape route and not positioned where there could be an arson attack. The bins should be up against a wall but not placed in front of doors and windows. A lock could be placed on the bin even though it was located on a pathway.

He went on to talk about the training of staff to help people get out of the building.

The Chairman indicated that in his experience patrons would leave the area once evacuated.

At this point the Fire Officer left the meeting.

Ms Evans indicated that she was still concerned about the cumulative impact of three premises in the one building and the arrangements for refuse were not adequate. The building was not suitable for three premises and they were concerned about the noise and local residents deserved better.

At 12.05 pm the Sub-Committee retired to deliberate the application in private. After re-convening at 12.25 pm the Chair delivered the Sub-Committee's decision. In reaching their decision Members had taken into account the written and verbal representations of the applicant and the written and verbal representations of other persons. The Sub-Committee also took into account information provided by the Fire Safety Officer, together with Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

**Resolved:**

That the application for a Premises Licence be granted as follows:

<b>Activities</b>	<b>Days &amp; Hours</b>
Sale of Alcohol (on and off sales)	09.00-01.30hrs Monday to Saturday 09.00-01.00 hrs Sunday
Provision of Films (indoors only)	09.00-02.00hrs Monday to Saturday 09.00-00.00 Sunday
Provision of Live Music (indoors only)	09.00-23.30 hrs Monday to Saturday 09.00-23.00hrs Sunday
Provision of Recorded Music (indoors only)	09.00-02.00hrs Monday to Saturday 09.00-01.30 hrs Sunday
Provision of Performances of Dance (indoors only)	09.00-02.00 Monday to Saturday 09.00-01.30hrs Sunday
Late night Refreshment (indoors only)	23.00-02.00hrs Monday to Saturday

Opening Hours	<p>23.00-01.30hrs Sunday</p> <p>09.00-02.00hrs Monday to Saturday</p> <p>09.00-01.30 hrs Sunday</p> <p>Non Standard Timing: The premises may remain open for the provision of Licensable Activities from the terminal hours for those activities on New Years Eve though to the commencement time for those activities on New Year's Day</p>
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The mediated conditions are as follows:-

### **General**

Written protocols will be in place detailing Policies, Procedures, Roles and Responsibilities in the effective implementation and management of the licensing objectives. This documentation will be held 'on site' and made available to Responsible Authorities on reasonable request (Section 6.5 promoting excellent standards of management-DDC Statement of Policy).

Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable time, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

All staff training records will be signed, held 'on site' and made available to Responsible Authorities on reasonable request (Section 6.5 & 10.7).

The premises will provide written evidence of the maximum capacity for the premises and this will be displayed at all entrances and exits. This capacity will be confirmed and set by County Durham and Darlington Fire and Rescue Authority.

Basement 29 will be run as a 'stand-alone' premises and will not allow, direct access to and from the Fish Tank premises, situated on the first floor of the building, by customers frequenting either premises.

### **The Prevention of Crime and Disorder**

The system CCTV will incorporate a 'Battery Back-up' system to enable 24hr continuous recording in case of any power blackout /failure.

A monitor displaying all CCTV cameras will be positioned at the entrance of the building, to allow the member of door staff on duty at the main entrance to view images, of all internal areas, that allow access to members of the public.

Notices will be clearly displayed at the entrance and around the premise stating CCTV is in operation.

The premises will provide suitable devices (USB or discs) for the storage of downloaded images and these devices will be securely stored. These devices will be made available to Responsible Authorities on reasonable request and USB devices returned when used.

### **Public Safety**

Where a Pub watch exists, the premise will be an active member and will attend meetings and join activities.

The premise will maintain an incident book and record/report all instances of disorder both inside and directly outside the premise. This documentation will be held 'on-site' and made available to Responsible Authorities on reasonable request.

### **The Prevention of Public Nuisance**

The Designated Premise Supervisor (DPS) will actively work with local Beat Officers/PCSO's in the reporting of any incidents connected to the premise (Section 7.2, 9.5 & 9.6).

A noise limiting device will be fitted and set to a level agreed by Durham County Council Environmental Health Department. This device will be fitted and the level before the premises opens to members of the public. This device may incorporate the setting of a volume control at a level specified by an authorised Environmental Protection officer.

The PLH shall ensure that any patrons smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance, obstruction of the public highway.

No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22.00 hours and 08.00 hours on the following day.

No collection of waste or recycling materials (including bottles) from the premises shall take place between 22.00 and 08.00 on the following day.

Durham Constabulary also require confirmation, before the premises open to members of the public, via an inspection, that all staff training (initial staff) and written policies and procedures are in place and that all conditions written into the Premises Licence have been adhered to in relation to the noise limiter.

The committee also requires the applicant to submit a copy of the operating policy to the Licensing authority. The committee would like the applicant to maintain an open dialogue with Environmental Health and the Highways department in relation

to waste disposal. In the same way the applicant is requested to keep an open dialogue with the Resident's Association.

The applicant is also to make arrangement to empty the cigarette receptacle each morning outside the premises.

In addition the following conditions were agreed with the Local Safeguarding Childrens Board and should be added to the conditions of the licence.

Minimise the risk of proxy sales-The applicant will work with the police to minimise the risk of proxy provision/proxy sales. This is alcohol purchased or obtained for young people by relatives or older friends).

Training of staff-All staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.