

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Tuesday 13 March 2018 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors J Blakey and C Hampson

Also Present:

Councillor J Maitland

Y Raine – Senior Licensing Officer

G Proud – Solicitor (DCC)

Sgt C Dickenson – Durham Constabulary

PCSO A Guest – Durham Constabulary

Mr F Ciampolillo – Premises licence Holder

Mrs L Ciampolillo – Designated Premises Supervisor

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

5 Consideration of a Temporary Event Notice - La Spaghetтата, 66 Saddler Street, Durham

The Committee considered a report of the Senior Licensing Officer which asked Members to consider an objection by Durham Constabulary to a Temporary Event Notice (TEN) relating to La Spaghetтата, 66 Saddler Street, Durham (for copy see file of Minutes).

A copy of the application which included the Police representations had been circulated to Members, together with additional information presented by the

Premises Licence Holder at the hearing relating to the number of TENs granted between 2015 and 2018, and ID Scanner statistics for the period 23 February 2018 to 12 March 2018.

Sgt Dickenson, on behalf of Durham Constabulary was invited to address the Sub-Committee. The Officer stated that the Police were currently working closely with the Licence Holder to address concerns regarding the Premises Licence. The Police had objected to the TEN as recent visits to the premises had raised concerns about the management of the premises and a number of the conditions on the existing Premises Licence were not being adhered to, which could potentially result in a review application being made.

Sgt Dickenson outlined their concerns about the operation of the premises which were included in the report, adding that a gentleman had recently been issued a fixed penalty ticket in the City Centre for consuming a bottle of branded lager which he claimed to have purchased from Fabio's.

The ID scanner was not fit for purpose and she noted from the statistics provided that the print-out of the summary for 3 March 2018 was missing.

The door staff had been provided with conflicting information with regard to the capacity of the premises, and the Police were concerned about queue management.

Durham's Licensing Policy stated that the recommended licensing hours for Friday and Saturday was between 7.00am and 1.00am and therefore the premises was already afforded an extra hour. The Officer noted that the premises did not offer to close an hour early in October, at the end of BST. The Police considered that TEN applications were for small scale one-off events, not to be used to extend the hours of operation.

In response to a question from Councillor Blakey, Sgt Dickenson advised that the Police had not carried out test purchases, but on the visits had observed the scanner freezing.

Councillor Maitland asked if arrests had been made on their visits and was advised that there had not been any arrests; the visits were purely to observe how the premises were operating.

Following a further question from Councillor Blakey, the Member was informed that no-one had been arrested for possession of drugs. On 23 February 2018 the male toilet attendant had left the premises shortly after the Police had arrived and found drug usage in the toilets.

Mr Ciampolillo stated that he had not witnessed the toilet attendant leaving the premises but added that the employee did not commence work until 10.30pm when Fabio's started to get busy. The Police had not discussed this matter with him or Mrs Ciampolillo, which was disputed by Sgt Dickenson.

At this point Mr Ciampolillo was invited to address the Sub-Committee. He commenced by referring to the gentlemen who had been issued with the fixed penalty ticket and stated that Fabio's had never sold the brand of lager that the person was found consuming.

Members were provided with background to Mr and Mrs Ciampolillo's experience in the industry. La Spaghetatta had first opened in Claypath in 1984 before moving to Saddler Street 22 years ago. The restaurant on the first floor was open until 10.30pm. Fabio's was located above the restaurant and started to get busy from that time. They employed bar staff from 6.00pm but the starting times of the door staff and toilet attendants differed. Fabio's had been open for 12 years and the conditions on the Premises Licence were in need of revision. He was working closely with the Police and had hoped that a revised Premises Licence would be in place by now.

The business employed seven personal licence holders, undertook regular staff training which was conducted by external provider Tim Robson. There was an extensive CCTV system and two ID scanners. His premises was only one of two in Durham that used scanners.

The reason for the TEN application was to accommodate BST, he was not trying to gain an hour but to compensate for the hour when business would be lost. The business was an expensive operation to run and did not get busy until much later in the evening. The main income was generated in the last couple of hours. He felt that he would be unfairly penalised when other premises in the City could remain open. If the TEN was not granted customers would migrate to other premises, potentially causing problems for the Police. Customers may also get the impression that Fabio's always closed at that hour, and he could lose future business.

He would be happy for all conditions on the existing Premises Licence to be applied to the TEN. The Police had referred to a positive drugs test in the toilets and unfortunately this was a common problem in the City. This did not suggest that Fabio's had a drugs problem, just that it had received a positive result. He operated a zero tolerance to drugs and tried to prevent usage as far as possible, acting upon any incidents he became aware of.

Mr Ciampolillo explained the procedures in place for times when the ID scanners failed. The condition on the Licence recognised that they did break down occasionally but that door staff would carry out checks when they did. The ID scanners were in effect an extra piece of equipment for carrying out ID checks.

He had presented the additional information to prove that the scanners worked but he could not explain why the statistics for 3 March were missing, and was an error on his part. He offered to obtain the figures for the Sub-Committee.

He had applied for six TENs previously without objection, three of which were to compensate for the start of BST.

Following a question from Councillor Maitland, Mr Ciampolillo advised that door staff were used every night of the week in accordance with the condition on the Premises Licence. One member of the door team would be present Sunday to Thursday from 21.00 hours with more at weekends and at other times when they were aware of the potential for Durham to be busy. The door supervisors were upstairs until the restaurant closed and then moved to the front door.

In response to a further question from the Member about the ID scanners, Mr Ciampolillo explained that the equipment was usually repaired remotely either during the night or the following day. Both scanners usually froze at the same time but the door staff would ID customers manually when this happened.

Councillor Blakey asked what action was taken to combat drug usage since the positive test. Mr Ciampolillo explained that he asked staff to carry out toilet checks and bag checks. Members were informed of an occasion on 6 January 2018 when cannabis had been found on a person and the Police were called but did not attend. He had therefore confiscated the drugs and took the person's details. On 7 January 2018 he handed the drugs and details to the Police. Sgt Dickenson confirmed that he had attended the Station on 7 January 2018 and handed over the drugs but that there was no record of a call made to the Police during the evening.

Following a question from Councillor Crathorne about the CCTV system and if it was monitored throughout the opening hours, the Member was informed that the monitors were kept in a separate locked room because of potential data protection issues. If there was an incident during the evening the system would be checked.

Sgt Dickenson asked a number of questions. In response Mr Ciampolillo advised that the primary scanner was at the door, and the apparent discrepancy in the numbers could be because these were recordings from quiet nights or from early evenings. The PCSOs had witnessed the high volume of IDs on their visits.

Sgt Dickenson made the point that their concerns were prior to the dates provided and that it was a requirement of the Premises Licence to report faults to the Police. Mr Ciampolillo advised that the machines had not been working correctly at that time, but that the problems with the software were now resolved. The scanners were working satisfactorily and he had presented the statistics to demonstrate this. With regard to reporting faults to the Police he advised that problems generally occurred during the night and were usually sorted quickly.

Mr Ciampolillo hoped that as with other venues in the City, provision could be made in the Premises Licence to accommodate BST.

At 11.15am the Sub-Committee **Resolved** to deliberate the application in private. After re-convening at 11.25am the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer and the additional information submitted by the Licence Holder, together with the verbal and written representations of the Police, and the verbal representations of the Licence Holder. Members had also taken into account

the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That

- a) the Temporary Event Notice be granted;
- b) all the conditions on the existing Premises Licence be imposed on the Temporary Event.