

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Thursday 15 July 2021 at 9.30 am**

Present:

Councillor D Stoker (Chair)

Members of the Committee:

Councillors I McLean, R Potts and M Wilson

Also Present:

Helen Johnson – Licensing Team Leader

Stephen Buston – Legal Adviser, DCC

Paul Clarke – Legal Representative – Durham Constabulary

Sgt Caroline Dickenson

PC Iain Robertson

1 Apologies for Absence

Apologies for absence were received from Councillors A Batey and L Brown.

2 Substitute Members

Councillor Marion Wilson substituted for Councillor Alison Batey.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 10 June 2021 were agreed as a correct record and were signed by the Chair.

5 Application for the Grant of a Premises Licence - AS Cafe, Communal Rooms, Crookgate, Burnopfield

Stephen Buston, Legal Adviser to the Sub-Committee referred Members to the papers for the hearing which noted that the applicant had informed the Licensing Officer that she did not want to attend the hearing and had confirmed that the application be considered in her absence.

In view of this Members were asked to consider whether the hearing should go ahead in the absence of the applicant.

As consideration of the application had been adjourned on 10 June 2021 to allow the applicant to make arrangements to attend, and as written confirmation had been received from her that the application be considered in her absence, the Sub-Committee decided that the hearing should proceed.

The Sub-Committee considered the report of the Licensing Team Leader regarding the application for the grant of a Premises Licence in respect of AS Café, Communal Rooms, Burnopfield (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to all parties. At the request of the applicant, the Licensing Team Leader read out the statement provided by her which was also included within the hearing papers at Appendix 3.

Paul Clarke addressed the Sub-Committee on behalf of Durham Constabulary. He commenced by stating that the Police considered that the application should be rejected. The grant of a Premises Licence was a privilege, not a right and the fact that the applicant had failed to attend on two occasions showed disrespect. Members did not have an opportunity to ask questions of the applicant. In respect of the applicant's statement, Bar Luxe was the only evidence Members had of how she had managed premises previously, and there had been crime and disorder associated with those premises. He accepted that a past mistake should not necessarily prevent a person from obtaining a premises licence in the future, however this was the applicant's opportunity to prove that she was a fit and proper person, and to demonstrate what steps she had taken in the meantime to learn from the mistakes she had admitted she had made in respect of Bar Luxe.

The premises were small and located on a major A road. Burnopfield wasn't a village where there was a high amount of crime and disorder, but whenever there was alcohol involved, the risk of alcohol related anti-social behaviour increased.

In terms of the licensing objectives the premises was very small with very little space to the front. The café had a number of good reviews in its current

form but there had been an incident outside the premises, and adding alcohol could cause public safety issues.

In terms of the licensing objective prevention of public nuisance, the premises were located on the edge of a housing estate and there were no measures included to prevent the local community being impacted by this business. There was a risk that children could come into contact with intoxicated people.

Sgt Dickenson stated that when the application had been submitted the premises was described as a busy, family-orientated café, serving afternoon tea which was greatly complimented by a glass of prosecco. At 01:00 hours, the hours requested did not fit with that business model. Unfortunately she could not ask the applicant to explain this.

She had only been able to contact the applicant's husband and had requested that the hours for the sale of alcohol be reduced. The premises appeared to be more of a vertical drinking establishment/wine bar and this would bring an increased risk of crime and disorder and public nuisance.

The hours applied for would impact on local residents. Customers naturally congregated after closing when waiting for taxis or going for food. The sale of alcohol should be ancillary to a meal and it was also noted that planning permission had not yet been applied for.

With regard to Bar Luxe, there had been three serious assaults within six weeks at the premises, which was taken to a summary review resulting in the premises licence being revoked. She was not able to ask her what measures she had taken to improve as a Licence Holder, and she would have liked to ask questions of both the applicant and her husband who had been in the day-to-day control of Bar Luxe. Due to these concerns, the licence should not be granted.

Councillor Potts referred to Appendix 2 in the report and noted that the surrounding area appeared to be predominantly housing. The Councillor also noted a play area and pond on the same side of the road as the premises. Paul Clarke and PC Robertson confirmed that adjacent to the premises was a terraced street and cricket club, and as could be seen there was a lot of play equipment in gardens. The main road was to the front.

Councillor Stoker asked the speed limit in the area. Paul Clarke confirmed that it was 30mph but 10ft from the premises the speed limit changed to 40mph.

In summing up Paul Clarke stated that the Police had hoped to be able to support the application but due to the applicant's non-attendance and lack of co-operation the application should be rejected.

The Sub-Committee thanked everyone for their attendance and Councillors Stoker, Potts and McLean **Resolved** to retire to deliberate the application in private with all parties being notified of the decision later in the day.

In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the written representations of other persons, and the applicant, and the verbal representations of Durham Constabulary. Members also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the application be refused.