

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 1A, County Hall, Durham on **Monday 19 June 2023 at 1.30 pm**

Present:

Councillor L Mavin (Chair)

Members of the Committee:

Councillors J Griffiths and A Watson

Also Present:

S Grigor (Council's Solicitor)
K Robson (Principal Licensing Officer)
J Munsey (Applicant, Amber Taverns)
T Moony (Manager)
M Foster (Applicant's Solicitor)
A Metcalfe (Other Person)

Prior to commencement of the meeting, additional information had been submitted from Mr Metcalfe, Other Person. Following legal advice, the Chair advised that the information was submitted too late and the information related to planning matters which was not in the remit of the Licensing Committee.

1 Apologies for Absence

An apology for absence was received from Councillor E Waldock.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the variation of a Premises Licence - The Water House, 65 North Road, Durham DH1 4SQ

The Chair welcomed everyone to the meeting and introductions were made. The Council's Solicitor outlined the procedure for the hearing.

The Principal Licensing Officer presented the report of the Corporate Director of Neighbourhoods and Climate Change, to determine an application for the variation of a Premises Licence in respect of The Water House, 65 North Road, Durham DH1 4SQ. A copy of the application, location plan and additional information had been circulated together with details of the representations received (for copy see file of minutes).

The application initially requested the following:-

- To remove all conditions in relation to Wetherspoons from the current operating schedule;
- To alter the non-standard timings and to include new licensable activities:-
- Live and Recorded Music (indoors);
- Performance of Dance and anything of a similar description (Indoors) Monday to Sunday - 09:00 hrs until 01:00 hrs;
- Films (indoors) – Monday to Sunday 09:00 hrs until 01:00 hrs;
- Late night refreshment (on and off sales) Monday to Sunday 23:00 hrs until 01:00 hrs;
- Reduce the opening times to Monday to Sunday 09:00 hrs to 01:00hrs;
- To update the premises plan following internal renovations.

Within the consultation period, the licensing authority received objections from residents and to alleviate their concerns the Applicant amended the application:-

- To remove the 'outdoor' element from late night refreshment;
- The applicant confirmed that the karaoke room would be sound insulated and clarified there would be no outdoor terrace at the premises.

It was noted that responses were received from Durham Constabulary, County Durham and Darlington Fire and Rescue and Durham County Councils Public Health Department confirming they had no comments regarding the application. A response was received from the Planning Department which was forwarded to the applicant for information only.

Durham Safeguarding Children Partnership communicated with the Applicant regarding clarification on the operating schedule and the confirmed that they had no further comments to make on the application.

The Licensing Authority received eleven letters of representation during the consultation period from local residents (other persons).

The Principal Licensing Officer further advised that the Applicants solicitor recommended an additional condition be added, following that condition being added, one person withdrew their objection. Mr Metcalfe then proposed an additional condition, however that condition was rejected by the Applicants solicitor.

All parties were given the opportunity to ask questions of the Principal Licensing Officer.

Mr Metcalfe, Other Person was invited to address the Sub-Committee. He advised that he was speaking on behalf of residents from Tenter Terrace who had suffered harassment and crime in the area. He was please he had the opportunity to meet with the Applicant and have a tour of the premises. He acknowledged that any operator coming to North Road would have difficulties and challenges and felt that if he withdrew his representation, then concerns around North Road area would not be heard.

Mr Metcalfe advised that he had been assaulted in 2021 and had major safety concerns regarding the North Road and Station Bank areas. He wanted his concerns with the local area and ongoing problems around North Road formally recorded. Having met with the operator, he believed they would be responsible and professional and stressed that the issue was not necessary with the operator. He recognised that there were limits to what a business could do outside the premises and referred to ongoing issue with public urination. He welcomed an opportunity to work with the business, Police and the Licensing Authority going forward to address problems as soon as possible.

The suggested amendment from the Applicant regarding monitoring was welcomed, however Mr Metcalfe stated that the outdoor area towards the rear and top of the property was the biggest concern for residents of Tenter Terrace. Initial reports suggested there would be a roof terrace as part of the business model which was a major concern, however the Applicant had explained that after further consideration and noting the concerns of residents, he did not wish to go ahead with that aspect. Mr Metcalfe understood that a statutory process was in place but was concerned that there was potential for the license to change over time with new tenants, subletting or variation and wanted further consultation and concerns to be recorded.

It was noted that Tenter Terrace was unique in nature as the ambient noise from the major shopping street was exceptional low, which was one of the reasons residents chose to live there. Mr Metcalfe added that if there was no change to the outside area, then residents would be satisfied going forward, however they would also like reassurance in relation to antisocial behaviour and prevention of public nuisance in the future.

The Principal Licensing Officer advised that she had previously explained to Mr Metcalfe about minor amendments and change in ownership. She clarified that if the license was transferred to another operator there would not be a further consultation period with residents. In response to a further query from Mr Metcalfe regarding the status of the outdoor area, the Principal Licensing Officer explained that if the Applicant wanted to add an outdoor terrace, it would be a variation of Premises Licence and residents would be notified.

All parties were given the opportunity to ask questions of Mr Metcalfe.

Mr Foster, Applicants Solicitor was invited to address the Sub-Committee. He confirmed that the Applicant was happy for the additional condition to remove the 'outdoor' element from the late night refreshments. He advised that Mr Munsey was the Area Manager for Amber Taverns and was responsible for thirteen premises with six premises in County Durham and had worked in the hospitality sector all his working life. The Manager, Mrs Mooney had 16 years' experience working in the hospitality sector and had successfully managed the Metropole on Gateshead High Street for the last 6 years with no issues. Amber Taverns operated 162 sites and relied on good staff and well-motivated management to run a successful business. All managers were self-employed and received profit share and lived on site so were part of the local community. Amber Taverns have a good relationship with the Police and Local Authority as they operated safe premises, some of which were more challenging than North Road. Amber Taverns aimed to provide a friendly environment and a great customer experience at every venue which they achieve by investing in staff training, maintaining high standards, delivering quality products and excellent service.

Mr Foster advised that the basement was the games area with a karaoke room and additional toilets. The first floor was the licensed area and the second floor was the Managers accommodation, adding that there would be no outside terrace. Amber Taverns had made significant investment in the premises which would create around 40-50 jobs and there would be no student drink offers or promotion nights which typically attracted younger people, however student would not be turned away. The music profile would be 60's, 70's, 80's, northern soul and motown.

It was noted there was no change to licensing hours and that Amber Taverns had reduced the opening hours, changed the layout and removed the kitchen as there would be no food offerings. A new office and CCTV room had been built and the standard security conditions across all Amber Taverns premises included CCTV, Challenge 25, training and records keeping.

The inclusion of sessional variations were sought in order to align with other Amber Tavern premises so there would be no need to apply for Temporary Event Notices throughout the year. Mr Foster explained that entertainment and sports were important to Amber Taverns as it created community cohesion. Music would be played in the background and zoned areas could be controlled. Mr Foster advised that he had met with Mr Metcalfe at the premises and addressed a number of concerns including the opening hours, the music policy, how the speakers work, sound proofing and addressed concerns regarding the roof terrace.

He referred to the licensing policy and the judicial review regarding the Thwaites case with regards to evidence-based representations and noted that representations made were more speculation. He highlighted that Mr Metcalfe's concerns were in relation to the area as a whole rather than the premises itself. It was also noted that there were no representation made by the Police or Environmental Health who were the source of advice in relation to crime and disorder and public nuisance.

Mr M Foster then asked the Applicant questions in relation to the other premises he was responsible for in County Durham, the complaints procedure and type of complaints he would receive from residents. The Applicant advised that there were residential properties around most of their premises and they had not received complaints in relation to noise. The complaints procedure was on their website which was monitored by One Media who also monitor any complaints via social media sites. Complaints would be forwarded to the Area Manager and responded to within twenty-four hours with the aim to be resolved within seven days. He added that the most common complaints were in relation to the standard of WiFi in certain venues.

The Applicant advised that CCTV cameras were in all areas of the premises and footage was retained for at least 6 months, footage was retained longer at the more challenging locations. Cameras were also installed in toilet lobby areas as part of their zero tolerance drugs policy. It was noted that anyone caught using or dealing drugs would be barred for life, have the drugs confiscated and the Police would be notified. There would be security on Friday and Saturday nights and security would be arranged for big sporting events. They had signed up to PubWatch and had a good relationship with the Police and Local Authorities. He added that they were chosen to launch the Commissioners vulnerable female campaign in Byker and Gateshead. It

was acknowledged that North Road would have its challenges, however advised that the Manager understood Amber Tavern's core values and had a lot of experience running a very successful premises in a challenging location with no issues.

All parties were given the opportunity to ask questions of the Applicant.

Following a query from the Principal Licensing Officer, the Applicant advised he would be happy to provide Mr Metcalfe with the email address for the premises and Area Manager and would provide the telephone number once the phone line had been installed.

Mr Metcalfe reiterated residents' point of view, and after having the opportunity to visit the premises and speaking with the Applicant, he was reassured. He advised that they wanted to be friendly neighbours but would like the ability to monitor and take action if there were issues. He welcomed the additional condition the Applicant put forward and added that their concerns were in relation to the rear of the premises.

Responding to queries from Councillor A Watson, the Applicant advised that they tend not to use the late licenses as much as other operators as the core business was daytime and most premises were closed by midnight on weekends. He added that previously two sites were trading until 1.00am and issues arose so he decided to reduce the hours to midnight. There was confusion with regards to the outside area and explained that in the early stages everything was based on plans and was during Covid, however when they looked at the site they realised the outside area would not operate successfully without affecting residents. The Applicant advised that the Water House was a community pub and the premises was a flagship site in the North East with significant investment. Operators were self-employed and would receive a percentage of the sales, however they still had to abide by Amber Taverns standards and key performance indicators.

Responding to a question from Councillor L Mavin, Mrs Moony advised that all ages would be welcome, however the vibe and music would appeal more to the older clientele which had been very successful in Gateshead. She was very customer orientated and encouraged a community atmosphere. Her only concern was with the bus stop outside the premises as any trouble would point to the Water House. She assured the Sub-Committee that if there was trouble at the bus stop, she would shut the doors and would be monitoring what was going on in the street. She had also signed up to PubWatch and WhatsApp groups and had employed two doorman who had experience of Durham and were aware of individuals who tend to cause problems.

All parties were given an opportunity to make a final statement.

Responding to Mr Metcalfe regarding his proposed condition in relation to noise, the Principal Licensing Officer explained that the further proposal, which Mr Metcalfe wanted to supersede the condition offered by the Applicant had not been accepted, which was read out to the Sub-Committee for clarity.

Mr Metcalfe was concerned with the practicality of the condition should issues arise and queried if there would be another opportunity to speak with Environmental Health. The Principal Licensing Officer advised that Environmental Health had no further comments on the variation application and any conditions would be agreed at the hearing. Responding to a further query from Mr Metcalfe regarding actions to take if noise levels were a nuisance, The Principal Licensing Officer advised that the issue should be reported to the Noise Team and if there were any breach in conditions, the license could be reviewed or the Enforcement Team could take action. Mr Foster added that Environmental Health had powers under the Environmental Protection Act and noted that the Council's Environmental Health Team were very responsive to issues. Mrs Moony advised that if residents had any issues, they should let her know as all areas were zoned and noise levels could be tweaked.

Mr Metcalfe accepted in good faith that they would work together if there were problems and issues would be addressed.

At 2.50pm Councillors L Mavin, J Griffiths and A Watson **Resolved** to retire in private to determine the variation application. After re-convening at 3.05pm the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report and the verbal and written representation from Other Persons together with the verbal and written representation from the Applicant and his Solicitor. 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 to vary the Premises License be granted subject to the following condition in respect to noise monitoring:

The premises will monitor noise at the rear of the premises when regulated entertainment is taking place after 9pm. Observations will be documented on a noise monitoring log sheet and if noise generated from regulated entertainment at the premises is determined to be too loud it will be turned down. The log will be retained for six months and will be available for inspection on request by the council.