

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Tuesday 30 April 2019 at 10.00 am**

### **Present:**

**Councillor P Crathorne (Chair)**

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

Councillors D Brown and A Hopgood

### **Also Present:**

Helen Johnson – Licensing Team Leader

Yvonne Raine – Senior Licensing Officer

Sarah Grigor – Solicitor, DCC

### **Barnard Castle Brewery**

Mr K Carr – Applicant

Mr D Snaith – Applicant

Mr K Mitchell – other person

Miss S Mitchell – other person

Councillor S Moorhouse – on behalf of Miss Mitchell

Mrs C Mitchell – other person

Mr and Mrs D Sumner – other persons

Mrs S Grant – other person

Councillor J Rowlandson – on behalf of Mrs Grant

Ms Arkley-Bond – other person

### **Barrio Comida**

Ms S Smith – Applicant's Solicitor

Mr S Hurrell – Applicant, Barrio Comida

Miss V Soulsby – Operations Manager, Barrio Comida

Parish Councillor L Brown – City of Durham Parish Council

Parish Councillor S Ashby - City of Durham Parish Council

Mr J Lovell – Elvet Residents Association

## **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.

## **4 Application for the Grant of a Premises Licence - Barnard Castle Brewery, Quaker Yard, Rear of 24 Newgate, Barnard Castle, Co. Durham**

The Committee considered a report of the Licensing Team Leader regarding an application for the grant of a Premises Licence in respect of Barnard Castle Brewery, Quaker Yard, rear of 24 Newgate, Barnard Castle (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to all parties, together with additional information from the Applicants, and 'other person', Mr Mitchell.

In relation to the letters of support submitted by the Applicants, Mr Mitchell noted the late submission and that names had been redacted. Mr Mitchell was informed that the letters had been submitted by the deadline but required validation by Officers. Members would attach the appropriate weight to those documents where names had been redacted.

Mr Mitchell had provided photographs and two video clips to support his representations and these were shown to all parties present. Referring to the visual evidence Mr Mitchell explained that he had purchased the property next to the alleyway for his daughter for conversion from dilapidated flats to a 5 bedroomed home. The alleyway door had once been the main entrance to the house, and the alleyway was the only means of access to Quaker Yard, which his property had access to. As could be seen from one of the videos, Newgate was predominantly a residential area, and a view from Mr Mitchell's own courtyard showed his wall to be directly adjacent to the courtyard of the Brewery which could seat around 30 people.

The second video simulated the route to the bar along the alleyway which housed the electricity meter for his property. Mr Mitchell's courtyard was 15 foot long and the window in the wall looked into the Brewery yard. Part of the alleyway was glass-sided which people would pass, having had a drink. At present no noise was encountered from the Brewery or other businesses in Quaker Yard but this would change when the shop and tap room opened.

He and his daughter had been working on the house for the last 16 months and had been told by the owner of the Brewery building that the yard was to be a tasting area but then this application for a Premises Licence was submitted. He had argued with the owner that he had been deliberately mis-led and he had been asked to move the electric meter at his own expense.

Since the sign had been erected (as seen in one of the photographs submitted), people had been coming to the yard to ask where the pub was and walking down the alleyway. He feared it could be popular. He also noted that the sign mentioned private functions which was of concern. Mr Mitchell referred to the planning application for the premises but was reminded by the Chair that planning and licensing were separate regimes.

Mr Mitchell concluded by stating that he and his daughter were in the process of converting their property to a family home. If a family moved in, their quality of life would be affected by people walking up and down the alleyway and there was also an issue of child safety as children came in and out of the alleyway to play.

Following a question from the Chair, Mr Mitchell confirmed that he did not own the whole alleyway but had full right of access.

Upon questions from Mr Carr, Applicant about the prospect of the house being a bed and breakfast, Mr Mitchell replied that he did not recall this being proposed, and he had purchased the property for his daughter for conversion. The children in the video did not live in the property but the house would become a family home. If he had known that a micro-pub was to be developed he would not have purchased the property.

Following questions from Mr Snaith, Applicant reference was made to a micro-pub in the town which was also accessed by an alleyway to a yard which Mr Mitchell said was shorter and narrower in dimension. Mr Snaith clarified that the alleyway to the Brewery was wider.

Mr Carr asked further questions of Mr Mitchell who replied that he was aware of the other businesses in the yard and the hobby brewery. Mr Carr asked Mr Mitchell if he accepted that businesses could change in terms of uses. Mr Mitchell acknowledged this stating that his problem was with the sale of alcohol in the courtyard.

Mr Carr also made the point that statutory consultees had no issues with the application. Mr Mitchell stated that initially they did express concern, but it was pointed out that the application had been amended to add conditions to address this.

Mrs C Mitchell supported the points made by Mr Mitchell and stated that her main objection was noise nuisance on Newgate. Residents were already disturbed by the noise from the public house in the area and these premises would add to that.

Mrs S Sumner spoke on behalf of herself and her husband. Their property was directly adjacent to the Brewery and the proposed tap room. The proposals were having a major impact on their well-being.

Mrs Sumner and her husband had sold their home and business in the town and retired to Newgate. They had invested heavily in the house and a special and important feature was their walled garden to the rear. The west wall of the Brewery formed their eastern boundary. This was just 6m from their kitchen.

Mrs Sumner addressed a number of points referred to in the company's Business Case.

Barnard Castle Brewing Company had been operating successfully without complaint since 2016 - this was true but these were additional proposals for the business which involved planning permission.

Many studies and lots of anecdotal evidence suggested that the trend on the High Street was becoming more and more about experience – Newgate was not the High Street; it was predominantly a residential area and was in a Conservation Area.

The Brewery will inevitably contribute to the vibrancy of the economic and social centre of the town – 'vibrancy' was the key word.

The target customer is primarily the tourist trade passing between Bowes Museum and the town – the museum would be closed before the Tap Room opened.

Hopefully the project will allow the business to grow so they can look for larger premises in the town – Mrs Sumner asked how big the business would have to be before it would consider re-locating.

The Brew Room and proposed Tap Room occupy the west side of the yard and immediately to the west of that is a garden – Mrs Sumner stated that this was their garden.

The Business Case referred to other licensed premises which were all in the main High Street. Comparison with the micro-brewery in the town was not valid – this was an ancient alleyway which was always meant for public use.

Notices will be displayed prominently in the courtyard requesting patrons to respect the needs of local residents and use the area quietly – she questioned whether these would make a difference.

Background music will be allowed but with a volume strictly controlled by management – Mrs Sumner was of the view that what was considered an appropriate level was subjective.

The use of the external seating area would cease at 21.00 hours – Mrs Sumner believed that common sense would suggest that this would be difficult to enforce.

Mrs Sumner advised that they had lived with the existing Brewery for 2 years but she and her husband objected to the change of use. They had only become aware of the original application 10 days before the representation period ended. As former business owners themselves they wanted to support the proposals, but were concerned that the location was not appropriate, being in a residential area.

The Applicants made genuine claims, but in truth most would not be carried through, for example the signage regarding smoking. She suggested that if management tried to stop a smoker in the vicinity of the street, they would be given an unpolite response.

No business was confined to within its specified hours; it opened earlier to set up and activity continued later than closing time for the purposes of tidying up. There would be nine hours of business noise and noise from customers enjoying themselves every weekend. Mrs Sumner urged the Sub-Committee to visit the site.

Councillor S Moorhouse of Barnard Castle Town Council addressed the Sub-Committee on behalf of Miss S Mitchell. Miss Mitchell wished to express the strongest objection to the proposals. She had been hands-on renovating the property with the intention of turning it into a family home. She had been assured with the planning application that the Brewery would not be open to members of the public, and not operated as a bar. Access to the yard was not down an alleyway but what was an internal corridor of a house, and had a bedroom over it. The side doors would have to be permanently locked giving a feeling of being imprisoned. These doors would be used as fire exits. If there was a fire in the yard customers of the Brewery would use the alleyway to escape. People could be heard in the alleyway as if they were in Miss Mitchell's house which was disturbing, particularly when she was working alone. She was concerned that people would still try to access the premises when the Brewery was closed. She believed that smokers would stand outside residential properties to smoke. Noise would therefore surround her house. Cigarette butts would be dropped outside her property.

These proposals would cause an unacceptable level of noise and disturbance and would have a serious detrimental effect not only on Miss Mitchell's property but also on their neighbours, with an increase in noise and traffic.

When people moved house they would generally not choose to move next to an existing public house; this had been thrust upon residents.

Although not relevant to the application under consideration, Mr Carr clarified that in planning terms the bar was classed as an ancillary use.

Mrs S Grant, other person advised that she had lived directly adjacent to the property for 50 years which she had inherited. She believed that the glass in the corridor was once clear to allow light into the buildings. Her property had a window downstairs. Photographs were included in the report bundle. She could hear all noise from the yard throughout her property. She was a widow and was concerned that people would be consuming alcohol near to her home. The sign led people to believe the bar was already open and were walking down the alleyway creating noise. Parking was bad in Newgate and the proposals would exacerbate this. There

were older residents living to the rear of the yard and along Newgate. Noise already emanated from the other licensed premises in the area. There were empty premises in the town which would be more appropriate. The owner had purchased another property and this was where residents believed he would be brewing and selling the alcohol. Some time ago there had been a robbery from the downstairs window of her property.

Ms Arkley-Bond stated that she lived directly opposite the business and had a large family, the youngest children being 8 and 9 years old. Their property had single-glazing and her children's bedrooms were at the front of the house. Noise resonated along Newgate and even more so in the upstairs of their property.

She had not experienced any real issue with the Brewery to date but it was to become a pub. They had problems with the nearby restaurant whose customers sat on her windowsill to smoke and customers from the local public house left bottles outside her home. She wished to protect her children from noise. When they had first moved into the property 17 years ago there were no businesses in the locality and she did not see why her family life should be disturbed. She appreciated that times changed but when a person purchased a property in a residential area they did not expect that to change. If she had wanted to live near a bar she would have moved to the High Street. Elderly people lived to the rear of the yard. She already experienced noise from music from the nearby restaurant. If smokers were told they could not smoke outside Quaker Yard they would move across the other side of the street where she lived.

Mr Carr and Mr Snaith, Directors of Barnard Castle Brewing Company were invited to address the Sub-Committee.

Mr Snaith stated that the hours requested for the sale of alcohol did not constitute a pub. The business had been established in 2016 and had traded without complaint. During the period since opening it had become clear that for the company to survive and grow it needed to sell direct to the public, with less reliance on wholesales. This challenge was the same for all micro-breweries across the country. The opening of the bottle shop and tap room was purely to showcase their own beers.

The original application was for longer hours every day. They had not submitted an application before and upon taking advice had applied for maximum hours to cover all eventualities. However following feedback from residents they had reduced the core hours by 90%.

Mr Snaith referred to the Business Case which discussed the challenges of micro-brewing and the aims of the company.

He felt that the business was an asset to Barnard Castle and an opportunity to contribute to the vibrancy of the town, introducing something new which would allow visitors to take a piece of the town away with them. The point was made that Bowes Museum would be closed when the bar was due to open, but the bottle shop would be open from 12.30pm. The tap room would assist with early evening economy, helping to keep visitors in the town. Their business was aimed at locals and tourists who enjoyed locally brewed ales.

If the application was successful it would allow the business to grow and they would create employment for local people.

Newgate had residential properties on it but was not exclusively residential. There were three businesses in Quaker Yard. A former business had been an auction room which was open until 10.30pm.

In terms of the position of the Brewery within Quaker Yard, the courtyard was adjacent to a garden but was not directly adjacent to any living areas. The alleyway was wider than the existing passageway to the other micro-brewery in the town. It conformed with fire safety regulations. Other premises the Brewery had been compared to were open for longer hours than they intended to operate.

Mr Snaith addressed the concerns raised, which were mainly based on the original application and on the extended opening hours. None of the statutory consultees had made representation. Additional conditions had been included at the request of the Police.

In terms of noise, he encouraged Members to visit the site where they would see 12 foot high walls. Background music was included but could be removed if this was an issue. There should be no glass waste disposal but if there was, this would be carried out during the day. There had been concerns about late night nuisance but alcohol sales ended at 9.00pm. In terms of visitor numbers, the premises could accommodate a maximum of 60 but there was no intention of encouraging those numbers. The use of the courtyard would be dependent on weather and hours of daylight. There was one table and three chairs in the courtyard which had been there for two years. If the application was granted the website would clearly state when the business was open for bottle sales and bar sales. The sign referred to by residents made no mention of the bottle shop or tap room – it was to advertise that there was a brewery business in Quaker Yard, as did the other businesses there. There was also a sign on the door to the alleyway which said that access to Quaker Yard was private. The CCTV within the courtyard would be extended to the bar area. Signage preventing smoking in the yard, alleyway or outside Mr Mitchell's premises would be displayed. The Brewery would have a checklist of activities to be carried out prior to opening and after closing, which included litter collection. Mr Snaith added that there was already a lot of litter in the locality of Newgate which was not caused by the Brewery.

Mr Mitchell's video showed that there was a public car park 10 yards from the premises which was free after 6.00pm. It also showed available on street parking. The second video shown by Mr Mitchell was taken on market day and was therefore not representative of the street.

Deliveries to the premises would not increase. The beer was made on the premises and sold in bottles and cask.

Mr Snaith stressed that the operation proposed was small scale. They did not believe that the noise and nuisance expressed by residents would be generated. As family men themselves they appreciated the concerns raised but he believed their fears were unfounded due to the small scale nature of the business.

Through questions from Councillor Hopgood, Mr Carr explained that their existing hours depended upon the need to brew but were generally for small periods between the hours of 9.00am and 9.00pm. There were four people working in the Brewery who used the alleyway but the other businesses in Quaker Yard generated footfall.

Councillor Hopgood made the point that as the purpose of the proposals was to increase sales, then deliveries would also be expected to increase. Mr Snaith stated that they already had a large stock of bottles on site and deliveries would not be regular. The Councillor also asked if the Brewery had considered admissions to the tour on an appointment only basis to manage numbers using the alleyway. Mr Carr responded that this had been considered but they had decided that it would be impractical for the size of the business.

Following questions from Councillor D Brown, Mr Carr explained that the brewing process took between 4 and 6 weeks to complete; each brew was 500 litres which equated to 1000 bottles or 12 9 gallon firkins. They did not sell direct to the public but to local shops and pubs. They had sought advice from Licensing and the AHRU of Durham Police with regard to their application. They had requested more hours to avoid having to apply for TENs for any functions. The original hours requested would not have made a difference operationally.

Councillor Crathorne asked about responsibility for the condition and maintenance of the alleyway, and was informed that this fell to the owner who they would contact about repairs to the glass.

Following a further question from the Member, Mr Snaith replied that it was difficult to envisage exact numbers in the Brewery at any one time but could not imagine that it would be more than 20-30 on a fine day. They were hoping to attract passers-by and locals who were interested in craft beer. They may consider supplying a guest beer from another brewery and a limited alternative for any visitors who did not drink ale. There would be tables and chairs in the tap room.

Mr Carr confirmed that the Fire Service had made recommendations about smoke alarms, Fire Exits and emergency lighting.

Mr Carr gave an assurance that rowdy behaviour would not be tolerated. Their pricing regime would discourage the consumption of large amounts of alcohol by individuals. If a customer became boisterous or rowdy they would be asked to be quiet, or asked to leave if this was ignored. With regard to the transfer of smokers to other parts of Newgate, Mr Carr advised that they would be asked to move on and this would be logged.

All other persons present were then invited to ask questions of the Applicants.

In response to Mr Mitchell, Mr Carr advised that the majority of the bar work would be undertaken by one of the Directors. There were no plans for a café; the intention was to provide an atmosphere of café tradition.

The premises was not a pub, it was a tap room. A pub was open all hours and sold beer from different companies. Their business was an outlet for their own product. He accepted that Newgate was a busy road, but this was regardless of their application.

Following a question from Mrs Sumner regarding the opening hours, Mr Carr advised that from 12.30pm people would be able to buy a bottle, and whatever was required for opening would be carried out beforehand, similarly after closing. Mrs Sumner asked why they had not spoken with residents and was advised by Mr Carr that they believed that this was covered by the consultation as part of the application process.

Miss Mitchell asked both Mr Snaith and Mr Carr if they would like such a business next to their yard and both confirmed that they would because of their interest in brewing. Miss Mitchell made the point that she had asked the owner of the premises the same question and he had said that he would object. Mr Carr and Mr Snaith noted that the owner lived in a very rural location with no neighbours.

Councillor Rowlandson asked questions on behalf of Mrs Grant and asked for clarification about deliveries. Mr Carr advised that bottles were purchased wholesale in bulk and any increase in deliveries would not be significant, given the size of the business.

All parties were invited to sum up.

Mr Mitchell stated that the alleyway was a hallway and entrance, unlike the alleyway of the other micro-pub in the town. Any noise in the alleyway could be heard in their house. Their lounge was single-glazed and if customers were standing outside on Newgate or in the alleyway they would be heard. The courtyard looked fantastic and would be popular. The Applicants had said that up to 30 people could visit the premises but he believed that if more arrived they would not be turned away. He could not envisage what life would be like. They had put all their efforts into making their property a five bedroomed family home and his daughter did not want to spend any time in the house on her own. The business was completely unsuitable in a residential area.

Mrs Sumner stated that her main concern was for the on-sales and having heard the representations submitted, maintained that the application should not be granted.

Miss Mitchell reiterated the views of her father that the business would affect her quality of life. Every noise in the alleyway could be heard and smokers would stand and talk outside her property.

Mrs Grant stated that Newgate was a residential area and there were plenty of other places in the town where the business could be located.

Councillor Rowlandson added that Mrs Grant's property had been the subject of a robbery in the past and security may be an issue in the future. The garden areas were a haven of quiet and the pub would cause disruption for so many residents.

Ms Arkley-Bond concluded that the Applicants should be more considerate of the residents of Newgate and their way of life.

Mr Snaith thanked everyone present for expressing their opinions and stated that the Applicants were sensitive to what had been said. They did not think that a lot of the concerns would be realised. This was not part of a pub chain; the Brewery just wanted to showcase its own beers, hence the limited opening hours requested. He was confident that the mitigating measures proposed would alleviate concerns.

At 12.40pm the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 1.30pm the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, additional information from the Applicants and Mr Mitchell, video clips from Mr Mitchell, and the verbal representations of other persons and the Applicants. Members had also taken into account the Council's Statement of Licensing Policy and S182 Guidance issued by the Secretary of State.

**Resolved:**

That the application be granted as follows:

The sale of alcohol for consumption off the premises, Fridays and Saturdays 12.30 to 21.00

The sale of alcohol for consumption on the premises, Fridays and Saturdays 17.30 to 21.00

The premises will open for these purposes at 12.30 and close at 21.30 Fridays and Saturdays only.

The hours will apply for Temporary Event Notices for any special events on other days or which require extensions to these hours. There is to be no smoking or vaping anywhere on the premises

The additional conditions proposed by Durham Constabulary be included in the Premises Licence:-

All staff should be fully trained to perform their role. They will be trained in the contents of the premises licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.

The premise shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by the police or authorised officers of the council.

The premise shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.

A CCTV system will be installed and in operation at all times the premises are being used for licensable activity and for two hours after. It must be operated by properly trained staff.

Recording will be retained for a minimum of 28 days

The premise will ensure that at least one trained member of staff is available to operate the system at all times the premise is open and download any images requested by an authorised officer and provided within 7 days

The requirement for door staff will be risk assessed by management.

## **5 Application for the Grant of a Premises Licence - Barrio Comida, 31-33 Church Street, Durham**

The Sub-Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Barrio Comida, 31-33 Church Street, Durham (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to Members, together with additional information provided by the Applicant. The Senior Licensing Officer noted that the Applicant's Solicitor had referred to a site visit with the Police and Environmental Health at which a Licensing Officer was in attendance. Members were informed that the Licensing Officer was present to facilitate the meeting but took no part in the discussions. Additional information had also been received from 'other persons' Dr Carey and Dr Wood which had been circulated to all parties. Dr Carey and Dr Wood had apologised that due to work commitments they were unable to attend the hearing.

Parish Councillor L Brown of the City of Durham Parish Council addressed the Sub-Committee in objection to the application under the licensing objective of the prevention of public nuisance. It had been understood that original proposals were to improve the derelict site for student accommodation and a café, however this application was for a Premises Licence for a restaurant, with a planning application for an extension. The Parish Council was concerned that permission was sought for alcohol to be sold on the terrace outside the premises until 9.00pm and therefore noise would affect close neighbours. Smokers would also use the terrace creating additional noise and odour. There was no evidence to support that the business would benefit from al fresco dining.

Parish Councillor Brown agreed that the delivery schedule should be addressed and hoped the Applicant would consult with local residents.

The Parish Councillor referred Members to paragraph 9.3 of the Council's Statement of Licensing Policy, and paragraph 2.15 of Section 182 Guidance which looked at the prevention of public nuisance, and stated that the Parish Council felt that it was not unreasonable to impose a condition that there be no eating or drinking in the outside area after 6.00pm. The Thwaites case argued that 'real' evidence must be presented to support the reason for imposing conditions; it was argued that there was no evidence given as to why this was integral to the

premises. If a condition was added it would mitigate the effect of the premises on local residents.

Mr Lovell of Elvet Residents Association (ERA) addressed the Sub-Committee. He understood that the premises already had planning permission for Class A3 use which the ERA had no objection to and were looking forward to visiting the premises. The proposed hours for the sale of alcohol were of concern to the ERA as this was a residential area. The ERA noted that there had been a site visit and found it curious that the location plan did not show the area the licence was being applied for. Mr Lovell circulated a copy of a modified plan which showed the exact location of the premises. The location plan in the report bundle showed the extension of the existing structure behind 31-33 Church Street which did not yet have planning permission.

Parish Councillor Ashby stated that she was interested to hear that there had been a site visit. The Member also asked how the deliveries would be made, given the location of the premises at the junction of traffic lights. Delivery vehicles would park on double-yellow lines on the footpath, on a major pedestrian route between university buildings. Hundreds of students used the footpath. She understood that this was a planning issue but it had been raised by the Applicant's Solicitor.

There were no questions at this point and Ms Sarah Smith, the Applicant's Solicitor was invited to address the Sub-Committee.

Ms Smith explained that the restaurant would be a Mexican food concept and was the brainchild of Shaun Hurrell. The concept was fun and informal. This was a restaurant where both individuals and groups would enjoy dining. The company's vision had been provided in the additional information and both Mr Hurrell and the Operations Manager had a lot of experience in the higher end field. They were dedicated to making the business a success. Mr Hurrell had attended pop-up events, had a residency on Newcastle Quayside, and the next step was to create a permanent home for the business in Durham. The couple had taken a 10 year lease of the premises, demonstrating their commitment. They had planning permission for Class A3 use and had submitted an application to extend into the rear area for the storage of plant and the provision of toilets. If that application was not granted the application for a Premises Licence would be amended with a revised footprint. The premises were located on a slightly elevated site, set back from the road. As could be seen in the plan in the report bundle the restaurant would be set over two floors with an external terrace. On the ground floor would be space for 60 covers with an open kitchen and table service. An additional 25 covers would be catered for in the basement which could be an overflow area or a venue for private dining events/functions. The outside area would be seasonal but was an important part of the venue. It would be part of the street scene.

Ms Smith then outlined the menu on offer. Food would be served throughout the day, opening earlier for coffee and snacks. The premises would also include a retail section where Mexican sourced products could be purchased. Employment of up to 25 full and part time staff would be created.

Outlining the licensable activities requested, Ms Smith stated that, although not a requirement the Applicant had included recorded music, for transparency. The hours requested on New Year's Eve did seem extensive but were standard hours for that evening. The Applicant however did not envisage being open particularly late on New Year's Eve.

The hours requested were very modest, 12 midnight was a standard hour for the sale of alcohol in a restaurant. If the premises closed too early they would not get the City trade, as eating habits of diners had changed and people were eating later. The hours were within the Framework Hours and were comfortably within the hours other premises operated in that area. Closing time was 11.00pm to allow customers to consume food without being under pressure to finish. This would also allow for a gentle dispersal of customers rather than everyone leaving at the same time.

The comments made by the Police during the consultation had been incorporated into the operating schedule.

A site visit had been held with the Police and Environmental Health; the Environmental Health Officer had been interested in the sight lines between the terrace and the restaurant and had no concerns. Mr Hurrell had engaged with residents prior to the submission of the application, partly because there had been some history with the site.

Ms Smith addressed the objections raised. Additional conditions had been offered, particularly in relation to the disposal of glass which would not be after 8.00pm or before 8.00am in the morning when the City started to come to life.

With regard to the terrace, many premises in the City offered outside areas, and generally people felt that 9.00pm closing was reasonable. This was also the view of Environmental Health. A closing time of 6.00pm would impinge upon the business. External cooking was not a licensable activity, however there was no intention to cook outside.

With regard to the hours for New Year's Eve, she noted the objections of the ERA. The hours requested were standard but the Applicant would be happy to amend if deemed necessary.

With regard to the representations of Dr Carey and Dr Wood, she had referred the matters of the trees to the rear of the premises to the landlords, and in respect of the materials for the extension, to the developers. Blackout blinds were proposed but the Applicant would be happy to include this as a condition.

In conclusion the conditions met concerns. A risk assessment would be required for the premises and any events, CCTV would be provided, and the outside area would be well-managed. The proposals were supported by Environmental Health; external areas were not unusual in the City. Student accommodation was located above and adjacent to the premises so a lot of noise attenuation had been carried out. In her experience it was very important to ensure that all neighbours were satisfied and the Applicant appreciated that students had paid a lot of money to study in the City.

The Chair asked if the outside area was for dining only. Mr Hurrell clarified that customers could have alcohol on the terrace by itself or with food. All customers would be seated which would not appeal to those people out for drinks only. It was in the interest of the business that customers bought food.

Parish Councillor Brown asked if the terrace would be the only smoking area and if it would be accessible by people walking past the premises. The Member was informed that to sit on the terrace customers would have to be seated by a waiter. Smokers would use the terrace after 9.00pm. If they were not permitted to use the terrace smokers would move towards residential properties to smoke. There would be a small cordoned off area for smokers on the terrace. Customers had to walk through this to access the main entrance of the restaurant.

The Chair noted that the operating schedule highlighted that music would not be played outside, but on warmer days the windows would be open and noise may escape. The Member was informed that music during the day would be at background level and not audible outside. Noise Impact Assessments were required as part of the planning process.

Parish Councillor Brown appreciated that there had been discussions with residents in March but stated that the proposals had changed. She would be delighted if the Applicant could have dialogue with residents. Ms Smith confirmed that the Applicant would be open to that and his contact details could be provided to residents.

Parish Councillor Ashby was reassured by this but was sorry that the matter of deliveries had not been resolved. Mr Hurrell advised that he had spoken with other businesses in the locality and would adopt a similar procedure for deliveries.

In conclusion Ms Smith stated that the Applicant was committed to the venue, which would offer a high-end social experience. They were experienced operators who had engaged with local residents. The hours were not excessive in the restaurant business and any decrease could impact upon the viability of the business. The Responsible Authorities were supportive of the proposals, had been on site and were satisfied. If the fears expressed were realised there were remedies but she would encourage residents to approach the venue in the first instance.

At 2.30pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 2.40pm the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, together with additional information, the written representations of Dr Carey and Dr Wood, and the verbal and written representations of the City of Durham Parish Council, the ERA, and the Applicant and his Solicitor. 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 the Premises Licence be granted and the operating schedule agreed with Durham Constabulary be included as follows:

1. The operator shall ensure that at all times when the premises are open for any licensable activity there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.
2. The operator and designated premises supervisor shall conduct a risk assessment for the general operation of the premises and in the case of individual bespoke events.
3. Alcohol may only be consumed on the premises by persons seated at a table (save for when alcohol is sold to persons attending bona fida functions at the premises in which case this condition will not apply in the part of the premises in which the function is taking place).
4. Food and beverages will not be consumed in the external seating area after 21.00hrs daily.
5. A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of Durham Police. Such system must
  - (i) Ensure coverage of all entrances and exits of the licensed premise and coverage of all such areas as may be required by Durham Police.
  - (ii) Provide continuous recordings for each camera to a standard for identification and the recording be retained for a minimum of 28 days
  - (iii) Be in operation at all times the premises are in use and made available to the Police on request.
  - (iv) Always be accessible by a supervisor who is sufficiently trained in the operation of the system.
6. Substantial food and non-alcoholic beverages shall be available throughout permitted hours.
7. The maximum number of persons permitted on the premises at any one time shall not exceed the safe capacity as prescribed by fire safety legislation.
8. The designated premises supervisor shall ensure that there are effective management arrangements in place to enable him/her to know how many people there are in the premises at times prescribed within the management risk assessment.
9. 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. (This is alcohol purchased or obtained for young people by relatives or older friends). Training records for staff to be maintained and refresher training to be provided annually.

10. The premises licence holder shall ensure that a refusals register is in operation to log incidents where a sale of alcohol is refused (if a person appears intoxicated or appears to be under 18). The register is to be kept on the premises and made available to the police on request.
11. No glass or material or bottles shall be deposited in any skip, bin or other container of a like nature, located in the open air outside of the premises between 8pm to 8am and any such skip, bin or container shall not be removed from the premises between those hours.
12. Noise from the licensed premises, including noise from patrons, amplified music and live music, shall not be audible beyond the boundary of the premises so as to cause nuisance to nearby residents or other users of the complex.
13. When regulated entertainment involving the playing of recorded music and live music is taking place, all windows, entrance and lobby doors shall be kept closed except for the purposes of access and egress.
14. All members of staff at the premises including door supervisors shall seek 'credible photographic proof of age evidence', from any person who appears to be under the age of 25 years of age and who is seeking access to the premises, or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer will either be a passport, photographic driving licence or proof of age card carrying a 'PASS' logo.

In addition the opening hours on New Year's Eve be extended between 10.00am and 1am.