

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 16 July 2019 at 10.00 am**

Present:

Members of the Committee:

Councillors P Atkinson, J Blakey, D Brown and C Hampson

Also Present:

Ms S Grigor (Council's Solicitor)

Alders Bar and Coffee House, Seaham

Ms K Robson (Licensing Officer)

Mr A Woollett (Applicant)

Mr and Mrs F Duncan (Other Persons)

Dr Aylott (Other Person)

Spice Island, Barnard Castle

Ms Y Raine (Licensing Officer)

Mr S Ahmed (Applicant)

Darlington Councillor S Ali (Assisting Applicant)

Mr R Keeling (Restaurant Manager)

Mr M Anslow (Senior Environmental Officer)

Councillor J Rowlandson (Barnard Castle TC)

Ms E Rowell (Other Person)

Councillor Hampson (in the Chair)

1 Apologies for Absence

An Apology for absence was received from Councillor L Marshall.

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 - Alders Bar and Coffee House, 21 North Terrace, Seaham

Councillors C Hampson, D Brown and J Blakey

The Committee considered the report of the Corporate Director of Regeneration and Local Services regarding an application for the variation of a premises licence for Alders Bar and Coffee House, 21 North Terrace, Seaham (for copy of report, see file of minutes).

A copy of the application and supporting documents had been circulated to Members together with copies of the representations received and responses from responsible authorities.

The Senior Licensing Officer presented the report and advised Members that the application was to update the current internal plan and to extend the hours for recorded music and to extend the sale by retail of alcohol on a Thursday for one hour and on a Sunday for 90 minutes. The applicant had requested the removal of a condition relating to the order of alcohol being ancillary to a substantial meal which the applicant had now withdrawn as the condition was in relation to a delivery service that the premises were not offering.

During the consultation period three letters of representation were received from other persons. Members were advised that one of the representations received had not provided an address so the appropriate weight should be attached to the representation.

Responses were received from Durham Constabulary, County Durham and Darlington Fire and Rescue Service, Durham Safeguarding Children Partnership and Durham Council's Environmental Health Department confirming that they had no comments to make in relation to the application.

Additional information had been received from the Applicant that had been circulated to all parties prior to the meeting.

Mr Duncan, other person sought clarification on the serving of alcohol with a meal.

The Senior Licensing Officer advised that the condition was purely for a delivery service that the previous owner had volunteered as a minor variation to the licence.

Mr Duncan asked if alcohol could be purchased like a public house as he was under the impression you had to purchase a meal. The Senior Licensing Officer confirmed that alcohol could be purchased without a meal.

In response to a question from Mr Duncan, the Senior Licensing Officer confirmed that they needed to know the address as anyone could make representations.

Mr Duncan indicated that he was objecting to the opening of the premises at 7.00 am due to noise and the later opening hours due to the disturbance by patrons getting into taxis.

Dr Aylott, other person indicated that her main concern was the bi-fold doors which would become an extension to the premises onto the street which would disturb residents. The Applicant had assured her that everything would be contained inside the premises which would be high end with good quality food and a well-run business.

She was concerned of smoking outside the premises but again the applicant had reassured her that he would keep a check on this. She was concerned about the extension to the opening hours in the morning and had moved her bedroom to the rear of her property and indicated that other premises in the area were not open that early. Serving would be from 7.00 am but they would be in the premises from 6.30 am to prepare but she had been advised by the Applicant that no tables and chairs would be outside the premises at 7.00 am.

Mrs Duncan, other person referred to the problems associated with the premises with the previous owner. She lived 2 doors away from the premises and if the bi-fold doors were open, sound would travel. She was concerned of the later opening hours as previously they had to shut their windows and turn up the tv due to the noise from the premises. They needed reassurances that this would not happen again as she worked nights and needed to sleep during the day.

Councillor Atkinson asked if any other businesses in the area affected them.

Mrs Duncan responded that the Queen Bee closed at 10.00 pm and the Lamp Room closed at 11.00 pm. There were some café/restaurants further along but did not have the same opening hours as those proposed.

Dr Aylott indicated that Dempseys Bar was further along, and the Port of Call was open late which caused disturbance with glasses and bottles left on window sills but were not associated with the café. She indicated that the move from residential to commercial in the area had been quick.

Mrs Duncan showed Members a photograph of how the street looked 3 years ago.

Councillor Brown asked for confirmation that their biggest issue was with the earlier opening hours.

Objectors confirmed that it was the earlier opening hours and an evening if the bi-fold doors were going to be open as noise would not be contained. There were also thinking ahead as there were plans to extend the path and take away the parking which would make the outside area larger.

The Chairman sought clarification if the sale of alcohol would extend past 11.00 pm.

The Senior Licensing Officer responded that the Applicant were asking for an additional hour on a Thursday and 90 minutes on a Sunday and provided members with details of the opening hours of other premises in the area.

The Chairman asked if there were issues with anti-social behaviour.

Mrs Duncan responded that the club next door, most of the patrons were elderly.

Mr Duncan indicated that the Port of Call patrons stand outside against their wall.

The Applicant indicated they had recently refused entry to some people as they were not the type of customer they wanted to attract.

The Applicant then addressed the Sub-Committee and indicated that the reason for the extension on the morning was they had been approached to ask if they would open earlier so people could get a coffee to take to work and dog walkers wanting a coffee. They are currently in the premises early on a morning and they had a number of people asking if they were serving and it would be easy to turn on the coffee machine. Their neighbours opened at 8.00 am but it was not a problem if they wished to keep in line with their neighbours. The tables and chairs had rubber feet and were light so would not create much noise. He could not imagine that taxis would be pulling up that time in the morning.

They were very sympathetic to their neighbours and had tried to engage with as many as they could and had knocked on doors. They could currently serve alcohol until 11.00 pm but they closed at 11.00 pm. In line with the licensing objectives they were hoping to have drinking up time to allow patrons to disperse in a staggered period. The clientele they were targeting

was the 35 plus, he did not want to be open at 12.00 midnight and his target was a social drink in the late afternoon and early evening in nice surroundings. He did not intend to have specials like buy one get one free and their prices would not be the cheapest around to keep away a certain type of customer.

Councillor Blakey asked when they would stop serving food.

The Applicant responded that they would serve a reduced menu after 6.00 pm but they had only just opened so they were still learning but it was not a restaurant and they would be serving the likes of paninis.

Councillor Blakey then sought clarification on the use of the bi-fold doors.

The Applicant responded that they wanted to create a continental atmosphere and the doors would help with this and make the premises look bigger. They would take advantage of the doors during the day, but they would be closed by 8.00 pm and indicated that Harbour View had obtained planning approval for their bi-fold doors, they had submitted a planning application which was currently being considered.

The Council's Solicitor asked the Applicant to clarify if he was willing to amend the application to 8.00 am on the morning.

The Applicant confirmed that was the case.

Mr Duncan indicated that he was happy with the revised opening times, but they would still be disturbed by taxis for an extra 30 minutes on an evening.

The Applicant responded that he would contact local taxi firms and had a friend who was prepared to be a resident taxi, but other premises were open later who would require taxis.

Mr Duncan responded that the other premises did not impact on them as there were no residents in that area.

Dr Aylott indicated that the premises close, but residents have an extra 30 minutes of disturbance while patrons wait for taxis.

The Applicant responded that he did not envisage them getting much trade after 9.30/10.00 pm and they were not targeting the younger people and had priced them out.

The Senior Licensing Officer advised that the opening hours were not a licensable activity so they could serve tea/coffee without a premises licence.

Members asked if the music levels were an issue.

Residents indicated that if the doors were closed and it was background music then it was not so much of an issue but if the music was loud and the doors were open then the sound travelled straight up and was like an amphitheatre.

The Applicant advised that it would only be background music which would not be amplified as they wanted customers to be able to chatter.

All parties were asked to sum up.

Dr Aylott indicated that they had a good dialogue with the Applicant and was confident that any problems they could go direct to him which they did not have that option with the previous owner.

The Applicant indicated that he was new to this and had taken the whole thing seriously. He had done a lot of staff training and wanted to engage with residents who he saw as stakeholders, who he did not want to fall out with.

At 10.35 am the Sub-Committee retired to deliberate the application in private. After re-convening at 11.00 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had taken into account the report of the Senior Licensing Officer, verbal and written representations of the Applicant and 'Other Persons' and written representation from responsible authorities. 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 application for the variation of a premises licence be granted as follows:

Licensable Activities	Days and Hours
Sale by Retail of Alcohol (on and off sales only)	Thursday 11:00 hrs - 23:00 hrs Sunday 11:00 hrs – 22:30 hrs
Recorded Music (indoors)	Monday to Wednesday 11:00 hrs - 22:00 hrs Thursday to Sunday 11:00 hrs – 23:00 hrs Sunday 11:00 hrs – 22:30 hrs
Opening Hours	Monday to Wednesday 07:00 hrs – 22:30 hrs Thursday to Saturday 07:00 hrs – 23:30 hrs Sunday 07:00 hrs – 23:00 hrs

Cllr Blakey left the Meeting

K Robson (Senior Licensing Officer) left the Meeting

Y Raine (Senior Licensing Officer) joined the Meeting

5 Application for the Grant of a Premises Licence - Spice Island, 9 Market Place, Barnard Castle

Councillors C Hampson, P Atkinson and D Brown

The Committee considered the report of the Corporate Director of Regeneration and Local Services regarding an application for the Grant of a premises licence for Spice Island, 9 Market Place, Barnard Castle (for copy of report, see file of minutes).

A copy of the application and supporting documents had been circulated to Members together with copies of the representations received and responses from responsible authorities.

The Senior Licensing Officer presented the report and advised Members that there was already a Premises Licence in force at the premises, but a new application had been submitted so that the second floor of the building could also be utilised for the provision of licensable activities. The application was for the Sale of Alcohol for consumption on the premises, the provision of Indoor Recorded Music and the provision of Indoor Late Night Refreshments. Following mediation with Durham Constabulary the applicant agreed to amend the timings which were now from 07:00 hrs until 00:00 hrs Monday to Sunday, Bank Holidays and Sundays before a Bank Holiday with an extension of hours on Christmas Eve and New Year's Eve until 02:00 hrs.

Following Mediation with the Durham Safeguarding Children Partnership and Durham Constabulary, the applicant added additional conditions to the application, details of which were provided in the report.

One letter of support had been received from Barnard Castle Town Council and four objections to the application were received, one from a responsible authority namely Environmental Health and three from 'Other Persons'.

The Licensing Authority received comments not amounting to a representation from the Planning Authority.

Mr M Anslow, representing Environmental Health indicated that they did not have particular concerns in the granting of the premises licence it was the details of the ingress and egress through an external staircase which was in close proximity to residential properties. Even though the timings had been

reduced people would be using the alleyway to access the external staircase. There was no proposal for a lobby at the top of the staircase so there would be a breakout of music, with the nature of the alleyway raised voices would be heard and people would be smoking in the alleyway which also served residential properties. Environmental Health felt that the application did not meet the licensing objective for public nuisance.

Ms E Rowell, other person indicated that she was the leaseholder of the book shop which was adjacent to the premises and she had two stalls in the shared court yard which she was wanting to develop. She had not objected to the planning permission as she supported the business, but if the business was going to be used in the way the applicant wished it would be to a detriment to her business. She would not be able to extend her business as customers would need to walk through the alleyway which would become a smoking area. She was currently concerned by the level of rubbish associated with the premises which was left after service for her to clear up as her premises opened at 9.00 am. They also had to clear up vomit and they were concerned that this was going to increase. During construction she had to cancel some events due to noise and she had asked about some form of sound proofing as the property was a metre and a half from her bookshop. Music had been played by the contractors and she was worried if music was played in the area it would curtail her business. Her main concerns were noise, smoking and rubbish.

She then spoke on behalf of Mr Brummitt and Ms Henderson who shared a party wall and were worried about music and more noise as their bedroom adjoined the property.

Councillor Brown indicated that he understood there was a noise problem, but Barnard Castle was a vibrant market town and he could not see how noise was going to interfere with their business.

Ms Rowell indicated that only some of the residents made formal objections but people in the town were dissatisfied with the increase in noise. A meeting had recently taking place that Councillor Rowlandson was invited, and the concerns raised at the meeting were noise and rubbish which was a problem and would increase.

Members asked if the alleyway was shared.

Ms Rowell responded that the alleyway was 1.2m wide and was a shared area with mixed use. There was a stair case covering the alleyway and there was already a pot washing area in the alleyway.

Councillor Brown asked where the rubbish was stored.

Ms Rowell responded that rubbish was stored at the front of the property outside her shop and was there until the workers took it back inside at 5.00 pm. The rubbish was mostly food which meant that she was unable to use the seating area outside her shop due to the smells from the bins. Her staff also had to deal with detritus from smoking, she had spoken to the street cleaners, but this had made little impact.

Councillor Atkinson referred to other businesses also being responsible for litter.

Ms Rowell indicated that over the road from the Spice Island was residential properties and holiday cottages who had complained previously in relation to the extraction noise and some had decided to sell their properties. The area was small and was medieval yards.

Mr S Ahmed the Applicant indicated that he had recently had a meeting with the planning department, and they were revising the application to remove the external staircase as an access for customers due to how it could affect neighbours. He had been in business for 25 years and he wanted to make sure everyone had a decent living. They were planning on using the existing fire exit so the external staircase would not be required for customers so the alleyway would not be used by their customers.

The Council's Solicitor asked the Environmental Health Officer if the removal of the external staircase would change their opinion on the application.

The Environmental Health Officer responded that if the external escape was removed from the application then they would withdraw their representations.

The Applicant confirmed that the revised plans should be ready and submitted by Friday.

Ms Rowell responded that the area would still be used for smoking and an external seating area.

The Applicant indicated that they had no plans for a smoking area or external seating.

Councillor Ali gave a character reference for Mr Ahmed and indicated that the business had just won an award. The bins were left outside on the front as advised by the Council. The business had been established for 25 years and was a cocktail lounge and she often had charity events at the premises and never had any issues. If the license was granted for the revised times this would resolve the issues as staff would be in the premises earlier.

The Restaurant Manager indicated that they were trying to develop a new Indian concept with cocktails in a relaxed atmosphere. The premises would be a central kitchen to supply food and would employ 10 people.

The Applicant presented his case and indicated that he had been a DPS since the age of 20. He commented that it had been said that he would not be able to handle a late-night establishment, but he had managed bars and restaurants for 17 years, so was well equipped to handle the licensing hours. It was not a nightclub or pub but a restaurant with 40 or 50 seats with a lounge upstairs where people could wait for their table to be ready downstairs and have a cocktail or a coffee. It would be a relaxed atmosphere with no rowdiness as this was not their concept. There were several restaurants in the area with 3 floors and indicated that the problems in the vicinity were caused by late night clubs which they weren't, they were just asking for the opening times to be extended.

They wanted to extend their licence to midnight, and they were no complaints about their current licence or harm to children. They had a good record and were a responsible business. They wanted to give back to the community and wanted to employ more people which would be beneficial to the town. They bought local produce and the setting up of a hub would benefit everybody. They were trying to address as many concerns as they could as they did not want anyone to be affected. There was always going to be noise, but they had tried to reduce the impact and were sound proofing in excess of the expectations to ensure that everyone was happy.

Councillor Brown referred to the letter of support from the Town Council and asked what connection they had with the Town Council.

The Applicant responded that if they had any concerns, they would go to the town council. They had advised the Town Council of their proposal and asked their opinion and in this case, they supported their proposal.

Councillor Atkinson asked what provisions they had in place for smokers.

The Applicant indicated that they did not have a designated area for smoking so they could not control this.

The Council's Solicitor sought confirmation on the external staircase.

The Applicant responded that the initial plans had an external staircase, but new plans were to be submitted that removed the use of the external staircase which would be submitted on Friday.

At 11.45 am, the Council's Solicitor asked for the meeting to adjourn to allow Members to consider if they should proceed with the hearing in view of the revised plans.

The meeting re-convened at 11.55 am and the Chairman confirmed that they needed to determine the application on the revised plans.

Resolved: That the meeting be adjourned until the revised plans were submitted by the Applicant.