

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Friday 24 January 2020 at 10.00 am**

### **Present:**

**Councillor J Maitland (Chair)**

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

Councillors A Hopgood and K Liddell

### **Also Present:**

Councillor D Brown – other Member

Karen Robson – Senior Licensing Officer

Valeri Craig – Licensing Officer

Stephen Buston – Solicitor, DCC

Mark Anslow – Development Assessment Team Leader, DCC

Mr Cetin Koroglu – Applicant

Avan Hadi – proposed DPS

Matt Foster – Solicitor on behalf of Applicant

Councillors Esther Ashby and Liz Brown – City of Durham Parish Council

Rosemary Zakrzweski – other person

### **1 Apologies for Absence**

An apology for absence was received from Councillor M Wilson.

### **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 - 1920 Bar and Grill, 19-20 Elvet Bridge, Durham**

The Sub-Committee considered a report of the Corporate Director of Regeneration and Local Services regarding an application for the grant of a Premises Licence in respect of 1920 Bar and Grill, 19-20 Elvet Bridge, Durham (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members, together with additional information from the Applicant's Solicitor enclosing a Noise Management Plan and comments from Environmental Health.

Karen Robson, Senior Licensing Officer reported that St Nicholas Community Forum were unable to attend but had said that they were pleased with the offer of earlier closing for the benefit of residents and that serious attempts had been made to consider the impact of noise.

Councillor Ashby addressed the Sub-Committee on behalf of the City of Durham Parish Council. The Councillor commenced by stating that it must appear that the Parish Council submitted objections in respect of Durham City venues habitually. She assured Members that this was not the case; the Parish Council took their responsibility to residents seriously. Durham City was a very fragile commercial and economic environment. Their comments were aimed at that and related to the licensing objectives prevention of crime and disorder and public nuisance.

The map in the Bundle illustrated the sensitivity of the location of the premises. Parishioners leaving Elvet Methodist Church one evening at 9.30pm had been astonished at the level of noise in the City and had traced it nearly as far as the Cathedral. The river basin acted as a noise magnification feature.

The Parish Council were grateful that a Noise Management Plan had been offered, and Councillor Ashby then addressed the conditions listed in the Operating Schedule.

Condition 1 was welcomed. There was a great deal of detail about how the business would operate and much had been made by the Applicant of the need for flexibility, as the clientele would vary during the day.

The Parish Council asked that condition 6 be amended to include that Door Supervisors would be provided at the end of the night, particularly on Wednesday, Friday and Saturday evenings, rather than being provided on a risk assessment basis.

Referring to condition 7(c) the Parish Council asked if CCTV coverage could extend to the area outside the toilets. Drugs were a concern and drug exchange and use tended to occur in the toilets of premises.

Councillor Ashby then addressed the Noise Management Plan and the comments of Environmental Health, and asked why the application for a Premises Licence had been submitted before the planning application. The comments of the Environmental Health Officer in this regard underlined a point the Parish Council had made very strongly when the Council reviewed its Licensing Policy; that there should be much greater communication between the planning and licensing regimes.

The Parish Council were also pleased that the hours of operation had been rolled back an hour during the week but were disappointed that there was not a similar roll-back on Friday and Saturday evenings. They did however appreciate the market in which the premises would be competing.

It was pleasing that the Noise Management Plan clearly set out what sort of business the Applicant was trying to promote but asked if point 3 of proposals to support the operating style and conditions could include that 'all music shall end 30 minutes before closing time'. This would ensure that customers had 30 minutes for their voice levels to return to normal before entering the street.

Referring to the Parish Council's letter of representation included in the Bundle, Councillor Ashby stated that the additional information provided by the Applicant went some way towards resolving their original representations. The Applicant had offered to bring in all street furniture from the terrace at 11.30pm. The Applicant had proposed that no tipping of glass bottles would take place after 11.00pm but the Parish Council would like to see this amended to 10.00pm.

Mr M Foster, the Applicant's Solicitor addressed the matters raised by the Parish Council at this point. He confirmed that condition 8 could be amended to prevent the tipping of glass between the hours of 10.00pm and 08.00am. He could not confirm at this point whether the street furniture would be stacked or taken inside the premises at 11.30pm. The Applicant would have to apply for a pavement café licence which would impose separate conditions.

In the last 30 minutes background music would be played and he could not envisage a problem with installing CCTV outside the toilet area. With regard to the provision of Door Supervisors, Mr Foster explained that due to the costs involved, they would be provided on a risk assessment basis. This was a large overhead if they were not needed.

Ms Zakrzewski addressed the Sub-Committee. As a member of St Nicholas Community Forum, she supported the comments they had made, and as a resident of the City she agreed with much of what had been said by the Parish Council.

She welcomed the earlier closing offered by the Applicant but was concerned that this would be near to the closing time for Blue Eye. Ms Zakrzewski was concerned that groups would gather on the street late at night. The nearby Tin of Sardines closed at 12 midnight on Fridays and Saturdays. Ms Zakrzewski would prefer 01.00am for 1920 Bar and Grill.

She noted that the proposed demographic was 25+ and asked how students under this age would be deterred from visiting the premises. She was pleased that staff would receive training and asked if it would be given to a certified standard, and in particular Door Supervisors who had to be very good at dealing with customers.

It had been mentioned by the Parish Council that noise carried a long way, even with doors closed. The doors would be opened and closed all the time the terrace was open. She understood that films could be shown late in the evening, and she asked if the doors and windows would be double or triple glazed.

Ms Zakrzewski referred to Section 182 Guidance, paragraph 2.4 which referred to the potential for a ring-round phone system which would enable the premises to contact the Police in the event of an issue. She asked if this system would be installed at 1920 Bar and Grill.

With regard to the balconies these were narrow spaces and accidents could happen. She asked that fencing be chest high to reduce the risk of falls.

Councillor Maitland interjected that the reference to balcony safety was a planning matter. Ms Zakrzewski hoped that the comments of Councillor Ashby in respect of communication between licensing and planning could be taken into account by the Authority.

Mr Foster explained that Door Supervisors must be licensed in accordance with SIA. Staff would be trained by TJR Licensing Consultants and would include training in respect of drug awareness. Pubwatch radios would be deployed.

Mr M Anslow of Environmental Health summarised the additional information provided. The premises did not have the benefit of planning consent, currently having A3 Use Class to 11.00pm. 1920 Bar and Grill were looking for Class A5 use to 02.30am. He was concerned that planning permission had not yet been secured; there were issues within the planning regime that

were not addressed by licensing. Because of the separate regimes he had examined hypothetical issues with the Applicant's Agent and had proposed conditions that were likely to be suitable, although it was not possible to predict the outcome of any planning consent. There may need to be changes to hours, the building structure and layout to address residential impact.

He was of the view that the hours of closing during the week should be either 12.00 midnight or 12.30am which was more suited to an area which consisted of restaurants, and residents.

Mr Anslow noted that background music was proposed to a level that would allow customers to hold a conversation, yet this was contradicted by proposals for a dance floor.

To conclude Mr Anslow stated that should the application be granted, the proposed additional conditions be imposed.

Mr Foster addressed the matters raised by Mr Anslow. He understood why the Authority may prefer that planning consent was secured before an application for a Premises Licence was submitted, but this was not a legal requirement. The regimes were very different and this was suggested in Section 182 Guidance. Mr Buston, Solicitor confirmed this to be the case.

Mr Foster then addressed the Sub-Committee on behalf of the Applicant. Mr Koroglu was experienced, already operating Blue Eye in the City. He had taken a lease on this property and was in the process of securing planning permission. Mr Foster referred to the CV of the proposed DPS who was a person of significant experience.

Mediation had taken place with Durham Safeguarding Children Partnership with the result that the Applicant had agreed to implement Challenge 25.

The Operating Schedule had been bolstered by the Noise Management Plan, and hours had been reduced.

The premises offered a different experience to other venues in the City. The business would operate over two floors, with a predominance of seating. The use of the upper floor would depend upon demand, and may be used for private parties. The premises would trade from early in the morning serving breakfast, with a more obvious Italian food theme during the day, and a bar and grill on an evening. Meals would be served until 10.00pm with light bites after that.

Drinks would focus on good quality wines with only three premium ales on draught. Entertainment may take the form of, for example, a live acoustic singer, and background music would be provided. This would be an

accompaniment to the main offering of food. Meeters and greeters would seat customers who would be offered table service.

1920 Bar and Grill would be a destination venue, not a circuit premises, attracting customers who visited for a meal and then stayed throughout the evening.

Mr Foster took Members through the conditions included in the Bundle, and the additional measures in the Noise Management Plan. Other than the planning point raised and the hours of operation during the week, Environmental Health were satisfied. The hours requested during the week was to give some flexibility but the premises would most likely close at 11.00pm weekdays.

With regard to the Framework Hours, the Statement of Licensing Policy stated that if an application was outside these hours, an Applicant could expect greater scrutiny, and Mr Foster considered that the Applicant had provided more than would be expected to address this. The Policy listed the types of premises which were not considered to make a significant contribution to problems late at night such as cinemas and theatres. The premises did not fit with these and he felt this supported a departure from Framework Hours.

The premises would employ 30 staff. The representations from Environmental Health were generally supportive.

Following a question from Councillor Maitland about off-sales Mr Foster confirmed that the intention was to allow customers to take home unfinished bottles of wine only.

Councillor Hopgood noted that the premises would have 110 covers over two floors, but the Fire Authority had specified a maximum capacity of 80 seats. The Member asked if the remaining covers would be served on the terrace. Mr Foster replied that occupancy would be determined when the work to the premises was completed. The Fire Authority had not made a representation and they had not inspected the premises. Capacity would be dealt with through Building Regulations and a Fire Safety Risk Assessment.

Councillor Hopgood commented that providing live music and a dance floor seemed to be at conflict with what the Applicant was trying to achieve, and that the proposed business was not unique in the City.

Ms Zakrzewski asked if singers would be amplified. Mr Foster advised that they would be happy to include a condition preventing amplification.

Following a question from Councillor Maitland about ticket events, Mr Foster confirmed that some events may include offers on food and drink on a time limited basis.

All parties were invited to sum up.

Councillor Ashby stated that the letter from the Parish Council included in the Bundle summed up their position and they were very grateful for the negotiations and proposed amendments. She hoped the Sub-Committee would take into consideration their request for further conditions.

Ms Zakrzweski requested that the comments made regarding communications between planning and licensing be conveyed to the Authority.

Mr Foster concluded that the application should be considered on its individual merits. Those who had made representation were more satisfied with the proposals than their original submissions and the Applicant had worked with Environmental Health to introduce measures to their satisfaction. He asked the Sub-Committee to consider the proposed measures and grant with the amendments. He reiterated that there was no legal requirement for planning permission to be in place first and the matter of Framework Hours had been addressed. This was the beginning of the process for this new business. If there were issues with the premises in future there were options available to residents and Responsible Authorities.

At 11.35am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 12.05pm the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, and additional information received from the Applicant and Environmental Health, and the verbal and written representations of the Applicant's Agent, Responsible Authority and other persons.

**RESOLVED:**

That the application be granted as follows:

Activity	Days & Hours	
Proposed Opening Times	Monday to Thurs	07.00 to 00.30 hours
	Friday to Sunday	07.00 to 01.30 hours
Proposed Sale of Alcohol (for consumption on and off the premises)	Monday to Thurs	07.00 to 00.00 hours
	Friday to Sunday	07.00 to 01.00 hours

Proposed Late Night Refreshment (indoors/outdoors)	Monday to Thurs Friday to Sunday	23.00 to 00.00 hours 23.00 to 01.00 hours
Proposed Exhibition of Films & Recorded Music (indoors)	Monday to Thurs Friday to Sunday	07.00 to 00.00 hours 07.00 to 01.00 hours
An additional hour for change from GMT to BST and New Years' Eve to the start of the permitted hours on New Years' Day		

- 1) The premises shall operate as a restaurant/bar providing food and drink. There shall be no change to the operating style without proper written notice to the Licensing Authority, which shall include details of the operating style proposed. The Licensing Authority shall advise within 21 days whether a formal application for full or minor variation or a new licence is required, and the licence holder shall comply with that direction.
- 2) A meeter/greeter will be on duty from 20:00 to direct customers to their tables.
- 3) Waiter/waitress service will be available throughout the hours that the premises are open.
- 4) A substantial food menu will be available from 12:00 until 22:00 every day.
- 5) Sales of alcohol, for consumption off the premises, are restricted to customers taking away resealed, unfinished bottles of wine (or similar) and those seated in a designated pavement café area.
- 6) The operator shall ensure that at all times when the premises are open for any licensable activity, there is 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.
- 7) A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Durham Constabulary. Such a system shall:
  - a) be operated by properly trained staff;
  - b) be in operation at all times that the premises are being used for a licensable activity;

- c) ensure coverage of all entrances and exits to the licensed premises internally and externally;
  - d) ensure coverage of such other areas as may be required by the Licensing Authority and Durham Constabulary;
  - e) provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained on paper or otherwise may be put on tape or otherwise (for a period of 28 days) and shall be supplied to the Licensing Authority or Police Officer on request.
- 8) 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 the hours of 22.00 and 08.00 and any such skip, bin or container shall not be removed from the premises between those hours.
- 9) Noise from the licensed premises, including noise from patrons, amplified music and live music shall not be audible beyond the boundary of the premises, or within any of the parts of the building which do not form part of the licensed premises, so as to cause nuisance to nearby residents or businesses.
- 10) Subject to the exemption within Section 150(4) of the Licensing Act 2003, all members of staff at the premises shall seek credible photographic proof of age from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol on the premises. Such credible evidence shall include a photograph of the customer which will either be a passport, photographic driving licence or proof of age card carrying a PASS logo.
- 11) The premises will operate a record of refusals, either being digital or on paper. Such a record will be available to the Police, Trading Standards or the Licensing Authority upon reasonable request.
- 12) The premises will keep a record of incidents taking place at the premises. Such a record will be available to the Police, Trading Standards or the Licensing Authority upon reasonable request.
- 13) The premises will operate staff training for all members of staff, and those involved in the sale of alcohol will be trained in regard to responsible sales of alcohol, including Challenge 25.
- 14) The premises will have a minimum of 80 seats available at the premises at all times when both floors are trading. If only one floor is trading, then it will be a minimum of 40 seats.

- 15) The premises will operate a maximum of three draft products at the premises, which will not include a guest ale which might be offered occasionally.
- 16) Live music on the premises shall be limited to acoustic instruments with amplified voice and backing music.
- 17) Music played at the premises should never be played at such a level, as customers cannot talk in comfort.
- 18) All doors and windows to be closed during performance of music, except for access and egress.
- 19) There will be a prominently placed sign at the entry/exit to remind customers to be quiet and refrain from shouting when they leave the premises.
- 20) Prior to the undertaking of licensable activities, an Outside Management Policy shall be submitted to and approved in writing by the local Environmental Health Department. The policy shall aim to identify how the use of all outside areas, including on street seating and terraces, shall be operated so as to minimise the potential for public nuisance. The approved outside management policy shall be adhered to at all times that licensing activities are occurring at the premises and shall form part of staff training.
- 21) Only background music shall be allowed in the scheduled last half hour of trading. For the avoidance of doubt, this shall be background music only:

Monday to Thursday	00.00 – 00.30
Friday to Sunday	01.00 – 01.30
- 22) The External Terraces and on street seating area shall be closed to the public after 23:00.
- 23) Prior to the undertaking of licensable activities, an Outside Management Policy shall be submitted to and approved in writing by the local Environmental Health Department. The policy shall aim to identify how the use of all outside areas, including on street seating and terraces, shall be operated so as to minimise the potential for public nuisance. The approved outside management policy shall be adhered to at all times that licensing activities are occurring at the premises and shall form part of staff training.
- 24) The licence holder will sign up to, and engage fully with, the local PubWatch scheme.