

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in County Hall, Durham
- County Hall, Durham on **Tuesday 27 July 2021 at 1.30 pm**

Present:

Councillor C Hampson (Chair)

Members of the Committee:

Councillors E Peeke, D Sutton-Lloyd and E Waldock

Also Present:

Helen Johnson – Licensing Team Leader
Gill Proud – Solicitor, DCC
Kate Stanley – other person
Andrea Irving-Morse – other person
Lesley and Neil Edmenson – other persons
Gary Forster – applicant
Matt Foster – applicant's representative

1 Apologies for Absence

An apology for absence was received from Councillor David Brown.

2 Substitute Members

Councillor Hampson substituted for Councillor Brown. Councillor Brown was in attendance to observe the meeting but took no part in the proceedings.

3 Declarations of Interest (if any)

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Lost Robot, 6a Church View, Sedgfield

The Sub-Committee considered the report of the Licensing Team Leader regarding an application for the grant of a Premises Licence in respect of Lost Robot, 6a Church View, Sedgfield (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to all parties, together with additional information.

The Licensing Team Leader informed the Sub-Committee that other person, Mrs Elliott had advised that she was unable to attend the hearing and the Sub-Committee was asked to take into account her written representations.

Kate Stanley was invited to address the Sub-Committee and stated that she was speaking on behalf of herself, her husband and four children. The application was in conflict with three of the licensing objectives; prevention of public nuisance, prevention of crime and disorder and the protection of children from harm.

Kate Stanley stated that she did not intend to reiterate her written objections but would give her personal views. The licensing objectives were there to protect members of the public from concerns. The premises were located in a residential street and her home was immediately adjacent, with their front windows a couple of metres apart. Planning permission had been granted for change of use to Class A1, and whilst she did not want the premises to remain empty, she had received queries about a gin bar and when it was going to open, and had heard that the use class would change if the application was granted.

The reality was that this was an off-licence and the price of the alcohol did not matter; it was a business selling alcohol.

Kate Stanley's home and the premises shared the same front lawn, where her children, and the children of Mrs Elliott, and their friends played.

She felt that it was naïve to think that customers would take the alcohol home. Outside drinking and associated anti-social behaviour was a problem in the village. Young adults regularly purchased alcohol and consumed it on the village green and in bus stops.

The premises were immediately connected to her own and she needed to protect her children; she did not think it unreasonable for the Sub-Committee to do the same when determining the application. The decision Members made today would impact upon her family life.

Following questions of Kate Stanley from Lesley Edmenson, it was clarified that the lawns were owned by the Parish Council and that Mrs Stanley parked her car on the driveway, maintained the lawn and her children played on it.

Andrea Irving-Morse was invited to address the Sub-Committee. She stated that she owned 4 Church View which had been converted to offices. She had

located in Sedgefield as it was a Conservation Area and also because it was an up and coming area for businesses. The general demographic was a mix of young and old.

She had been in the village for two years and had noticed on an evening lots of anti-social behaviour which seemed to be fuelled by underage drinking. This was alarming to her and over the years she had taken an interest in the educational side of alcohol and children, and the impact it had on family life. It was refreshing that Kate Stanley and Jo Elliott had lovely families. They maintained the lawn to the front, making it a nice environment for the community.

Andrea Irving-Morse often saw people consuming alcohol from bags on the field. The devastation and mess was horrific; bottles and plastic cups had been left after events which she frequently collected. The culture in Sedgefield was very much alcohol-induced. She had concerns for children and future generations of children as they would not have the influence of people who did not consume alcohol. The age group the business would be aimed at was said to be 25 plus, however Durham's alcohol harm reduction strategy found that men aged between 25 and 44 were a priority for prevention work.

There were four pubs in the village, as well as shops that sold alcohol. There were already enough places that sold alcohol. There were rumours about a gin bar opening and more recently a coffee bar. The intentions of this business were unclear.

Lesley Edmenson who was in support of the application addressed the Sub-Committee. She explained that she and her husband had an interior design shop next to the proposed business and it would not be in their interest to have a business selling 'bargain booze' next door. The applicant was known to them and his business was aimed at customers who were interested in high end craft beers. She felt that this would complement their business.

The premises were located in the centre of the village which had a busy high street, a pub and a café with seating outside over the road. 6a and 6b Church View were located next to an Italian takeaway. There was a nice bustle and she had no qualms about the applicant coming to the village to sell high-end beers.

Matt Foster addressed the Sub-Committee on behalf of the applicant. He explained that the application was for off-sales only for revised hours 10.00am to 17.30pm Monday to Saturday; the premises would be closed on Sundays. If there were aspirations for on-sales this would have been included in the application. The operating schedule included a description of the business. Takeaway coffee may be offered in future.

The business would pre-dominantly sell craft ale products in bottles and cans; it was a bottle shop. Customers would buy a selection of different types of beer from local brewers, not lots of the same product. People would go to a supermarket to do that.

The business was located across two floors. The ground floor and basement would be licensed, the basement would be used as a store room.

Mr Forster was a former teacher who saw an opportunity to pursue his dream of selling craft beer. He did not want the business to negatively impact upon neighbours. He had offered to meet with neighbours but they did not take up that offer.

The products would not be available outside specialist retailers such as this proposed business. The products were aimed at customers aged 25 plus with a more mature palette. Challenge 25 would be in operation.

The customer type would be beer connoisseurs who were prepared to spend a lot more on a product than what the supermarkets offered. Following mediation with the Police an additional condition had been added which required a risk assessment prior to events, however functions were not planned.

The applicant was committed to the lease. He pointed out that the business could operate as a sandwich shop or vape shop for example without the need for a premises licence.

Purchases could be made on-line with some deliveries being direct from the wholesaler to the client and some from the premises for local delivery. Doing this reduced the number of deliveries and food miles which was good for the environment. He accepted the premises could be busy, but it could also be busy without selling alcohol. This did not equate to a public nuisance, unless customers were causing a public nuisance.

Sedgefield had a number of restaurants and pubs which operated after 10.00pm. This business would be open between 10.00am and 5.00pm. He appreciated that fear came from the unknown but this application should be considered on its individual merits, not on rumours that it would be a gin bar or tap room. Representations must be about the likely effect of the application on the licensing objectives.

The shop was located in a mixed residential, retail and hospitality area and was the busiest part of the village. Mr and Mrs Stanley lived on one side of the premises and a restaurant was on the other side, then a hotel and restaurant, a pub, cafes and supermarket. The village green was flanked by

a café, a gift shop and a pub. There was an eclectic mix of premises and this business would fit nicely with those.

The papers for the hearing included conditions regarding CCTV, a refusals register, and staff training.

Letters from four breweries had been provided and circulated to all parties. The breweries were in support of the application, and talked about how important bottle shops were, how the products attracted older clientele, and how they were consumed at home as a tasting experience.

The information included prices of individual beers, most of which cost more than a four pack of supermarket sold beer and in some cases more than an eight pack.

The representations must be about the likely effect on one or more of the licensing objectives, with likely defined as more likely than not.

The grounds for refusal would be stronger if the evidence was linked to the premises. There was a fear of what might happen, there was no evidence of anti-social behaviour associated with the premises, no evidence from the Police, and no representations from Environmental Health. The hours had been agreed by Environmental Health as part of the planning application.

Underage drinkers were more likely to get alcohol from parents or stores. The Lost Robot was not providing a product that was attractive to underage drinkers.

The outside space could not be used, it did not belong to the premises. Seating was not provided as there were no on-sales and there should be no litter problems.

The applicant had attempted mediation and whilst it had been successful with Mr Carr there had been no interest from residents.

Mr Foster reminded the Sub-Committee of the Thwaites case; the residents were asking the Sub-Committee to speculate as there was no evidence to support their representations.

The Police had not objected and one resident had provided a crime map but this was of a much wider area. The narrower crime map he had provided showed a low level of crime, and there was no evidence that the Lost Robot would impact upon that.

Matt Foster concluded by referring to Section 182 Guidance which at paragraph 9.12 stated that 'each Responsible Authority will be an expert in

their respective field and it is likely that a particular authority will be will be the Licensing Authority's main source of advice in relation to a particular licensing objective'. None of the Responsible Authorities had raised concerns. The Police had not made representation and did not have a problem with operations of this type.

Questions were invited of the applicant. Kate Stanley referred to the argument that the business would not attract the sort of clientele who would drink at bus stops or be underage, and asked how the applicant would handle people drinking on the lawn to the front. She had no rights to that area and nor would the applicant. She also asked why the applicant thought that residents would not want a sandwich shop or vape shop, and for evidence that customers took craft ale home.

In response Matt Foster said that the applicant would remind customers that they were not permitted to drink outside and would call the Police if necessary. It was not the sort of product you would drink out of a bottle; it would normally be consumed from a glass at home.

Residents had expressed concern about footfall, a sandwich shop or vape business would generate more.

Regarding the consumption of alcohol at home, he stated that this evidence was anecdotal through speaking to his client, and to those who purchased craft ale, which included himself.

Kate Stanley referred to the offer of a meeting with residents and advised that she had been given a date but had been busy, and had been told that they could come and talk to her but hadn't followed that up. Matt Foster advised that he had offered a further meeting a week later but did not get a response.

Andrea Irving-Morse asked about the strength of the beers. Mr Forster stated that they varied widely from 3% to around the strength of wine. A 400ml can of wine strength beer would be £8.10 each. The beer would be consumed as a person would drink wine, or would be shared.

Following a further question from Andrea Irving-Morse, Matt Foster referred to the four letters from experts within the industry who knew what their demographic was, and their clientele were 25 plus.

Lesley Edmenson stated that she understood Kate Stanley's concerns about people sitting outside, and they would not want that to happen outside their own premises next door. She advised that they would make sure that it did not happen.

Councillor Waldock asked about staff training and was informed that this would be delivered by a Licensing Consultant.

Councillor Peeke asked what time of day youths were found to be drinking and was informed that they congregated around the bus stop, village green and to the rear of their properties and fields on Friday and Saturday afternoons until it got dark.

All parties were invited to sum up.

Kate Stanley stated that she appreciated what Lesley Edmenson had said about people drinking outside, but as a Mum she needed to protect her children. This application if granted would have a detrimental impact on her family and she did not want to have to police the lawn herself. There were licensing objectives to protect her and her family and she hoped they would. There was no evidence that the clientele would be aged 25 plus. Whilst on-line shopping had been referred to, in reality if someone was to go into the shop to purchase alcohol there was nothing to stop them sitting outside her house. Her children were aged between 2 and 11 years and Mrs Elliott had young children who all played on the lawn. She lived on a lovely High Street but they needed to be realistic about Church View; there had always been a break between two licensed premises but now this shop would also be licensed which was a metre away from her own home with a lawn that she did not own and could therefore not take enforcement action.

Andrea Irving-Morse concluded by stating that this was not just about public nuisance, it had an impact on every person. The alcohol harm reduction strategy for County Durham stated that alcohol was now consumed in the home hiding excessive consumption which was more difficult to police. She felt very strongly that an ethical stance was not being taken into account. There had been an emphasis on expensive beer when in reality it wasn't. Children purchased drinks such as champagne; this type of beer could be a magnet to these children. The Police should have looked at the application from a different perspective as when they would be needed, they would be thin on the ground.

There was an increased risk of alcoholism when alcohol was consumed behind closed doors. The North East had the highest level of alcohol-related deaths in the country.

Lesley Edmenson stated that she had lived in Church View for ten years and had never had to move anyone from the lawn or had seen anyone drinking outside. She did not think that this argument was valid.

Matt Foster asked the Sub-Committee to judge the application on its individual merits. Alcohol could not be sold on the premises, there were no

facilities to allow drinking on-site and a condition had been added to specify that there would be no seating. Licensing was a permissive regime, if representations were received then grounds to modify or refuse an application must be justified in terms of promoting the licensing objectives.

This shop was going to be open 10.00am – 5.30pm Monday to Saturday selling a very specialist product to a very specialist clientele. It was an expensive product which would not be purchased by young people who looked for ‘more bang for their buck’.

He requested that the application be granted as applied for.

Councillors Carole Hampson, Elaine Peeke and Emma Waldock **Resolved** to retire to deliberate the application in private with all parties being notified of the decision later in the day.

In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the written and verbal representations of other persons, and the written and verbal representations of the applicant and his representative. 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 Premises Licence be granted subject to modified conditions to that proposed in the operating schedule and the mandatory conditions set out in the Licensing Act 2003. The licence to be as follows: -

Licensable Activity		Days and Hours
Supply of alcohol (consumption off premises)		Monday-Saturday 1000 hours to 1730 hours
Open to the Public		Monday-Saturday 1000 hours to 1730 hours

No seating will be provided for customers outside to the front of the premises.

The Sub-Committee determined that it was appropriate for the promotion of the licensing objectives to add the following condition agreed during mediation with Durham Constabulary: -

A full risk assessment must be completed prior to all events and functions, this will be made available to police and authorised officers of the council on request.

The conditions proposed by the applicant in the operating schedule to be added to the licence.