

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in **Committee Room 2, County Hall, Durham** on **Monday 20 June 2022 at 9.30 am**

Present:

Councillor D Brown (Chair)

Members of the Committee:

Councillors C Hampson, C Hunt and M Wilson

Also Present:

Helen Johnson – Licensing Team Leader
Catherine Hazell – Legal Adviser, DCC
Matt Foster – Applicant’s Solicitor
Reza Khorami – Applicant
Ben Botham – Proposed DPS and Manager
Michael Kingston – Other Person

1 Apologies

An apology for absence was received from Councillor Alex Watson.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 5 May 2022 were agreed as a correct record and were signed by the Chair.

5 Application for the grant of a Premises Licence - Mixology, 93 Elvet Bridge, Durham

The Sub-Committee considered a report of the Licensing Team Leader regarding an application for the grant of a Premises Licence in respect of Mixology, 93 Elvet Bridge, Durham (for copy see file of Minutes).

Additional information had been provided by the Applicant's Solicitor and had been circulated to all parties. A plan was also provided which showed the proximity of the premises to other licensed premises in the locality.

The Licensing Team Leader advised that other person Mr Headley had advised that he was unable to attend.

Mr Kingston was invited to address the Sub-Committee and commenced by passing on Mr Headley's apologies and advising that he was also speaking on his behalf, who were residents of St Andrew's Court.

Mr Kingston referred to the representations included in the report and highlighted their concerns which related to the potential for noise and late night disturbance. There were 36 flats to the rear of the premises with 70 plus residents. The photographs in the Bundle showed the proximity of St Andrew's Court to Mixology. Most bedrooms were to the rear of the building and faced the premises.

The three other pubs in the locality were quiet by 11.30pm and closed at midnight so that disturbance from those premises was minimal.

This new bar would be open until midnight during the week and at 1.00am on weekends, and they were concerned about the potential disturbance, unless internal controls were put in place.

The Applicant had said that the premises would be quiet and up-market but they only had the Applicant's word for that. To attract customers music levels may be increased and drinks offered at a discount; he understood a new business wanting to do this but it should not be at the expense of residents.

At this point two video clips provided by the objectors were shown. The clips showed the difference in character between the top of Elvet and the bottom. As residents of the bottom end of Elvet they were keen to ensure that there was not a transfer of noise levels from the top to the bottom as a result of the later opening. They appreciated that the hours requested were within the Licensing Framework Hours but Mr Kingston asked that the hours be granted in line with the other bars in the area. The reduced hour would make a difference to residents.

In conclusion he wished the new business success. The residents enjoyed socialising in Durham but did not want to be disturbed late at night.

Questions were invited of Mr Kingston. Mr Foster the Applicant's Solicitor asked if he accepted that Mixology had no rear area, unlike two other premises nearby. Mr Kingston stated that the premises did have a rear area but could not comment on its use. Mr Foster clarified that the rear area could not be used as the application did not include off-sales.

Following a further question from Mr Foster, Mr Kingston confirmed that St Andrew's Court was around 120 yards from Mixology and that there were other licensed premises in the locality including a restaurant and takeaway, however these were generally closed at the weekend hours the new bar would be operating.

Councillor Hunt asked if residents were suggesting a closing hour of midnight at weekends. Mr Kingston confirmed that an ideal would be 11.30pm Monday to Thursday and midnight at weekends. They wanted to see the premises do well and believed that business would be self-limiting during the week; weekends were their main concern.

Following a further question from the Legal Adviser, Helen Johnson confirmed that live or recorded music was licensable after 11.00pm. Background or incidental music was not a licensable activity.

Councillor Brown asked about the current position regarding noise from the other premises in the locality. Mr Kingston confirmed that both premises had outdoor areas which created noise at weekends but critically it was quiet from 11.30pm with next to no noise during the week.

Occasionally people vomited or urinated in the courtyard. St Andrew's Court was a u-shaped building with some apartments overlooking the main road, and most overlooking the river towards the top end of Elvet Bridge.

Councillor Brown noted that of the 36 properties only two objections had been received. Mr Kingston stated that he and Mr Headley represented the owners' association of St Andrew's Court.

Councillor Brown then asked if the residents had made representation to the Parish Council. Mr Kingston stated that the Parish Council had made representations in respect of the planning application which he understood had resulted in the modification to the hours. The residents had not been notified of the planning application so could not make representation.

Councillor Brown noted that the Police station was located in the vicinity but Mr Kingston advised that the station closed early evening.

At this point Mr Foster was invited to address the Sub-Committee and referred Members to the summary of the application at page 79. Conditions had been agreed with the Police, there were no concerns from Environmental Health and the application mirrored the planning permission granted.

The premises were split across three floors; a basement cellar, ground floor bar and seating, and a first floor seating area.

Mixology described the operating style of the premises which would be a cocktail bar. Mr Botham was a professional mixologist and would train staff. The cocktail menu had a core range of 20 cocktails and there would be a core range of bottled drinks. Cocktails would be priced at around £9.00; this was akin to restaurant prices.

The target market was mature locals; Mr Kingston was within their demographic. Customers would be able to talk in comfort over background music; the venue was not music led and this licensable activity had not been included in the application.

Entertainment would be the theatre of mixing the drinks on the ground floor with both standing and seating areas. Upstairs would be entirely seated and table service would be encouraged. The Applicant wanted this to be a destination venue.

Mixology was a genuine alternative to other premises in the City where the feature was overpowering music.

The premises could open at 7.00am when a breakfast offering would be served. Alcohol could be served to customers from 11.00am.

The premises had no outside area and no off-sales. The rear area was on a different level with a four foot drop to the ground and was not included in the planning permission. The Applicant may look to apply for a pavement licence to the front in future.

The circulated plan provided a snapshot of the premises in the locality. The hours applied for were within the Licensing Framework Hours.

Mr Khorami, the owner was invited to outline his experience in the hospitality sector and explained that he had been working in the industry for 7-8 years. He also owned a restaurant and bar on the other side of Elvet Bridge. He had worked as a chef in the past and had mixed drinks. He had been running family businesses in Iran since he was 15/16 years old.

He had a good relationship with the Police and Environmental Health with no previous issues. He wanted the premises to be a nice environment for customers to come for a drink and a chat. The nearby takeaway was open much later than the hours requested by Mixology.

He would employ 6 or 7 people; all businesses had suffered since the pandemic and he was trying to create jobs which would help local people and the City.

Mr Khorami added that he did not own Blue Eye as had been referred to in the written representations of Mr Kingston.

Mr Botham was invited to outline his experience. Mr Botham stated that he had been in the industry for 20 years since being a student. For the last 10 years he had trained people in mixology both at home and abroad. It would take around 4-6 weeks to train bartenders. In terms of table service training, staff would be trained to provide a restaurant type service and learn the ingredients in each drink.

Mr Foster continued that only two objections were outstanding. There were two premises in the area which had outside seating; Mixology did not. There was no regulated entertainment and customers would enter and leave via the front. The residents' properties were at least 120 yards from the premises and that included walking past other premises on the way.

The representations were concerned about what might happen but seemed to ignore how the application had been modified. The application had to be considered against the likely impact on the licensing objectives. No concerns had been expressed by the Police or Environmental Health. Section 182 Guidance stated that each Responsible Authority were experts in their field, and particular regard should be given to the Police. There was no evidence that there would be an impact and he felt that measures to mitigate concerns had been ignored by the objectors.

Questions were invited of the Applicant and his Solicitor.

Mr Kingston referred to the 120 yards distance quoted between St Andrew's Court and the premises, and noted that the route from Mixology to the apartments was convoluted. The photograph in the bundle showed more clearly the proximity of the rear windows to Mixology which was considerably less than 120 yards.

As regards the rear area and the four-foot drop, Mr Kingston considered that this could be overcome. Mr Foster clarified that this would require a new application.

If the character of the premises was as described this would allay their fears but Mr Kingston asked how the business would attract customers if it did not get the footfall expected. Mr Kingston was advised that it was a developing brand and the business would be promoted using social media and by reputation.

Mr Kingston asked how the extra hour would make a difference to the business and was advised that it was critical because people stayed out later on Friday and Saturday evenings.

Councillor Hunt asked if the purpose of the extra hour was to attract the customers from the other premises in the locality when they closed. Mr Foster stated that it was predominantly to keep customers in the premises, as a destination venue. Mixology would not attract customers who were chasing a last drink, not an expensive cocktail, and who were more likely to head into the centre of the City where it was more lively.

Councillor Brown asked about arrangements for bottle emptying and bin collection. Mr Foster said that waste and bottles were collected at the front of the premises first thing in the morning, in line with the other premises along Elvet.

All parties were invited to make a closing statement.

Mr Kingston stated that residents welcomed new businesses and wanted Durham to thrive and be more diverse. Residents were concerned about disturbed sleep at weekends. Their fears would be allayed by the type of business offered but had heard the same assurances from other bars in the past. Their main issue was the extra hour at weekends in comparison with the other premises in the vicinity.

Mr Foster stated that the Applicant was looking to provide diversity in the City. The leisure economy played an important role in terms of jobs, entertainment and the generation of local revenue.

The hours requested were within the Framework hours and this was a carefully considered application for a cocktail bar, offering an alternative to the louder bars in the City. The application had garnered little concern from residents or the Parish Council. What had had been heard was speculation about the impact of the premises which had been given careful thought to by the Applicant in order to mitigate concerns. There were no representations from the Police and Environmental Health who should be looked to for concerns regarding the licensing objectives.

The DPS and owner were highly experienced with a good relationship with the Police.

The Licensing Act was permissive legislation and if the licence was granted this was not the end of the process. The Act provided a mechanism for the review of a Premises Licence if there were any problems.

Additionally the Police and Environmental Health had powers to take immediate action should any issues arise.

He urged the Sub-Committee to grant the application.

At 10.35am Councillors David Brown, Carole Hampson and Cathy Hunt **Resolved** to retire to deliberate the application in private. After re-convening at 10.50am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had taken into account the report of the Licensing Team Leader, additional information submitted by the Applicant's Solicitor and plan of the area, together with video clips provided by other person Mr Kingston. Members took into account the written representations and the verbal representations of the Applicant's Solicitor, the Applicant and DPS, and Mr Kingston.

The Sub-Committee also considered the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

RESOLVED:

That the application for a Premises Licence be granted as follows and subject to the conditions that were consistent with the operating schedule, the mandatory conditions under the Licensing Act 2003, and with the conditions that had been mediated with Durham Constabulary:

Licensable Activities	Days and Hours
Supply of alcohol (on sales)	Sunday to Thursday: 11:00hrs to 00:00hrs Friday and Saturday: 11:00hrs to 01:00hrs
Late Night Refreshment (Indoors)	Sunday to Thursday: 23:00hrs to 00:00hrs Friday and Saturday: 23:00hrs to 01:00hrs
Proposed Opening Hours	Sunday to Thursday: 07:00 hrs to 00:00 hrs Friday and Saturday: 07:00 hrs to 01:00 hrs Friday to Saturday