

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2, County Hall, Durham on **Monday 6 February 2023 at 9.30 am**

Present:

Councillor L Brown (Chair)

Members of the Committee:

Councillors C Bihari, C Hampson, D Stoker and E Waldock

Also Present:

Helen Johnson – Licensing Team Leader
Stephen Buston – Solicitor, DCC
Wisterock William Stephenson – DPS
Mr Matt Foster – representing the Licence Holder
Mr David Cross – Noise Consultant
Councillor C Lattin – Durham City Parish Council

1 Apologies for Absence

No apologies for absence were received.

2 Substitute Members

There were no Substitute Members.

3 Declarations of Interest

Councillor Liz Brown declared an interest as a Member of the City of Durham Parish Council, who were in objection to the application, however informed the Committee she was not a Member of the Parish Councils Licensing Sub-Committee and had taken no part in the decision to object to the application.

4 Minutes

The minutes of the meetings held on 15 November 2022 and 17 January 2023 were confirmed as correct records by the Committee and signed by the Chair.

5 Application for the variation of a Premises Licence - Blue Eye, 25 Elvet Bridge, Durham City, Durham

The Chair welcomed everyone to the meeting and introductions were made. It was noted that five Sub-Committee Members were present to hear the application however only three Members were required to make the decision. The Council's Solicitor then outlined the procedure for the hearing.

The Licensing Team Leader presented a report of the Corporate Director of Neighbourhoods and Climate Change regarding an application to vary a Premises Licence in respect of The Blue Eye, 25 Elvet Bridge, Durham City, Durham (for copy of report, see file of minutes).

Parish Councillor Carole Lattin representing the City of Durham Parish Council addressed the Sub-Committee in objection to the variation. Councillor Lattin informed the Sub-Committee that the Parish were in objection to the application on the grounds of preventing a public nuisance, noting that it was expected and required of applicants when setting out their operating schedule to promote the Licensing Objectives. Councillor Lattin informed the Committee that the Parish Council Planning and Licensing Committee had met and in considering licensing policies had come to the conclusion that this application would fail to uphold the licensing objectives, adding the prevention of public nuisance was an important licensing objective noting if representations were made there would be grounds not to grant a licence or grounds to review or add conditions to an existing licence. Councillor Lattin requested that the Sub-Committee give proper consideration to the proximity of the premises to other businesses and residential properties, drawing Members attention to a list of properties within close proximity to the venue and the night time disturbances to neighbouring properties. The disturbances that could be caused by the second floor was unclear with it being advertised as a function room, noting the requirement for the windows to be closed when music was played. Councillor Lattin also raised concerns regarding the noise generated from patrons gathering outside, and those trying to be heard over the music, adding that the premises already operated outside the Licensing Framework hours, noting the conditions on the premises when granted planning permission in 2018, in particular condition three stating the operating hours were to be between 8.00am and midnight 7 days a week. Adding it was unclear to the Parish Council why the premises needed to extend the time and that the extension would be in conflict with the Council's Licensing Framework and the resident led "Shh 11pm-7am" campaign.

In response to comments from the Parish Council, the Council's Solicitor asked who was in charge of the of the "Shh 11pm-7am" campaign.

Councillor Lattin informed the Sub-Committee that the campaign started in 2022 and was ran by residents in conjunction with Durham University looking to acquire quieter streets. She added that local residents were surrounded by constant noise and with a 2.00am closing, by the time patrons had dispersed it would be closer to 3.00am before noise from the premises had settled.

Mr Matt Foster was invited to address the Sub-Committee on behalf of the Licence Holder. Mr Foster advised that the premises would be represented by Mr Stephenson who was the Designated Premises Supervisor (DPS). It was noted that the conditions had been mediated with Police and they were only looking to increase operating hours a further 30 minutes. Members were informed that that the premises had recently operated four Temporary Event Notices (TENs) with no objections and no issues with the premises operating the sale of alcohol until 2.00am and closing at 2.30am. Mr Foster informed the Sub-Committee that no one under the age of 18 were allowed in the premises after 11.00pm. There was no food sales on the premises outside of snacks and the premises operated during the day with a mixed clientele. The upstairs function room was entirely seated and not available for hire on Fridays and Saturdays, as these were busier times for the premises. It was noted that the venue was designed to be a place for customers to sit and talk with music to be played at a sufficient level to allow this, with no designated dance floor they were not looking to compete with the rest of Durham's night life. The Sub-Committee were informed that the applicant had only recently been made aware of the planning stipulations with regard to the premises admitting it was not ideal, before adding that there needed to be a clear separation between planning and licensing as stated in the Councils own Planning policy to avoid duplication of work. Noting that whilst ideally better to have planning in place first it was not a legal requirement. Adding that the framework hours were a guide for premises to decide there operating hours, adding that the representations made by the Parish Council had no evidence base to them and were speculating giving no particular evidence around this premises but the City Centre as a whole. In summary Mr Foster noted there had been no evidence provided by the Parish Council for grounds of refusal, no representations from Environmental Health and little intervention from the Police.

In response to questions from Mr Foster, Mr Stephenson informed the Committee that he had been working for Blue Eye since July 2022 and had been named DPS since December 2022, informing the Sub-Committee that under the TENs, the premises had operated the sale of alcohol until 2.00am and closed at 2.30am and had helped Police to customers to a safe place, noting his past experience of working in bars all across the Durham County area, adding that the music in Blue Eye was a background noise with limited music in the upstairs area and all outside seating was removed at 11.00pm. Mr Stephenson informed the Sub-Committee that there were limited safe places for young people to socialise which Blue Eye now provided and

reiterated they were not looking to compete with the rest of Durham City's night life.

In response to questions from Mr Foster, Mr David Cross informed the Sub-Committee that he had been a noise consultant for 40 years and had worked with various Local Authorities. Adding that he had made a couple of unannounced visits to the premises, the first being when it was closed. He carried out a survey from Elvet Bridge to Saddler Street and noted the most prominent noise source was Jimmy Allen's. Informing the Sub-Committee when Blue Eye was in operation, nothing could be heard from Saddler Street, and the noise was a mix of establishments at Elvet Bridge reiterating Jimmy Allen's was the most dominant source of noise and no noise could be heard from Blue Eyes from 20 meters away with the exception of a low hum from the base. Mr Cross added that he had made recommendations to Blue Eye to nullify the little noise created which included:

- Move the speaker located at the front of the building to the rear;
- Relocate the base speakers and have them facing into the premises and not out;
- Relocate two base speakers on the upper floor from under the window;
- The installation of a noise limiter be recommended;
- Ensure windows upstairs are closed.

Councillor L Brown noted that the suggestion of secondary glazing was a good idea and asked questions around the recommendations and when they would be implemented.

Mr Stephenson informed the Sub-Committee that moving the base speaker would limit the noise from the premises.

Councillor L Brown enquired about the nature of the visits that had taken place to Blue Eye. Mr Foster informed the Sub-Committee that the most recent visit had taken place on 27 January 2023 which was after the students had returned to the area after the winter break. Adding that once you were in the area of Blue Eye it was difficult to identify exactly where the source of noise was coming from.

In summary Parish Councillor Lattin added that the fact that other premises were louder was not a sufficient argument and that it was a cumulative impact from students which would be impacted further by the increase in hours.

In summing up Mr Foster noted that the premises would be following the recommendations of Mr Cross and if those did not work then would consider extra glazing but felt all three steps together were unnecessary, reminding

the Sub-Committee that no representations from Environmental Health and residents had been received, there had been no issues raised while operating the TENs and reiterated that the representations from the Parish Council had been around the City Centre in general and not the noise generated from Blue Eye.

In response to a query regarding the noise levels, Mr Cross clarified that nothing could be heard from over 20 meters away, however he could hear base beat from across the road. He added that he was confident that his recommendations to relocate the speakers would be adequate to eliminate the noise issues but accepted if that was not effective then secondary glazing would be a final option.

At 10.40am Councillors L Brown, D Stoker and C Bihari **Resolved** to retire to deliberate the application in private. After re-convening at 10.50 am the Chair delivered the Sub-Committee's decision.

In reaching their decision, the Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change and the verbal and written representations of the Parish Council and the Applicant. The Committee had also taken into account the Council's Statement of Licensing Policy and Section 182 of the Licensing Act 2003.

Resolved:

The Sub-Committee have decided to grant the variation for the licensed premises, as follows:

Licensable Activity	Days & Hours
Supply of Alcohol (consumption on the premises)	Monday to Sunday 12.00 – 01.30 hrs
Supply of Alcohol (consumption off the premises)	Monday to Sunday 12.00 – 23.00 hrs
Recorded Music (indoors)	Monday to Sunday 12.00 – 02.00 hrs
Opening Hours	Monday to Sunday 12.00 – 02.00 hrs

The following condition shall be attached to this licence at Annex 3:

No person under the age of 18 will be allowed access to the premises after 21:00 hours.