

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Tuesday 25 April 2017 at 10.00 am**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors J Hart and I Jewell

Also Present:

Councillor B Graham

Councillor B Kellett

Y Raine – Senior Licensing Officer

K Coulson-Patel – Solicitor, DCC

Mr G McCourt – Applicant's Solicitor

Mr S Walker – Applicant

Mr D Briggs – other person

Mr D Killoury – other person

Mr P McAtominey – other person

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes of the Meetings held on 20 December 2016, and 20 January, 25 January and 14 February 2017

The Minutes of the meetings held on 20 December 2016, and 20 January, 25 January and 14 February 2017 were agreed as a correct record and were signed by the Chairman.

With the agreement of the Chairman the minutes of the meeting held on 17 January 2017 were also considered and agreed as a correct record and were signed by the Chairman.

5 Application for the Grant of a Premises Licence - The Distillery, 1-2 Red Rose Terrace, Chester-le-Street

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of The Distillery, 1-2 Red Rose Terrace, Chester-le-Street (for copy see file of Minutes).

A copy of the application and supporting documents had been circulated which included details of proposed additional conditions following mediation, comments from Responsible Authorities and representations from other persons. Plans and photographs showing the location of the premises in relation to the surrounding area, and the layout were provided to all parties at the hearing.

The Senior Licensing Officer pointed out that the applicant had amended the application to reduce the licensable hours from 1.00am to 11.30pm and not 11.00pm as stated in the report.

Of the representations received Members were informed that 12 had been validated and 4 had been withdrawn following the mediation. Since the report had been prepared Mr Tooth other person had also withdrawn his representation.

The Chairman noted that no representations had been received from Responsible Authorities and that mediation had taken place with the Residents Association.

Mr D Briggs, Mr P McAtominey and Mr D Killoury other persons were in attendance and the Chairman invited them to address the Sub-Committee.

Mr Briggs stated that representations were made in respect of the application within the notice period and at this point residents had not been fully aware of the nature of the premises. Following the mediation it became apparent that The Distillery would not be typical of other licensed premises in the town and he was pleased that the applicant had listened to residents during the mediation and had amended the Premises Licence. He noted that recorded music would not be played after 8.30pm and although he would prefer no music to be played outside in the smoking area he appreciated that he could not object to what might happen in the future. If it was noisy he would approach the applicant to attempt to resolve the concerns.

Mr McAtominey referred to his letter of submission and stated that residents in the Wear Street area felt that they were under assault. The Police had such concerns that a poster campaign had been introduced in the area. He had examined Streetcheck which highlighted 49 episodes of violence, 8 public order offences and 27 anti-social behaviour incidents in the location immediately opposite the proposed premises. Many of the problems occurred in the back lane around Wear Street. The Distillery's clientele would cross the road to go to other premises, taxis and takeaways, exacerbating the problems already experienced. He considered that the cumulative impact of the opening of another premises in the vicinity should be taken into account.

The photographs demonstrated the difficulties taxis would have dropping off and picking up customers, and parking would be an issue, however the biggest concern was the concentration of licensed premises in that area.

The roof terrace could also cause problems, and he asked how this would be policed and cleared. As this was a quiet residential area whatever noise was present would be amplified.

Although many of the residents were not in attendance their strength of feeling was obvious by the numbers who had made representation.

Mr McAtominey did not object to the premises opening as a bar but the hours proposed did not fit with the area which was now residential in nature. There was one corner shop and a Catholic Club in the vicinity which closed at 11pm.

Following questions and comments from the Chairman, Mr McAtominey confirmed that there were now more people wandering around the area in the early hours of the morning. Chester-le-Street had a concentration of licensed premises at the top of Front Street which all impacted on the Wear Street vicinity. The Chairman made the point that the problems referred to were perceived and Mr McAtominey replied that he appreciated that the Distillery could not be held responsible for issues that already existed in the area but asked that cumulative impact be considered. The point was made that Durham did not have a Cumulative Impact Policy within its Licensing Policy.

Councillor Hart asked Mr McAtominey to clarify what additional impact he felt the Distillery would have on the problems residents were already experiencing. Mr McAtominey responded that there would be increased footfall in the area and there was a clear connection between the licensed premises and the type of behaviour residents experienced.

Following a further question from Councillor Hart, Mr McAtominey stated that his concerns did not relate to the type of person the premises would attract but the number of people it would bring to the area.

Councillor Hart asked what the applicant could do to address residents' concerns. Mr McAtominey suggested a reduction in the licensable hours on Bank Holidays from 2am to 11.30pm.

Councillor Jewell asked what pressure residents had brought to bear to attempt to resolve the problems and Mr McAtominey advised that he was not part of the Residents Association but thought that complaints would have been made about the behaviour of people in the area.

Mr Briggs clarified that the Residents Association had tried for many years to improve the situation and had been fighting for 18 months for gates to be installed on Wear Street. The Distillery would probably have the same number of clientele as it had when it was open as the Relton Club.

Mr Killoury was invited to address the Sub-Committee and stated that he objected to the application in its entirety and that he had come to the meeting expecting to be one of many residents present. Mr Killoury read from his letter at page 81 in the bundle and added that the premises was located on the other side of Ropery Lane roundabout and customers would have to cross a busy main road. Many would walk along Wear Street which already had problems of noise and litter, and which was used for sexual activities. He believed that nearby residential properties on Red Rose Terrace would be put up for sale and further bars and takeaways would be opened by landlords. Mr Killoury was also concerned about recorded music being played both indoors and outdoors on the roof terrace.

Mr McCourt, the applicant's Solicitor clarified that the roof terrace had been removed from the application.

Mr McCourt addressed the Sub-Committee and explained that The Distillery would be a high end establishment which would not encourage vertical drinking. The drinks supplier only supplied to premises in keeping with their premium line of products. Mr Walker had a long-standing relationship with the Front Street, owning his own furniture business there, and would be furnishing the premises with his own high quality stock. There would be no sports TV, and there was no real intention for live music, other than perhaps an acoustic singer on occasions. Recorded music would be ambient. Mr Walker had received considerable support for his proposals on Facebook. Alcoholic drinks would be priced at a level that would not attract young people.

In terms of the crime statistics quoted by Mr McAtominey, Mr McCourt stated that these had not been submitted for consideration at the hearing and therefore could not be validated.

In terms of the concerns about parking Mr McCourt explained that the door to the side of the premises would be blocked and access would be to the front. Moving the entrance would assist parking and taxi drop-offs/pick-ups. The former premises used to be a pit stop for Sunderland Supporters who were dropped off and picked up by coach.

There would be a small outside seating area with planters and windbreaks to reduce natural noise. There would be receptacles for cigarette ends and signage would remind customers that they were in a residential area.

In closing Mr McCourt remarked that only three residents had attended the hearing, one of whom represented the Residents Association, and who was now fully supportive of the application.

Mr Walker, the applicant stated that he had owned a business in the town for 17 years and had lived there most of his life. He was aiming to improve the area; a rowdy pub would be no good for his own business. He had launched a Facebook page recently which in 4 days had 10,000 followers, all with positive comments.

To help the residents of Wear Street a camera would be placed on the side of the building which would face directly down the street. Footage would be kept for 3 months.

The premises would be furnished to a high standard, he was not interested in playing loud music, table service would be offered whenever possible and although the upstairs floor would be licensed he did not intend to use it at present. One resident who lived closest to the premises was in support of the application.

With regard to the comment that people would move out of the area and that landlords would purchase the properties, he advised that this was already the case. He would work closely with the Residents Association, the premises would create jobs and if this venture succeeded he hoped that other bars would follow suit to improve the area.

The Chairman sought clarification that the terraced area was to be removed from the application, and this was confirmed by Mr McCourt. With regard to the opening hours of the outside area the Chairman indicated that 9pm was often a time agreed for such areas to be closed. Mr McCourt responded that as this was a smoking area if customers were not permitted to smoke after 9pm, they may wander the local residential streets. The applicant was trying to contain the noise to the small outside area.

Following a further question from the Chairman the applicant confirmed that the outside area would be monitored by a member of staff and external cameras. Mr McCourt added that a condition could be included to ask customers to be mindful of residents. The applicant wanted to include the community and would hold special evenings such as whisky tasting, to which residents would be invited.

In response to a question from Councillor Hart about why live music had been included in the application when it was of particular concern to the residents and yet was not necessarily required, McCourt responded that this was to provide some flexibility. During mediation the applicant had agreed to a reduction in licensable hours, including the playing of music and residents were satisfied with this.

Councillor Jewell referred to the concerns of residents about the number of people coming and going, and asked about the capacity of the premises. The applicant responded that there would be seating for 100 people but realistically expected around 50 at any one time.

Councillor Kellett noted that the licensable activities requested included indoor sporting events and the performance of dance. Mr McCourt advised that in accordance with the Licensing Act 2003 any game involving skill was classified as a sporting event, and the performance of dance had been included but may never be used. It had been included as a safeguard to ensure that on the rare occasion there may be dancing the applicant would not find himself in breach of the Act.

K Coulson-Patel, Solicitor sought clarification that recorded music would not be played after 8.30pm and that point 2 of the applicant's proposed amendments to

the Premises Licence at page 122 in the bundle, also included paragraph J. This was confirmed by Mr McCourt.

Mr Killoury asked at what level recorded music would be played and was informed by Mr McCourt that noise limiting equipment would be considered on advice from Environmental Health.

All parties were asked to sum up.

Mr Briggs was of the view that the application should be granted. Mr McAtominey referred to the Facebook responses which he considered was at odds with the customer numbers the applicant expected.

Mr McCourt stated that the Sub-Committee should be mindful that in the main the representations submitted had now been withdrawn, and there was no evidence to support the issues that had been raised by other residents. He hoped that the business would help to change the landscape of the late night economy, would create new employment and bring new investment into the area.

At 11.30am the Sub-Committee retired to deliberate the application in private. After re-convening at 11.40am the Chairman delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had taken into account the report of the Senior Licensing Officer, the verbal and written representations of the applicant and his representative, and other persons. 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 Premises Licence be granted as follows:-

Proposed Activities	Days/Timings
Opening hours: Monday to Sunday	11:00 hrs until 00:00 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday– 11:00 hrs until 02:00 hrs
Plays (Indoors) Monday to Sunday	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Films (Indoors) Monday to Sundays	11:00 hrs until 23:30 hrs

Indoor Sporting Events	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Live Music (Indoors)	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Recorded Music (Indoors and Outdoors)	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Performance of Dance (Indoors)	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Anything of a similar description (indoors)	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs
Late Night Refreshment (indoors)	Sunday to Thursday 23:00 hrs until 23:30 hrs Friday and Saturday 23:00 hrs until 00:00 hrs
Supply of Alcohol (on the Premises)	11:00 hrs until 23:30 hrs Christmas Eve/Boxing Day – 11:00 hrs until 02:00 hrs New Year's Eve 11:00 hrs until 03:00 hrs Public and Bank Holiday weekends; Friday, Saturday and Sunday – 11:00 hrs until 02:00 hrs

General - All four licensing objectives

The Applicant confirms that general conditions and licensing objectives will be complied by the Designated Premises Supervisor and trained staff all the time.

- i. A staff training programme will be in place where staff receive regular training. All staff will be aware of the requirements of the premises licence.
- ii. Staff will be regularly updated on their responsibilities, with particular attention on age restricted products, a training record will be kept at the premises containing the training of each member of staff.

- iii. The Challenge 25 scheme will be adopted and implemented
- iv. Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable times, for the purpose of inspection to ensure compliance within the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

Prevention of Crime and Disorder

- i. Initial staff training to be carried out by DPS or approved member of staff to ensure no alcohol is sold to anyone underage and refresher training to be carried out every six months.
- ii. Training records to be kept for every member of staff and endorsed after every training session. These records will be made available to officers and responsible authorises when requested to do so.
- iii. Door supervisors shall be provided on a risk assessment basis or at the request of Durham Constabulary.
- iv. If door supervisors are used an operational daily log must be kept documenting door supervisor information. This is to include full name, date of birth, full badge number, contact phone number, security company's name and start and finish times.
- v. A CCTV system shall be installed and will be maintained in proper working order to the satisfaction of, and in connection with, Durham Constabulary. This system shall:
 - Be operated by properly trained staff;
 - Be in operation at all times the premises are open to the public;
 - Ensure coverage of all public entrances and exits to the licensed premises;
 - Ensure coverage of such other areas as may be required by the Licensing Authority and Durham Constabulary; and
 - Provide continuous recording facilities for each camera to a good standard of clarity.
- vi. CCTV will be provided in the form of a recordable system capable of providing pictures of evidential quality in all lighting.
- vii. On the ground floor CCTV will be in operation at all times. Cameras shall encompass the inside and outside of all entrances and exits to the

premises, and beer gardens, fire exits and all areas inside the premises where the sale and supply of alcohol occurs.

- viii. On the first floor, CCTV shall only be in operation when the premises are open.
- ix. CCTV equipment must be maintained and in good working order, be correctly time and date stamped. Records must be kept for a minimum of 28 days and handed to the responsibly authorised person within a reasonable time frame agreed between the officers and DPS /authorised person.
- x. The CCTV system will incorporate a battery backup system to enable 24hrs continuous recording in case any power blackout/failure.
- xi. The Premises Licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in recordable format either disc, hard drive or memory stick and handed to responsible authorised within a reasonable time frame agreed between officers and DPS or other responsible named individual.
- xii. An operational weekly log report must be maintained and endorsed by a signature indicating the system has been checked and is complying, in the event of any failings, actions are to be recorded.
- xiii. Prominent, clear, and legible notices will be displayed at all public exits requesting the public to respect the needs of the local residents and to leave the premises quickly and quietly.
- xiv. A refusals book and incident book shall be kept at the premises, this register will be kept on the premises and updated with the time and date of the incident and a description of the customer, the name of the staff member who refused the sale and the reason the sale was refused. Entries shall be authorised by the DPS on a regular basis. This book shall be available to the Police or any other person acting with their authority and authorised Council officers on request.

Public Safety

- i. Fire exits and fire equipment be clearly marked
- ii. All staff must be aware of requirement regarding health and safety
- iii. An incident log will be kept at all times.
- iv. All exit doors will be operable with the use of a key, card, code or similar means.

- v. Doors at such exists will be regularly checked to ensure that they function satisfactorily
- vi. Any moveable security fastening will be removed whether the premises are open to the public or occupied by staff.
- vii. An adequate and appropriate supply of first aid equipment and material will be available on the premises.
- viii. An adequate number of staff will be trained in first aid.

The Prevention of Public Nuisance

- i. There will be a display at the point of entry to the premises and beside any point of sale suitable worded signage advising customers that underage sale of alcohol is an offence and they will be asked to produce proof of age.
- ii. All doors and windows, in the bar area, are to be closed during regulated entertainment, except for access and egress.
- iii. Signage will be displayed encouraging customers to leave quietly and to be considerate of neighbouring residential areas
- iv. Deliveries will not be permitted between the hours of 22:00 hrs and 08:00 hrs.
- v. Bottles, cans and other drinks containers must not be decanted into the outside refuse bins, so that they cause a noise, nuisance and/or disturbance to neighbouring properties and residents between 21:00 hrs and 08:00 hrs.

Protection of Children from Harm

- i. Any children must be accompanied by an adult.
- ii. A refusal register will be kept and endorsed after every sale refused. The book will contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale and the reason for the sale being refused. This should be maintained and will be produced to a relevant officer of the police or other relevant officer of a responsible authority upon request. This is also to include over 18's purchasing alcohol and passing it on to under 18's (proxy sale)
- iii. Verification of age - safeguards to be in place to see that alcohol is not served or to be purchased on behalf of under age children. Any premises licence should include a mandatory condition that an age

verification policy is operated. Durham Local Safeguarding Children Board recommends and promotes the “challenge 25” standard which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.

- iv. Training of staff - all staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided every six months.