

No.

STATUTORY LICENSING SUB-COMMITTEE

Minutes of a meeting held on 17th April, 2019.

Present: Councillors Mrs. P. Drake, V.P. Driscoll and Mrs. M.R. Wilkinson.

Also present: Multiple Licensing Officers (Vale of Glamorgan Council), Legal Officer (Vale of Glamorgan Council), Democratic Services Officer (Vale of Glamorgan Council), Mrs. H. Donaldson, Mr. D. Donaldson and Mr. Williams.

The Democratic and Scrutiny Services Officer explained the procedure to be used for the hearing and advised that a copy of the procedure was available within the agenda.

(a) Appointment of Chairman -

Councillor V.P. Driscoll was elected Chairman for the duration of the hearing.

(b) Declarations of Interest -

No declarations were received.

(c) Licensing Act 2003 - Application for the Grant of a Premises Licence - 2 Westgate, Cowbridge -

The Chairman welcomed those present to the Sub-Committee hearing and invited each person to introduce themselves.

The Chairman invited the Licensing Officer to present the report, who advised that an application had been made under the Licensing Act 2003 for the grant of a premises licence at 2 Westgate, Cowbridge and was submitted by Mrs. H. Donaldson of H.D.C. Services Ltd. An application was submitted on 26th February, 2019 which sought permission for the sale of alcohol (on the premises) and the provision of recorded music. The Officer also drew Members' attention to the full operating schedule that was attached at Appendix A to the report.

Under the Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005 a Responsible Authority, or any other person, may make relevant representations at any time during the 28 day consultation period. Therefore, the application had been referred to the Sub-Committee for determination as officers did not have the delegated authority to determine applications where relevant representations had been received and not withdrawn since the period for making representations ended on 26th March, 2019. Three representations were received from Other Persons during the consultation period, a copy of which were attached to the Officer's report at Appendix B.

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The Officer summarised the application before the Committee which sought:

- Provision of recorded music: Monday - Sunday, 07:00 hours to 23:00 hours
- Supply of alcohol:
Monday 07:00 hours to 24:00 hours;
Tuesday 07:00 hours to 24:00 hours;
Wednesday 07:00 hours to 24:00 hours;
Thursday 07:00 hours to 24:00 hours;
Friday 07:00 hours to 01:00 hours;
Saturday 07:00 hours to 01:00 hours; and
Sunday 07:00 hours to 24:00 hours.

The Officer also wished to add that there had previously been a Premises Licence at the property which was operated as a restaurant and there had been some confusion regarding the correct address of the premises as a residential property on the opposite side of the road was, in fact, 2 Westgate. Therefore, the Applicants had advised that they had used the address on the Business Rate invoice and as used by the property agent. The Licensing Authority also had the address of the previous licence as 2 Eagle Stores, Westgate.

The Officer added that the Licensing Authority must have regard to the full licensing objectives when carrying out its functions, which were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

In addition to this, once granted, a Premises License would generally remain in force indefinitely unless one of the following circumstances would take place:

- The licence was revoked; or
- The applicant requested the licence for a limited time only; or
- The licence was suspended; or
- The licence lapsed due to some incapacity on the part of the licence holder; or
- The licence was surrendered.

Following the Licensing Officer's presentation of the report, the Chairman invited Mr. and Mrs. Donaldson (Applicants) to present their case.

Mr. Donaldson advised that the purpose of the application was to operate a café/ kitchen bar business serving tapas style food as deemed appropriate for the Cowbridge area. The Applicants advised the Committee of their previous experience within the licenced trade and stressed that the premises would in no way be operated as a pub or night club. The premises had previously been licenced as an Indian restaurant, however, had been vacant for some time and following enquiries had not caused any historical disturbances. By way of context, the applicants advised that it was common for residential properties to be in close proximity to licenced premises due to the nature of the buildings on Cowbridge high street and

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advised that they were already operating a pub business in close proximity to residential properties. Therefore, they were respected operators and could confirm that the new business was in vast contrast to their existing one. The Applicants drew comparisons to other similar existing business models as operated within the Vale of Glamorgan and reassured the Committee that individuals would not be leaving the premises highly intoxicated as they were used to managing individuals in a bar environment.

The Chairman thanked Mr. Donaldson for his representations and asked if any other parties had any questions to raise.

The Chairman queried if the premises had a beer garden and whether deliveries to the business would be made at the rear of the property. Mr. Donaldson advised that there was not a beer garden at the premises however, there was land at the rear of the premises which would be adapted to introduce a smoking shelter. Deliveries would be made to the rear of the building and the Applicants planned to build a permanent structure to hold waste from the premises. The area of land at the rear of the property would also be adapted to accommodate a new kitchen to service the premises.

A Member of the panel wished to clarify the type of food that would be served considering that the application made stated a start time of 07.00 hours, to which Mr. Donaldson advised that himself and Mrs. Donaldson did not wish to apply for a late night refreshment licence at this time as it was necessary for them to establish the business need for the Cowbridge area and that the food to be served would predominantly be tapas and chargrill food with a twist on Welsh products. Overall the quality of food would be high end and the current application was written to allow Mr. and Mrs. Donaldson the opportunity to learn the customer wants for the local area and therefore it was likely that breakfast would only be served on weekends to start with, with the occasional coffee morning and with the majority of food served at lunchtimes and evenings. At this point, Mr. Donaldson also wished to advise the Committee that a very high calibre and experienced chef had been employed for the premises.

At this point, the Other Person present, Mr. Williams, stated that clarification would need to be made as to the premises address as to avoid postal complications between the premises and his personal property. In response, the Legal Officer present advised that the Licensing Committee did not have the authority to consider or condition the postal service to the premises and therefore the matter would need to be taken up directly with the postal service.

With there being no further questions and/or Responsible Authorities present, the Chairman invited the Other Person present to make his representations. Mr. Williams advised that his primary concern was over the noise that would be generated as customers were leaving the premises which was of particular concern due to his wife being unwell. However, his concerns had been mitigated slightly due to him now being aware that CCTV would be installed outside the property. In conclusion, Mr. Williams added that he was not satisfied that a 24:00 hours (midnight) or 01:00 hours closure of the premises was necessary.

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Mr. Donaldson wished to offer reassurance that the premises would not be operating outside the terms of its licence if granted and that the clientele was not expected to be rowdy or disruptive. Both Mr. and Mrs. Donaldson were used to dealing with customers in an alcohol environment and were very vigilant with monitoring customer behaviour. As a final point, Mr. Donaldson wished to add that the premises would not be licensed for take away food and therefore the footfall to and from the premises would be limited.

In response to the Chairman's question as to whether signage would be in place outside the property asking customers to leave quietly and respectfully, Mr. Donaldson confirmed that that would be the case.

A Panel Member then wished to enquire as to whether customers would be permitted to take alcohol outside of the premises if using the smoking area, to which, the Applicant confirmed that customers would not be permitted to remove alcohol from the property as was also the case for alcohol going into the property.

Following the Other Person confirming that they had nothing further to add, the Chairman invited all of the parties to raise questions of the representations provided by the other persons, to which, no further questions were raised.

With no further questions, the Chairman invited all parties to sum up their representations.

Mr. Donaldson referred to the other representations as contained within the hearing papers and wished to clarify that there was not a residential property immediately above the premises as the impression given within written representation number 3.

In summary, the Licensing Officer then wished to note that the application did not allow for alcoholic beverages to be consumed before the property was to be vacated, to which, Mr. Donaldson advised that the times as stated in the application were for the customers to vacate the property, however, the premises would be managed in a way that the serving of drinks would be stopped with ample time prior to the premises closing.

There being no further representations, the Committee retired from the Chamber to deliberate on the application in private.

On returning, the Chairman confirmed that the application was for the grant of a premises licence at 2 Westgate, Cowbridge in the Vale of Glamorgan and that the application sought the following:

- Provision of recorded music: Monday - Sunday, 07:00 hours - 23:00 hours
- Supply of alcohol:
 - Monday 07:00 hours to 24:00 hours;
 - Tuesday 07:00 hours to 24:00 hours;
 - Wednesday 07:00 hours to 24:00 hours;
 - Thursday 07:00 hours to 24:00 hours;
 - Friday 07:00 hours to 01:00 hours;

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Saturday 07:00 hours to 01:00 hours; and
Sunday 07:00 hours to 24:00 hours.

- Hours open to the public:
Monday 07:00 hours to 24:00 hours;
Tuesday 07:00 hours to 24:00 hours;
Wednesday 07:00 hours to 24:00 hours;
Thursday 07:00 hours to 24:00 hours;
Friday 07:00 hours to 01:00 hours;
Saturday 07:00 hours to 01:00 hours; and
Sunday 07:00 hours to 24:00 hours.

In delivering the decision of the Sub-Committee the Chairman summarised the verbal and written representations received by all parties and the comments received during the hearing as set out in the minutes above.

The Chairman advised that following consideration of the application, the representations from the Local Authority's Licensing Department, the Applicants and Other Persons, and having considered the Home Office Guidance along with Sections 3, 7, 8, 12 and 20 of the Council's Statement of Licensing Policy and also taking into account Section 182 of the Licensing Act 2003 (as amended) the Licensing Sub-Committee

RESOLVED - T H A T the application, together with conditions that are consistent with the operating schedule in a way that is appropriate for the promotion of the Licensing Objectives, be granted.

Reason for decision

There is no evidence of any statutory nuisance either now or in past at the premises and should noise issues become a concern then the matter could be referred to the Environmental Health Department who are able to bring a review of the licence.

The Chairman advised all persons present that they had the right of appeal against the decision of the Sub-Committee. The appeal must be made in writing and within 21 days to the Cardiff and Vale of Glamorgan Magistrates Court. Should the Appellant be in any doubt as to their legal rights and/or responsibilities they should take independent legal advice.