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GATESHEAD METROPOLITAN BOROUGH COUNCIL

LICENSING SUB COMMITTEE MEETING

Tuesday, 3 October 2017

PRESENT: Councillor K Dodds (Chair)
Councillor(s): J Green and D Duggan

LSC1 APPLICATION FOR A PREMISES LICENCE

RESOLVED - That the decision of the Committee as per the attached notice be noted.

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SUMMARY OF DECISION OF LICENSING SUB-COMMITTEE

Address :	Ravensworth Road, Dunston, Gateshead, NE11 9AF
Applicant :	Dunston Social Club & Institute Ltd
Date of Hearing :	3 October 2017
Type of Hearing :	Application for the grant of a premises licence

The Sub Committee has decided as follows:

To grant the premises licence subject to:

The mandatory conditions set out in the Licensing Act 2003

The conditions proposed by the Applicant as part of his operating schedule

Conditions 1, 8, 11, 15, 16, 17, 18, 22, 23, 27, 56, 60 of the 'Licensing Act 2003 - Pool of Model Conditions' which are attached to this document

Reasons

The Sub Committee had regard to the Licensing Officer's report dated 3 October 2017 and the representations made at the hearing by –

- Mr Charles Morpeth (Applicant) and Ms Jackie Rawson; and
- The written objections of an anonymous local resident

The Sub Committee heard that the hearing had been triggered by a representation having been received from a local resident who wished to remain anonymous. The resident raised concerns that the proposed licensable activities were likely to undermine the licensing objectives, namely the prevention of crime and disorder and the prevention of public nuisance.

The local resident was not in attendance at the hearing; however their written representations (email) was read by all parties present at the hearing and was duly considered by the Sub Committee.

The Sub Committee heard from Mr Morpeth and Ms Rawson that their reason for applying for a premises license was to help them to be 'more compliant' with their licensing obligations. They also see benefits to having a premises licence, such as removing the need for all those that enter the club to have to 'sign in'.

Mr Morpeth explained that they will not be taking advantage of the option to sell alcohol until 11.30 each night. There will be no sales after 11pm during the week as there is no demonstrable need for it, plus they do not think it is fair to expect their staff to have to work any later than they already do.

Mr Morpeth explained that the club is in a nice area and that they have 'no problems with the Police'. They have taken steps to tackle issues such as noise levels by placing signs around the club reminding patrons to show consideration for residents when standing outside and when leaving. Steps have also been taken to ensure that doors and windows are closed at 9pm so that all noise outside the club after that time is minimised; and bottle bins are emptied in the morning, rather than late at night. Mr Morpeth said that he had made attempts to move the smoking area to the rear of the club so that patrons weren't standing in the front street however, having taken advice from Gateshead Council, this was not possible. Mr Morpeth further explained that directly opposite the club was a taxi rank and take away outlets which, themselves, would contribute to increased noise levels at night and rubbish in the street.

Mr Morpeth explained that glasses and glass bottles were not allowed out to be taken outside, and patrons were not allowed to take their drinks into the smoking area. The club's cleaners were also required to clean outside of the club and to pick up all rubbish, cigarette butts etc.

The Sub Committee received legal advice from the Council's legal officer in open session so that all parties were aware of the content of that advice.

The Sub Committee heard that in choosing which course of action to take, they should have regard to the Act, the Home Office Guidance, the Licensing Authority's own Statement of Licensing Policy and the individual facts.

The Sub Committee were reminded of the Judgment in the case of R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates' Court & Ors [2011] EWCA Civ 31 in which Lord Toulson stated, "Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on... They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location."

The Sub Committee were reminded of their duty under the Act is to carry out the Licensing Authority's functions with a view to promoting the Licensing Objectives; and that the Home Office Guidance states that they should do so with regard to the overall interests of the local community.

The Sub Committee were reminded of the Judgment of Mr Justice Jay in the case of East Lindsey District Council v Hanif (t/a Zara's) (2016) EWHC 1265 (Admin) with regard to the approach to be taken to determining the appropriate and proportionate action in light of the salient Licensing Objectives; and in particular their approach should involve –

- consideration of the antecedent facts; and
- a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The Sub Committee also had regard to paragraph 6.2 of the Council's Statement of Licensing Policy which states that the Licensing Authority considers –

- the effective and responsible management of premises
- instruction, training and supervision of staff; and
- the adoption of best practice

to be the most important control measures for the achievement of all of the licensing objectives.

The Sub Committee determined to grant the application with the imposition of the mandatory conditions imposed under the Act, conditions volunteered by the applicant, and further conditions taken from the 'model pool of conditions'. The Sub Committee considered that adhering to the conditions should ensure that the licensing objectives are duly promoted, and were satisfied that the applicant should be in a position to ensure that this occurs.

Right of appeal

Should the Licensing Authority, or the anonymous objector be aggrieved by the Sub Committee's decision to grant a license, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(3)(a) of Schedule 5 of the Act.

Should the Licensing Authority or the anonymous objector be aggrieved by the Sub Committee's decision to impose conditions on the premises licence, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(3)(b) of Schedule 5 of the Act.

Should the applicant be aggrieved by the Sub Committee's decision to impose conditions on the premises licence, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(2)(a) of Schedule 5 of the Act.

Any appeal is to be brought before Gateshead Magistrates' Court within 21 days of the date of the decision.

In reaching this decision the Sub Committee has been persuaded by the individual circumstances of this Application and does not intend to create a general exception to its Policy or to create a precedent.

Dated : 3 September 2017

Conditions 1, 8, 11, 15, 16, 17, 18, 22, 23, 27, 56, 60 of the 'Licensing Act 2003 - Pool of Model Conditions'

1. The Licensee, that is the person in whose name the Premises Licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.

8. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage. (Note. This condition shall not apply to patrons who have purchased beverages for consumption off the premises (within the curtilage of the premises licensed area or in the area covered by a Pavement Café Licence) with the express consent of the Licensee, designated premises supervisor or responsible person.)

11. All members of staff at the premises including Door Supervisors shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.

15. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall:

- Ensure coverage of all entrances and exits to the Licensed Premises internally and externally,
- The till area
- Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
- Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days, and shall be supplied to the Licensing Authority or a Police Officer on request.
- Be in operation at all times the premises are in use.

16. The Premises Licence Holder and Designated Premises Supervisor shall cooperate with any reasonable crime prevention initiative which are promoted by the Licensing Officer at Gateshead Police Station from time to time.

17. The Premises Licence Holder and Designated Premises Supervisor shall comply with any reasonable measures required by the Licensing Authority from time to time relating to preventing the sale of alcohol to children.

18. A 'Challenge 25' policy shall be adopted, ensuring that all members of staff at the premises shall refuse to sell alcohol to anyone who appears to be under the age of 25 and who is seeking to purchase alcohol unless that person provides credible photographic proof of age evidence.

22. Staff are to be given sufficient training agreed with the Licensing Authority in the control of age-restricted products, refresher training for existing staff and training for all new staff.

23. Accurate training records are to be kept for all staff involved in sales of age restricted products.

27. No person carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.

56. Windows, doors and fire escapes shall remain closed during proposed entertainment events within the premises

60. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents. In particular, the need to refrain from shouting, slamming car doors and the sounding of car horns shall be emphasised.