

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 22 January 2019 at 2.30 pm in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillors Ian Lyon (in the Chair)
Scott Payter-Harris
Steve Pitt

1. Appointment of Chairman

Councillor Lyon was appointed as Chair of the meeting.

2. Declarations of Interest

There were no declarations of interest.

3. Highways Act 1980 - Provision of Highway Amenities - Bangerz 'n' Brewz 60B Victoria Road South Southsea PO5 2BT

(The hearing procedure followed was that for where representations have been made by "other persons" i.e. members of the public, and three had registered to speak at the meeting.)

Summary of Application and Representations

Ross Lee presented the report on behalf of the Licensing Manager. There had been no representations from the Responsible Authorities but residents' objections were predominantly regarding the width of the pavement and the potential for noise. He highlighted that several objections had been withdrawn, and that following discussions with the objectors, the application had been changed to use the tables between the hours of 12.00hrs and 21.00hrs.

Members' questions included the following:

- Had the correct advertising and notification of the application taken place - this was confirmed.
- Had all of the Responsible Authorities been consulted - this was confirmed.

The Applicant's case

This was presented by Mr Stone. He gave background information about the café and said that the tables would provide additional footfall for the café and 20% more in the way of covers. He went on to say that it was an east facing building that would get hot in the summer, so outside tables would be most welcome to customers.

He added that the tables that he was proposing to use would be smaller than the ones shown in the report, and he circulated pictures of the proposed tables in front of the café. He added that with regard to the perceived noise level, the café would close at 22.00 and the staff would all have left by 22.30. The building was sound proofed, and rarely had customers after 8pm on a weekday. He submitted a letter in support of the café from a local resident

Members' questions included the following:

- Had the business on either side of the café been consulted? This was confirmed and pointed out that there was only one still trading at the present time.
- It was asked how many staff were employed, and Mr Stone said that there was one full time chef, a part time sous chef, and four or five staff doing the equivalent of a day a week. There were 20 covers inside the café.
- That whilst there was no specific exterior CCTV, the cameras inside the café would show the outside tables.
- That a post and rail system would alleviate concerns expressed about the width of the pavement.

The "Other persons" Case

Mrs Smyth said that following a discussion with the applicant prior to the meeting, some of the objectors had withdrawn their concerns, as the tables and chairs were now going to be much smaller than had been initially suggested and, in addition, objections around possibility of noise had large been dealt with by the alteration of the application for the table use from up to 23.00hrs to 21.00hrs.

Residents who were concerned about the narrowness of the pavement would be satisfied with a post and rail solution.

Mr Mohammed stated that there had never been a shop selling alcohol in the area, and he was concerned with the possibility of glasses being broken and the cleanliness in the area. He had children in his house and was concerned for their welfare.

Members' questions included the following:

That there were pubs in the vicinity so it was likely that there was the potential for inebriated revellers on the streets in the area.

Opportunity to sum up was taken briefly by Mr James. He said that the tables would be used mostly during the daytime, and that he was prepared to supply paper plates and plastic cups for customers using the tables. He added that he had never seen children playing on the street as it was a busy road.

Decision

In the Matter of the Highways Act 1980;

In the matter of Bangerz 'n' Brewz, 60B Victoria Road South, PO5 2BT

The Committee carefully considered the application by Bangerz 'n' Brewz, 60b Victoria Road South, PO5 2BT for an amenity licence for the placement of two tables and four chairs at the premises

In considering the application the Committee heard all oral representations and considered the written documentation along with the relevant aspects of the Highway Act 1980 along with the guidance contained in the Amenity on the High Policy published by Portsmouth City Council. The policy was last published in November 2014.

Whilst there is no statutory definition of what amounts to an object or structure placed upon the highway, the Committee was reminded that the underpinning of the adopted policy is that amenities provided on the highway should make a positive contribution and will not cause an unreasonable obstruction and to protect the rights and safety of those persons using the highway.

The Committee have considered the range of objections to the application appearing at appendix D of the report.

In addition the Committee was further mindful of the view that in confirming that obstructions are allowed subject to permission being granted by the Committee onto the highway there should be consideration as to the need to protect the rights and safety of those persons using the highway.

In addition to the above the Committee were reminded in the report before it that to consider the matters raised on pages 3, 4 and 5. This said, the Committee recognises that each application is fact specific and whilst guidance exists the decision vests with the Committee.

In reaching their decision the Committee considered the following matters as having a material bearing on their deliberations.

- As a matter of fact, some of the objections have been withdrawn or amended at the meeting by way of oral comment.
- Whilst clearly well intentioned, some of the perceived risks are more appropriate to the Licensing Act 2003 and as such do not form part of this Committees competence.
- There is a clear level of understanding by the applicant of the published policies and the worries of the community.
- There is a history of the premise having without any issues an amenity licence trading as the 'Cottage Café'

The Committee considered that the applicant's Human Rights were engaged in that the applicant is entitled to a fair hearing and that the decision of the Committee should be reasonable, proportionate and in the public interest. The Committee likewise considered fully the objections to this application.

In this case, and having considered the fact that the Committee may grant or otherwise determine the application (Sec 115A to 115K of the 1980 Act), the Committee have decided to grant the application so as to permit the following:

To place outside the premises two table with two chairs per table.

- The tables and chairs may be used between 12.00 - 21.00 on each day of trading.
- An entitlement to place one bench as stipulated in the application (Appendix B of the report) to take account of the tapering pavement width.

The application for the grant of a premises licence in the terms set out in these papers was therefore granted.

The meeting concluded at 4.00 pm.

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Chair