

## South Somerset District Council

**Minutes** of a meeting of the **Licensing Sub Committee** held in the Council Chamber, Yeovil Town Council, Town House, Yeovil on Monday 27<sup>th</sup> April 2015.

(10.00 - 11.55 am.)

**Present:**

**Members:** Nigel Mermagen (Chairman)

David Norris

Martin Wale

**Officers**

Ann Chislett

Legal Executive

Nigel Marston

Licensing Manager

Rachel Lloyd

Licensing Officer

Jo Morris

Democratic Services Officer

**Also Present:**

Nicola King

Avon & Somerset Police Constabulary

Sgt. Peter Paskin

Avon & Somerset Police Constabulary

Nicolas Else

Applicant

Robert Clark

Greenslade Taylor Hunt

Deborah Barrett

Security Manager, Woods Wine Bar

**Note:** All decisions were approved without dissent unless shown otherwise.

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#### 4. **Declarations of Interests (Agenda Item 1)**

There were no declarations of interest.

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#### 5. **Procedure to be followed when considering licensing applications under the Licensing Act 2003 (Agenda Item 2)**

The Committee noted the agreed procedure to be followed when considering Licensing Applications under the Licensing Act 2003. The Chairman introduced the members of the Sub-Committee and the Officers present.

The Chairman confirmed the following points:

- That the Officer's report relating to the case, the procedure to be adopted during the hearing and the documents which the authority is required to provide under the Regulations had been received by all parties in advance of the meeting;
- That no representations had been withdrawn.

The Chairman advised that he would give each party 5 minutes to put forward their case.

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## **6. Representation following the Application for a New Premises Licence at 68 Middle Street, Yeovil, Somerset, BA20 1LU (Agenda Item 3)**

The Licensing Officer presented the report as detailed on page 5 of the agenda and drew members' attention to the following points:-

- An application had been received for a premises licence to be granted under the Licensing Act 2003 for 68 Middle Street, Yeovil;
- The proposed licensable activities applied for included plays, films, indoor sporting events, live music, recorded music, performance of dance, anything of a similar description to that falling within live music, recorded music and performance of dance, late night refreshment and supply of alcohol – on and off sales;
- The proposed hours open to the public were 00.00 to 23.59 Monday to Sunday;
- The applicant had confirmed that a notice had been displayed at the premises and that a further notice was placed in the Western Gazette for the requisite period;
- The premises were situated within an area where the cumulative impact policy applied.

The Chairman invited the representative from the Licensing Authority to address the Sub-Committee. The Licensing Manager explained that he did not feel that the applicant had sufficiently demonstrated that the application would not impact on the licensing objectives. He referred to Paragraph 2.4.2 of the Statement of Licensing Policy which required applications for premises licences with a terminal hour later than 12 midnight where the sale of alcohol was the main activity to be subject to close scrutiny by the Responsible Authorities. The applicant had applied for a 24 hour licence with numerous licensable activities and in his opinion had failed to clearly demonstrate through the Operating Schedule how the licensing objectives would be met. Reference was also made to Paragraph 2.4.3 which related to the Licensing Authority giving careful consideration to the nature of the venue proposed. The Council were keen to promote establishments at which the service and consumption of alcohol was not the primary activity. The application was clearly for a late night drinking venue with the primary activity being the consumption of alcohol. He highlighted that throughout the application there appeared to be no immediate plans for other activities to take place. The Licensing Manager also referred to Paragraph 3.2.2 of the Statement of Licensing Policy in relation to the Cumulative Impact Policy. He believed that the application would add to the cumulative impact already being experienced in this area of the town and therefore recommended that the application should be refused.

In response to a member question, the Licensing Manager advised that there had been no previous applications refused in relation to the Cumulative Impact Policy although other applications that had been considered related to variations or transfer of licences. The application was the first full application to be considered in the Cumulative Impact Policy area.

The District Licensing Officer was then invited to address the Sub-Committee. She explained that Avon & Somerset Constabulary had made a representation in objection to the premises licence for the premises formerly known as Fuzzy Duck. Having considered the licensing objectives and the Cumulative Impact Policy, the Police believed that by granting the licence there would be a detrimental effect on the centre of Yeovil. She referred to the applicant's Operating Schedule failing to demonstrate how the four licensing objections would be promoted. There was no mention in the Operating Schedule of a drugs policy, dispersal policy, smoking policy, children's policy or CCTV policy. A meeting had been held between the Police and the applicant and it had been

suggested to the applicant that a reduction in hours would be of benefit to the application. The Police had also suggested that they would be willing to look at a further business policy but no further information had come forward from the applicant. The Police believed that to grant the licence would undermine the crime and disorder licensing objective. The applicant had also not demonstrated that the application would not add to the cumulative impact in the area. She asked the Committee to consider refusing the licence in its entirety.

Sergeant Peter Parkin referred to the additional evidence that had been submitted by Avon and Somerset Constabulary as part of their objection to the application, which had been previously circulated to members. He summarised the information which included data in relation to recorded night time economy incidents for the Yeovil Town Central Ward. He also highlighted the contents of a Police witness statement that had been submitted by the Police to demonstrate the types of issues that the Police were dealing with in the town centre.

In response to member questions, Sergeant Peter Parkin confirmed that:

- The issue of crime and disorder within the town centre was an ongoing problem;
- The main issue for the Police was around late night premises closing at the same time and the volume of people causing crime and disorder on the streets. The Police were struggling to keep people safe;
- Operation Flagstaff commenced in June 2013 and involved 6 extra police officers being deployed between the hours of 6 pm and 3 am in the town centre. The Officers were not permanently in the town centre and could be called to attend other incidences if there was a 999 call.

The Sub-Committee was addressed by the applicant, Mr Else, who informed members that he was the current operator of Woods Wine Bar that was located next door to the premises. He explained that he would like to take on the same conditions for the premises as for Woods Wine Bar with the last entry at 2.30pm which meant that people could stay in the premises long past the incidences taking place in the street. He referred to Operation Flagstaff and commented that there were no police officers to deal with incidences after 3.00 am. He commented that very little trouble came from people drinking in his bar and that there had only been one incident where the Police had attended. He indicated that he was looking to run an upmarket business next door and would not be running any drinks promotions. He admitted that he had failed to complete the application form correctly and indicated that he would be happy for the Police/Licensing to restrict the licence. He would operate a zero intolerance policy and would employ two door staff over busy weekends.

Mr Robert Clarke of Greenslade Taylor Hunt commented that the premises had been vacant for 12 months and had therefore not contributed to the problems currently being experienced by the Police. The premises had previously not worked as a restaurant and the best way forward was for it to remain as a licensed premise. He stated that Pizza Express were very responsible in who they leased the building to. He concluded that he strongly supported the applicant in their application.

Deborah Barrett advised that the premises would operate a zero tolerance policy and would open late to assist with staggered closing times. She commented that Woods Wine Bar was the only venue that undertook drug searches. She also referred to other nearby venues offering drinks promotions resulting in intoxicated people causing crime and disorder in the area. She reiterated that there was no trouble from people leaving

Woods Wine Bar, they had a duty of care to people and it was illegal to serve intoxicated people.

In response to a member comment, Mr Else replied that he had a huge amount of experience in running premises and that he had very few incidences on his premises considering around 400 – 600 people visited his premises every weekend. He was wishing to take on the bar to protect Woods Wine Bar as he didn't want anyone else taking over the premises next door. With regard to the application form, Mr Else commented that there had been some mistakes on the application and that he did not envisage any objections to the application and that any issues would be resolved.

The Licensing Manager advised that mediation was normally undertaken with applicants and confirmed that a meeting had been held with the applicant. The applicant had been advised that an application with restricted hours would be considered more favourably but this suggestion had been turned down by the applicant.

The Police commented that the previous licence for the venue was not a 24 hour licence and was heavily conditioned. The Police were of the view that the area had reached saturation point because of the number of licensed premises.

All parties confirmed that they were satisfied with the conduct of the hearing.

The Officers and Parties with the exception of the Legal Executive and Democratic Services Officer, attending in an advisory capacity only, withdrew from the meeting to allow the members of the Sub-Committee to consider their decision in private.

Members of the Sub-Committee considered their decision in private session and were mindful of the advice given to them during the private session.

When the meeting was reconvened, the Chairman asked the Legal Executive to give a summary of the advice given to them during the private session. She advised that the Sub-Committee had been asked to take into account the following points:

- That the premises were situated within the Cumulative Impact Policy area;
- To consider whether the applicant had satisfactorily demonstrated the promotion of the four licensing objectives;
- To consider whether the applicant had included sufficient measures in the Operating Schedule;
- That appropriate modifications could be made to the Operating Schedule.

The Chairman informed those present at the hearing of the decision of the Licensing Sub-Committee.

In respect of the Application for a New Premises Licence for the property at 68 Middle Street, Yeovil, Somerset, under Section 18 of the Licensing Act 2003, the Licensing Sub-Committee has determined to REFUSE the Premises Licence, in accordance with the application as submitted.

The Sub-Committee considered the application on its own merits and also took into account the Cumulative Impact Policy, the representations submitted by the Police, the Licensing Authority and the Applicant and all of the Licensing Objectives of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching this decision the Sub-Committee felt that the Applicant had not provided sufficient evidence to rebut the presumption of refusal under the Council's Cumulative Impact Policy.

**Reasons:**

The Sub-Committee felt that the Applicant failed to demonstrate an understanding how the operation of the premises would not add to the cumulative impact already being experienced in the area.

There was insufficient information provided to determine the extent to which the Applicants proposed steps would promote the licensing objective and their Operating Schedule failed to provide clear and precise measure to promote each of the licensing objectives. In particular how 24 hour opening could operate safely, adequate door security, any understanding how specific policies that apply within the area, such as CCTV, drugs, dispersal and queuing policies, impacts on their application and how they would mitigate any impact, and why they consider their application should be an exception to any policy.

All parties are reminded that there is a right of appeal against the decision of the Licensing Authority. Such an appeal is to be made within 21 days of the date of receipt of the formal Notice of Determination, and should be made to the South Somerset Magistrates Court.



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Chairman

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Date