

## LICENSING SUB COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 9th May, 2016 at 10.05 am

**Present:** Councillor Mike Smith in the Chair;

Councillors Jim Aspinall and Paul Roberts.

**Officers Present:** Peter Barrow, Emma Goodall, Alan Maher and Kieran Stockley.

**In Attendance:** Peter Ashton, Kelly Barlow, Scott Barlow, Chris Green, J. Shaw and Christopher Tye,

### **LSC.6 Declaration of Disclosable Pecuniary and Non Disclosable Pecuniary / Other Interests.**

There were no Declarations of Interest.

### **LSC.7 Hearing of New Application of Premises Licence, Porterhouse by Barlows, 174 Forest Road, Kirkby in Ashfield, Nottinghamshire, NG17 9JB**

The Sub-Committee was asked to consider an application for a new premises licence to serve alcohol at the restaurant 'Porterhouse by Barlow's'. Members were informed that under the terms of Section 18 of the Licensing Act 2003, three valid representations from local residents had been received against granting this licence. They also heard that the Police, as one of the 'Responsible Authorities', had made a representation about the application which set out the operational conditions they would like to be imposed if the licence was granted.

The procedure for the hearing was explained to the Sub-Committee, in particular the opportunity which the Applicant, Mr Scott Barlow, and the Interested Parties, Mr J. Shaw, Mr Peter Ashton and Mr Chris Green would have to set out their views and to ask questions.

At this point Mr Chris Green asked that the Sub Committee should consider a note setting out additional information in relation to the application. As the Applicant and the other Interested Parties had no objections to this, the Chair and the Sub-Committee agreed to the request.

The Chairman invited the Applicant to put forward his case to the Sub-Committee. Following this, and in accordance with the procedure, the Interested Parties, Sub-Committee, Licensing Officer and Legal Advisor were offered the opportunity to ask questions of the Applicant.

The Interested Parties, Mr J. Shaw, Mr Peter Ashton and Mr Chris Green were then given the opportunity to present their representations to the Sub-Committee.

Following this, and in accordance with the procedure, the Applicant, Sub-Committee, Licensing Officer and Legal Advisor were offered the opportunity to ask questions of the Interested Parties.

Following discussion of the application and the representations made by the Interested Parties, and in line with the Council's procedure, the Sub-Committee withdrew from the hearing in order to deliberate upon the application and the representations made in respect of it.

The hearing was adjourned at 10.50am

The Chairman and Sub-Committee returned to the room at 11.25am

The Legal Officer presented the Sub-Committees findings:

RESOLVED

## **1 Decision**

The decision of the Licensing Sub-Committee (in exercise of its powers delegated by Ashfield District Council as Licensing Authority) was to:

Grant the application for a premises licence subject to the following conditions:

- A The mandatory conditions, the conditions offered by the Applicant, the conditions consistent with the Operating Schedule and the embedded restrictions on the use of the premises; and
- B The following conditions as attached by the Licensing Sub-Committee as a result of this hearing:

### **1. CCTV**

A CCTV system with recording equipment shall be installed and maintained at the premises. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/supply of alcohol takes place. Equipment shall be maintained in good working order and:

- be of evidential quality and produce colour images to all lighting conditions;
- indicate the date and time;
- be retained for 31 days;
- All staff employed at the Premises shall be trained to use the system;
- The original images should be made available for inspection immediately upon request to Officers of responsible authorities;
- Copies of the recordings shall be provided in a format which can be

viewed on readily available equipment without the need for specialist software.

## 2. Training

All members of staff shall be fully trained in the retail sale of alcohol. The training shall be on-going and each member of staff shall be reviewed every 6 months. All details of the level(s) of training will be recorded in an electronic or paper record. These records shall be made available for inspection and copying by the Police and/or any other authorised person from a responsible authority immediately upon request. All records should be retained at the premises for at least 12 months.

## 3. Challenge 21

A challenge 21 or similar policy will be implemented and enforced at all times. Any person who appears to be under 21 years of age shall not be allowed to purchase alcohol unless they produce an acceptable form of photographic identification (e.g. passport, driving licence or PASS accredited card).

## 4. Signage

Signage should be displayed in prominent places advising all customers to be respectful to residents by conducting themselves in a quiet and orderly manner when using the garden area and/or leaving the Premises.

## 5. Access

Access and egress to remain unimpeded to neighbouring properties by the Applicant and his employees except for deliveries, loading and/or unloading.

## 6. Garden Area

The garden area shall not be used until it is enclosed to prevent ready access to the area by members of the public who are not using the premises for dining.

## 7. Sunday hours

Regulated activities to be restricted on Sundays unless they are pre-booked private functions.

## **2 Facts and Reasons**

### **Facts – The Sub-Committee decided the following:**

1. No representations were received from any Relevant Authority;
2. No representations were received from Nottinghamshire Police

specifically in connection with anti-social behaviour and /or public nuisance in the area;

3. There was no evidence of anti-social behaviour connected to the Premises;
4. The Applicant seemed willing to work with the residents to make this a viable business with minimal impact on residents in the area.

**Reasons – The Sub-Committee’s reasoning behind its decision was based on being satisfied that:**

1. The conditions proposed by Nottinghamshire Police were accepted by the Applicant and were appropriate for the promotion of the Licensing Objectives;
2. All conditions proposed by the Interested Parties were accepted by the Applicant except for one in relation to Sunday opening hours. The sub-committee deemed that all agreed conditions were appropriate for the promotion of the Licensing Objectives;
3. The Applicant confirmed that Sundays would only be used to host private functions and as a result the Sub-Committee felt that the imposition of a condition reflecting this should alleviate the Interested Parties concerns;
4. Licensing Law is not the primary mechanism for the general control of Anti Social Behaviour but rather a part of a holistic approach to the management of the District;
5. There are other mechanisms available and in place for controlling problems of anti-social behaviour and/or public nuisance in the area;
6. If a Responsible Authority and/or Interested Party feel that the licence cannot be or is not being adhered to then a review application can be made to the Licensing Authority for the licence to be reviewed.

### **3 Decision**

The Sub-Committee considered all the evidence carefully submitted by the Applicant, the additional evidence submitted by an Interested Party which was accepted by all parties present at the hearing and took into account the District’s Licensing Policy, the Secretary of State’s Guidance issued under s182 of the Licensing Act 2003 (March 2015) in particular paragraphs 9.3, 9.12, 9.30-9.43, 10.8-10.10 and 10.46-10.52, the Human Rights Act and the four licensing objectives, namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Each objective being of equal importance.

On consideration of the evidence and by virtue of the guidance issued under section 182 of the Licensing Act 2003 (March 2015) the Licensing Authority only imposed conditions which it regarded as necessary and proportionate to the promotion of the Licensing Objectives or those that were offered accepted by the Applicant.

The Sub-Committee were satisfied that the additional conditions would address/alleviate the concerns of the Interested Parties.  
If a Responsible Authority and/or Interested Party felt that the licence was not being adhered to then a review application could be made to the Licensing Authority for the licence to be reviewed.

#### **4 Appeal**

The parties to the hearing are reminded that there is a right to appeal against the decision to the Mansfield Magistrates Court, Rosemary Street, Mansfield, Nottinghamshire, exercisable within 21 days of receipt of this notification.

The meeting closed at 11.30 am

Chairman.