



BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Friday, 20th October, 2023

PRESENT

MEMBERS Councillor Anne Kelly in the Chair

Councillors H Baker and S Lone

OFFICERS

Catherine Waudby	– Head of Legal and Democratic Services
Karen Davies	– Environmental Health and Licensing Manager
Lisa Tempest	– Licensing Compliance Officer
Carol Eddleston	– Democracy Officer

Also in Attendance

Applicant Party:

Jack Hall – Applicant and Director

Cherelle Hall – Business Partner of Applicant and Director

Kurt Bartoft – Business Partner of Applicant

Objectors:

Mr Costello

Mr McPherson

Mr Drummond

Mr and Mrs Henderson representing Mr Liddle

18 Welcome and Introductions

The Chair welcomed everyone to the meeting and invited all those present to introduce themselves.

19 Request to Adjourn

Mr Costello indicated to the meeting that he would like to request an adjournment of the hearing to a future date to allow his legal representative to attend and represent him and fellow residents of the Foundry. He said that they had had only two weeks to prepare for the

hearing and that their legal representative was unable to attend as they were otherwise engaged.

Mrs Davies explained the regulatory framework around timescales for hearings and confirmed that all arrangements had been made in accordance with the appropriate regulations.

The Applicant's party pointed out that they had had the same time to prepare as the Objectors and did not have legal representation either.

At 11:00 members agreed to adjourn for ten minutes in order to consider this request.

The meeting reconvened at 11:10 and the Chair informed the meeting that the sub-committee had agreed to an adjournment to 30th October.

Mr Costello thanked the sub-committee for having considered his request and said that, as the legal representative was not available on 30th October, he and the residents would be willing to proceed without an adjournment.

20 Apologies for Absence

There were no apologies for absence.

21 Minutes of the last Meeting

The minutes of the meeting held on 6th September were approved as a correct record and signed by the Chair.

22 Additional Items of Business

There were no additional items of business.

23 Declaration of Interest

There were no declarations of interest.

24 Exclusion of the Public

It was determined that the hearing would be held in public.

25 Determination of a Premises Licence Application

Lisa Tempest presented a report which outlined an application under section 17 of the Licensing Act 2023 (the Act) for a premises licence for Cocktails and Creamz, 25-29 Hammerton Street Burnley.

Representations had been received within the prescribed period from seven individuals and from the Environmental Health Officer. Following mediation between the Environmental Health Officer and the applicant, conditions were agreed and their representation was withdrawn. Also during the prescribed period conditions suggested by Lancashire Constabulary were agreed with the applicant. Of the seven individuals who made

representation, one of them withdrew their representation having been satisfied by the conditions suggested by the police & Environmental Health that the applicant had agreed to.

Two objectors who had submitted identical representations in the prescribed period did not attend the hearing and Ms Tempest read out their representation for the benefit of all parties present.

All parties had an opportunity to ask questions of Ms Tempest about the report.

There were no questions.

Mr Costello presented his objections to the application.

All parties had an opportunity to ask questions of Mr Costello.

Members of the sub-committee asked a number of questions, to which Mr Costello replied, assisted by the other objectors where appropriate.

Members of the applicant party provided supporting information where appropriate.

Mr McPherson presented his objections to the application.

All parties had an opportunity to ask questions of Mr McPherson.

Members of the sub-committee asked a number of questions, to which Mr McPherson replied, assisted by the other objectors where appropriate.

Members of the applicant party provided supporting information where appropriate.

At 11:50am members RESOLVED to adjourn for 20 minutes for a comfort break.

The meeting reconvened at 12:10pm.

Mr Drummond outlined his case.

All parties had an opportunity to ask questions of Mr Drummond.

There were no questions.

Mr Henderson presented objections to the application on behalf of Mr Liddle who had submitted written representations but was unable to attend the hearing.

All parties had an opportunity to ask questions of Mr Henderson.

Members of the sub-committee and members of the Applicant party asked a number of questions, to which responses were provided by Mr Henderson.

Mr Hall presented his case as the Applicant.

All parties had an opportunity to ask questions of Mr Hall.

Members of the sub-committee and the objectors asked a number of questions, to which responses were provided by Mr Hall, with supporting information provided by Mrs Hall and Mr Bartoft where appropriate.

Each party was given an opportunity to sum up.

Members RESOLVED to go into private session for deliberations and to receive legal advice where appropriate.

PUBLIC DECISION AND REASONS FOR DECISION

In coming to its decision, the Sub Committee took account of Guidance relating to the Licensing Act 2003. The Sub Committee particularly had in mind the Licensing Objectives relating to the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance, and the Protection of Children from Harm. It also took account of Burnley's Licensing Policy and the Guidance published by the Secretary of State under S182 of the Licensing Act 2003.

The Sub Committee has carefully listened to the representations made by and on behalf of the objectors and by and on behalf of the Applicant.

RESOLVED That the Premises Licence for Cocktails and Creamz, 25-29 Hammerton Street, Burnley be granted in accordance with the mandatory conditions and as set out in the operating schedule and with the concession made by the Applicant at the hearing in relation to Sundays:

The sale by retail of alcohol on the premises from 10am to 11:30pm and the premises opening hours from 10am to 12 midnight, except on

Sundays preceding any Bank Holiday;
Sundays which are Christmas Eve, New Year's Eve, Christmas Day or Boxing Day;
Sundays on which there are sporting events or special occasions for which prior notification has been provided to Lancashire Constabulary and the Licensing Authority, where the timings are as follows:

The sale by retail of alcohol on the premises from 10am to 03:00am and the premises opening hours from 10am to 03:30am

REASONS

The Sub Committee determined that the objections raised by Environmental Health had been mediated with the Applicant and had led to the amendment of the operating schedule.

The representations of the police had been taken on board by the Applicant and had led to the amendment of the operating schedule.

The concerns of the residents namely noise, rowdy behaviour, chewing gum on the pavements and vomiting, were either attributable to existing premises or to the conduct of individuals and cannot be attributable to the Applicant who has not yet begun to trade.

The Applicant has shown their understanding of the Licensing Objectives, both in their application and in discussions at the hearing. The Sub Committee noted their willingness to engage with the residents of the Foundry and welcomes the Applicant's concession in relation to the licensing hours.

The decision to grant is appropriate, necessary and proportionate in the circumstances for the promotion of all four licensing objectives

Each party has a right of appeal against this decision to the Magistrates.