

STATUTORY LICENSING SUB-COMMITTEE

Minutes of a meeting held on 30th October, 2019.

Present: Councillors R. Crowley, Mrs. P. Drake and J.W. Thomas.

Also present: Multiple Licensing Officers (Vale of Glamorgan Council), Legal Officer (Vale of Glamorgan Council), Democratic Services Officer (Vale of Glamorgan Council), Environmental Health Officer (Vale of Glamorgan Council), Mr. P. Warne and Mr. K. Williams.

The Democratic and Scrutiny Services Officer explained the procedure to be used for the hearing and advised that a copy of the procedure was available within the agenda.

(a) Appointment of Chairman –

Councillor J.W. Thomas was elected Chairman for the duration of the hearing.

(b) Declarations of Interest –

No declarations were received.

(c) Licensing Act 2003 – Variation of a Premises Licence – Baroque, 18 Windsor Road, Penarth, CF64 1JH –

The Chairman welcomed those present to the Sub-Committee hearing and invited each person to introduce themselves.

The Chairman then invited the Licensing Officer to present the report, who advised that an application had been made under the Licensing Act 2003 to vary a Premises Licence at Baroque, 18 Windsor Road, Penarth, and was submitted by BQ Trading Ltd.

The Licensing Officer referred to an e-mail sent by the Applicant's legal representative, Mr. P. Warne on 29th October, 2019 which included a number of amended conditions. These were as follows:

- A Queue Management Policy (QMP) would be drawn up and implemented at the premises. The QMP would set out how door supervisors would be expected to ensure that as far as practicable, customers queueing would behave in a manner that was appropriate and unlikely to cause disturbance. The QMP would also set out how the management would liaise with door supervisors to ensure that queueing customers would be kept informed if there was likely to be a long wait for entry to the premises.

- A Dispersal Policy would be drawn up and implemented at the premises. The policy would set out the roles of staff and door supervisors in ensuring that the dispersal of customers from the premises did not cause disturbance to residents nearby.
- On Friday and Saturday nights, there would be no entry to the premises 30 minutes prior to the last sale of alcohol.
- Where the Premises Licence holder intended to use one of the 10 extended hours occasions permitted by the licence, a risk assessment would be drawn up at least 14 days in advance of the occasion and should be implemented at the premises. The assessment would provide details of the type of event being held, hours intending to operate, any additional staffing or security being put on and any other measures to be used to manage the night. The assessment would be made available to the policy and Licensing Authority on request.

The Licensing Officer summarised the application before the Committee which sought:

- To extend the Opening Hours of the premises from 08:00 to 02:30 to 08:00 to 03:30;
- To add specified days with the serving of alcohol ceasing 20 minutes before terminal hour;
- To extend the hours for Regulated Entertainment from 08:00 to 02:30 to 08:00 to 03:30, with the exception of specified dates;
- To extend the hours for the Sale of Alcohol from 08:00 to 02:30 to 08:00 to 03:30;
- To extend terminal hour for Late Night Refreshment to 03:30 rather than 02:30.

The officer added that the Licensing Authority must have regard to the full licensing objectives when carrying out its functions which were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance, and
- The protection of children from harm.

On 18th May, 2018, a Premises Licence was granted for Baroque, 18 Windsor Road, Penarth. A copy of the Premise Licence could be found at Appendix A to the report.

On 4th September, 2019 the Licensing Authority received an application for the Variation of a Premises Licence for Baroque, 18 Windsor Road, submitted by BQ Trading Ltd. A copy of the relevant part of the application was attached at Appendix B to the report.

In addition, representation had been received from Environmental Health and Penarth Town Council.

Following the Licensing Officer's presentation of the report, the Chairman invited Mr. Warne and Mr. Williams (Applicant) to present their case.

Mr. Warne advised that this was an application for Baroque in Penarth which was being promoted as a cocktail / wine / rum bar with a dance floor on the second floor with a second bar.

In respect of the permissible ten events per calendar year, Mr. Warne stated that the Licensing Authority would be given 14 days' notice for non-specific extensions. It was proposed that the specified dates would be:

- Sundays before Bank Holidays;
- Christmas Eve;
- Boxing Day;
- Thursday before the Easter weekend;
- New Year's Eve extended until the start of trading on New Year's Day.

Mr. Warne reiterated that Baroque was being marketed as a gin and rum bar and would allow people to explore the world of gin and rum. Therefore, over 130 varieties of gin and over 70 versions of rum were being offered. In addition, there was a range of beers including craft and IPA and a substantial wine list. Furthermore, table service would be available throughout the premises and the proprietor had taken time to make sure that all staff were well trained and well mannered, including the door staff. Therefore, Baroque would have the feel of a specialist bar rather than a disco.

In terms of noise compliance, Mr. Warne advised that there had been some complaints so a new sound directional system had been put in place and tested by a sound expert. Therefore, sound would be targeted towards the bar and would result in no outbreak noise into the street. Mr. Warne stated that the proprietor had invested £140k into the new sound system.

Mr. Warne stated that it was important to note that no representations had been made by the Police or local residents and this said something about how Baroque was considered in the town. Mr. Warne referred to a licensed bar opposite Baroque which had similar opening times and this did create a problem in respect of dispersal. Mr. Warne outlined that over the past 18 months, 21 day and 42 events had been held at Baroque and no concerns had been raised. It was recognised that the issue of nuisance behaviour due to dispersal of customers would be improved by the later opening hours which would not coincide with the closing time of the premises opposite. Mr. Warne added that representations made did outline genuine concerns but these would be covered within the new policy being suggested. The late opening was therefore vital for the business which Mr. Warne stated was well managed and so should be supported. Finally, Mr. Warne stated that there was no evidence to show that the licensing objectives had been undermined and the concern of the Licensing Officer had been dealt with through the new conditions.

The Chairman then asked if there were any queries or comments in relation the representations made by Mr. Warne. The Environmental Health Officer stated that it was shown that there was disruption which was because there were two pubs in the

area with the same closing time. She stated that an objection had been raised as there was no evidence that the applicant had regard to the Licensing Objectives. She commented that the concerns of the Licensing Officer would be dealt with in a roundabout way, with a QMP and a Dispersal Policy drawn up and seen by Licensing. She added that the key issue was the need to look at the evidence of the impact of the later operating hours.

A Member of the Sub-Committee wished to clarify whether the extra hour was to avoid clashes with dispersal of the other premises opposite or was it customer driven. In reply, Mr. Warne stated that it was both and the application to extend hours would be to entice customers to stay longer and work better for everyone. Mr. Warne clarified that the serving of drinks would be stopped 20 minutes before closing time.

At this point, the Licensing Officer present stated that there was a concern for the extensions and how these would impact on the licensing objectives. Initially, no extra measures had been put forward by the proprietor and so there was concern with how customer conduct and nuisance would be tackled. The Licensing Officer referred to the conditions put forward by the proprietor in an e-mail dated 29th October and stated that she was now more satisfied that the licensing objectives could be met.

The Chairman noted that there were no representations made by the Police in relation to crime and disorder. The Licensing Officer stated that this was correct but the Licensing Department had to have regard to the four licensing objectives. She stated that she was more satisfied with having the specified dates.

There then following representations by the Environmental Health Officer, who stated that one of the issues was that there were two pubs with late opening and music which provided more complaints than the whole of Barry. She stated that Penarth was a very quiet area and, in most cases, quieter than the rural Vale. This was because there were no major roads or rail in the area and so there was low background noise. She stated that to address public nuisance, a QMP and a Dispersal Policy had been drawn up, but she stated that there were limitations as Baroque did not have a lobby area so people would go straight from the stairs onto the street. She confirmed that she was more satisfied now that the conditions had been put forward.

The Chairman stated that Baroque had been able to hold temporary events for a period of around 18 months with no issues reported. In reply, the Environmental Health Officer stated that Baroque had not been specifically mentioned in any complaints. She challenged the assertion made by Mr. Warne that there were not many residential homes near Baroque as there were flats above shops and close by, and some residents had complained.

A Sub-Committee Member queried the premises' CCTV system. In reply, Mr. Warne stated that there was one which included 32 state of the art cameras that were fully operational and said it was a very robust system in place.

With there being no further questions, the Chairman invited all parties to sum up their representations.

The Licensing Officer confirmed that she was satisfied with extra measures that had been put forward. These showed that the proprietor better understood the impact upon the licensing objectives.

The Environmental Health Officer stated that the proposed conditions did give her some solace but there would always be some concern with extension of hours and late entry of customers. She added that she trusted that the plans would be put in place and implemented.

Mr. Warne stated that the variations would assist the dispersal and would make it easier to evidence where residential complaints came from. It was also important to recognise that the Police had not attended to Hearing to voice any objections. Mr. Warne stated that the Council's policy required evidence to show that a premises caused nuisance and for the 42 temporary event days no complaints had been received. This demonstrated the effort of the proprietor and his team to responsibly manage the bar. He therefore asked the Sub-Committee to grant the Variation Licence.

There being no further representations, the Sub-Committee retired from the Chamber to deliberate on the application in private.

On returning, the Chairman confirmed that the application was for a variation to a Premises Licence at Baroque, 18 Windsor Road, Penarth. The application sought the following:

- To extend the opening hours of the premises from 08:00 hours to 03:30 hours Monday to Sunday;
- On specified days, opening hours to be extended to 04:00 hours with the serving of alcohol ceasing 20 minutes before terminal hour. The specified days being Sundays before Bank Holidays, Christmas Eve, Boxing Day and Thursday before Easter Weekend;
- The sale of alcohol on New Year's Eve to be extended until the start of trading on New Year's Day;
- To extend the hours for the sale of alcohol from 08:00 hours to 02:20 hours to 08:00 hours to 03:10 hours with the exception of the above specified days;
- Regulated Entertainment, to extend the hours from 08:00 hours to 02:30 hours to 08:00 to 03:30 hours with the exception of the above specified days;
- To extend the terminal hour for Late Night Refreshments to 03:30 hours rather than 02:30 hours with the exception of the above specified days.

In delivering the decision of the Sub-Committee, the Chairman summarised the verbal and written representations received by all parties and the comments received during the hearing as set out in the minutes above.

The Chairman advised that following consideration of the application, the representations from the Local Authority's Licensing Department and Environmental health, the Applicants and Other Persons, and having considered the Home Office

Guidance along with Sections 3, 7, 8, 12, and 20 of the Council's Statement of Licensing Policy and also taking into account Section 182 of the Licensing Act 2003 (as Amended) Licensing Sub-Committee

RESOLVED – T H A T the application, as amended with conditions, be granted.

Reason for decision

The Sub-Committee considered that the management had shown that it operated the venue in accordance with the licensing objectives and with the policies offered this would continue.

The Chairman advised all persons present that they had the right of appeal against the decision of the Sub-Committee. The appeal must be made in writing and within 21 days to the Cardiff and Vale of Glamorgan Magistrate's Court. Should the Appellant be in any doubt as to their legal rights and / or responsibilities they should take independent legal advice.