

## REGULATORY SUB COMMITTEE

*At a meeting of the Regulatory Sub Committee on Thursday, 24 August 2023 at the Civic Suite - Town Hall, Runcorn*

Present: Councillors Wallace (Chair), Fry and K. Loftus

Apologies for Absence: None

Absence declared on Council business: None

Officers present: E. Wilson-Lagan (Legal Advisor), K. Hesketh (Licensing Manager), P. Wilson (Environmental Health Officer), L. Halliday (Police Licensing Officer) and J. Clarke (Police Solicitor).

Also Present: L. Fletcher and D. Owens (Residents of Ross Street, Widnes)

### ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

		<i>Action</i>
RSC2	MINUTES FROM THE LAST MEETING	
	The minutes of the meeting held on 3 October 2022, having been circulated, were signed as a correct record.	
RSC3	APPLICATION FOR A PREMISES LICENCE - BANKSEY'S BAR, 75 ALBERT ROAD, WIDNES, WA8 6JS	
	The Sub-Committee met to determine an application made under Section 17 of the Licensing Act 2003 for a premises licence for Banksey's Bar, 75 Albert Road, Widnes, WA8 6JS ("the Premises"). The hearing was held in accordance with the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005.	
	<b><u>PREAMBLE</u></b>	
	The hearing was held as relevant representations has been received from Cheshire Police, Environmental Health and 10 local residents.	
	The Applicant, Ms Bethany Owens, was in attendance and was represented by her Solicitor, Mr Piers Warne. The	

other parties in attendance were:-

Lesley Halliday, Police Licensing Officer,  
Joanne Clarke; Solicitor for the Police;  
Lyn Fletcher and Dawn Owens, two residents who live  
on Ross Street;

Prior to the hearing, the Sub-Committee had been provided with evidence submitted by the parties, including a witness statement from Lesley Halliday, screen shots of the opening hours of licensed premises in the vicinity of the area and a video of the previous business that operated from the Premises when it was known as Annie's Bar which had been submitted by Ms Fletcher. They had also received a list of the licensed hours for the licensed premises within walking distance of the Premises from the Licensing Manager and a Schedule of agreed and disputed conditions from the Applicant.

Prior to the hearing, the Applicant made the other parties aware of her intention to remove live and record music from her application. This was confirmed to the Sub-Committee during the Applicant's submissions.

Also prior to the hearing, the Police made an application under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, to exclude the public from part of the hearing. Submissions on the application were made by the Police and the Applicant in private and the Sub-Committee determined that the public interest in excluding the public from part of the Police's submissions outweighed the public interest in hearing them in public. The exclusion was restricted to what was necessary and proportionate in maintaining the public interest and the remainder of the Police's submissions were heard in public.

### **DETERMINATION**

The Sub-Committee has considered the relevant representations, the evidence received before the hearing and the oral submissions and evidence heard from all parties at the hearing.

In reaching its decision, the Sub-Committee have also taken into consideration the Licensing Objectives, all of which are relevant but more so the prevention of crime and disorder and public nuisance, as well as the statutory guidance, the relevant case law and Council's own Licensing Policy.

The sub-committee resolved to grant the application subject to the hours and the conditions below:-

## **HOURS**

Hours of opening	Monday – Wednesday	11:00 - 23:30
	Thursday, Friday, Saturday	11:00 – 00:30
	Sunday	11:00 – 23:30
Supply of Alcohol (on premises)	Monday – Wednesday	11:00 - 23:00
	Thursday, Friday, Saturday	11:00 – 00:00
	Sunday	11:00 – 23:00
Late Night Refreshment	Thursday, Friday, Saturday	23:00 – 00:00

## **CONDITIONS**

### **A. Operating Schedule**

1. No children on the premises at any times.
2. Regular toilet checks.
3. Last entry to premises will be 30 minutes before terminal hour.
4. First aid on premises.
5. Only toughened glassware to be used.
6. No glasses outside the premises.
7. Notice will be displayed asking for patrons to respect neighbours.
8. No nudity or semi nudity at any time.

### **B. Police Conditions**

#### **Prevention of Crime & Disorder**

A CCTV system shall be used and shall be designed and installed in accordance with the Cheshire Constabulary's CCTV guidance document called 'CCTV in Licensed Premises – An Operational Requirement'. This system shall be in operation at all times when licensable activities are taking place.

Recorded CCTV images will be maintained and stored for a period of twenty-eight days.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show/provide footage to a Police officer or an authorised officer of the licensing authority data or footage upon request. Any requests for CCTV shall be complied with, within 48 hours or less, or otherwise as agreed to comply with data protection

legislation.

Designated premises supervisors will need to demonstrate that their CCTV system complies with their Operational requirements. They will need to be able to demonstrate the following:-

- Recordings are fit for their intended purpose,
- Good quality images are presented to the officer in a format that can be replayed on a standard computer
- The supervisor has an understanding of the equipment/training,
- Management records are kept,
- Maintenance agreements and records are maintained,
- Data Protection principles and signage are in place.

### **Risk Assessed Door Staff**

When there is a private function or event with regulated entertainment being held at the premises the Premises License Holder or Designated Premises Supervisor shall conduct an assessment of the need for SIA registered door supervisors, taking into account any advice offered by the Police.

Where the assessment shows that door supervision is required, supervisors shall be engaged at such times and ratios as are assessed to be necessary.

The risk assessment will be documented in a book kept for that purpose and will be made available to the police or an officer from the Licensing Authority upon reasonable request.

When such Door supervision is employed:-

A written record shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor in a register kept for that purpose. That record shall contain the following details:-

- The Door Supervisor's name, date of birth, contact telephone number and home address;
- His/her Security Industry Authority license number;
- The time and date he/she starts and finishes duty;
- The time of any breaks taken whilst on duty;
- Each entry shall be signed by the door supervisor;
- Record of all incidents taking place in the venue.

The register shall be available for inspection on

demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.

### **Incident Log**

The premises shall maintain an Incident Log, and this will be made available to the Police or Licensing Authority upon request.

### **Search Policy**

When Door Supervisors are present, the Premise Licence Holder shall put in place a search policy to cover both drugs and weapons for the premises, which shall be to the satisfaction of Cheshire Constabulary. The Premises Licence Holder or Designated Premises Supervisor shall then ensure that this search policy is complied with at all times when the premises are open for licensable activities and door supervisors are employed.

Conspicuous notices advising customers of the search policy shall be displayed at all entrances to the premises.

There shall be a suitable secure location available for the safe storage of suspected drugs seized or found in the premises. The items to be placed within Police supplied drugs bags and appropriately labelled and sealed until handed over to the Police.

Anyone with drugs or weapons are to be refused entry, this is to be recorded in a refusals book kept for this purpose.

### **Drugs**

The premises will operate a zero tolerance to drugs policy on the premises.

Prominent signage will be displayed in the toilets at the premises to advise patrons that management have a zero tolerance to drugs policy in place.

Anyone caught with drugs are to be asked to leave the premises immediately.

### **Public Safety**

An effective method of communication between the licenced premises and other premises in the town and the

Police shall be in operation at times when the premises is open to the public, so long as such method is approved by the Police.

### **Protection of Children from Harm**

A "Challenge 25" policy shall be operated at the premises at all times.

The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are a valid passport, a valid photographic driving licence, a PASS approved proof of age card, HM Services Warrant Card or other reliable photo ID (that has been approved for acceptance by the Police or an Officer of the Local Authority) or other forms of ID approved by the Home Office for age verification relating to sales of alcohol.

Publicity materials notifying customers of the operation of the "Challenge 25" scheme shall be displayed at the premises, including entrances and hall and include the message that it is illegal to sell alcohol to under 18's.

The Designated Premises Supervisor or Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by Local Authority Officers and the Police. The register can either be hard-copy or part of a till prompt system.

The DPS or other responsible person shall check and sign the register once a week, if hard copy.

A documented training programme shall be introduced for all staff in a position to sell, serve or deliver alcohol. A written record for each member of staff shall be kept of the content of such training and shall be made available for inspection at the request of Local Authority Officers and Police.

The DPS or Premises Licence Holder shall conduct six monthly training reviews with all members of staff authorised to sell, serve or deliver alcohol in order to reinforce the training and to promote best practice. A written record for each member of staff shall be kept of the content of such reviews and shall be made available for inspection at the request of Local Authority Officers and Police.

A list of persons authorised to sell alcohol shall be

kept on site and made available for inspection at the request of Local Authority Officers and Police.

### **C. Environmental Health Conditions**

Patrons who wish to smoke will be directed to the front of the premises on Albert Road. Smoking shall not be permitted on Ross Street.

With the exception of pre-booked and advertised regulated entertainment the volume of music to be kept to a level that it could be considered incidental / background music.

All windows and doors are to be kept closed after 21:00 save for access and egress.

### **D. Additional Conditions**

A cigarette receptacle shall be provided on the outside of the premises facing Albert Road to enable the disposal of cigarette butts.

At the start and close of the hours of operation, the pavements immediately outside of the premises on Albert Road and Ross Street must be swept and/or washed and litter and sweepings collected and disposed of in the premises waste receptacles.

Between the hours of 22:00 and 6:00, no waste or glass bottles shall be moved or deposited outside.

At the start of any regulated entertainment a check will be undertaken outside of 2 Ross Street to ascertain whether the volume of the entertainment is likely to cause a public nuisance. A log will be maintained showing when the check was undertaken and to confirm that the level is deemed not to be loud enough to cause a public nuisance. If any action is taken to reduce the volume this is to be recorded. A copy of the log will be made available for inspection by the Responsible Authorities.

### **E. Mandatory Conditions**

As required under section 19 and 21 of the Licensing Act 2003.

## **REASONS FOR DETERMINATION**

The reasons for the Sub-Committee's decision is as follows:-

- i. In respect of the prevention of crime and disorder, the Sub-Committee has taken into consideration the statutory guidance which provides that licensing authorities should look to the Police as the main source of advice on crime and disorder. It has therefore placed significant weight on their concerns. However, the Sub-Committee does not consider there is compelling evidence to refuse the application and the concerns of the Police were adequately dealt with by the conditions they have proposed in the alternative to a refusal.
- ii. In support of this, evidence was heard from the Police that the applicant is of good character and that they have no issues with her per se. Significantly, no evidence was provided to demonstrate that she had any connection to the previous business, Annie's Bar.
- iii. Furthermore, significant weight was placed on the Applicant's evidence that despite her young age, she had 5 years of experience in the industry working at Wetherspoons and had grown up in pubs as her father was the manager of a pub in the local area. The Sub Committee was also reassured by the fact that she would be supported by her stepsister who has over 10 years' experience in the trade and who would have a significant role in Banksey's Bar as it was a joint venture; her father who has over 17 years' experience; and the manager of Banksey's Bar, Gavin Pye who also has over 8 years' experience. The Sub Committee agreed that together this was a substantially experienced team to manage the Premises in a safe and responsible manner.
- iv. As for the residents' evidence which detailed various incidents of anti-social behaviour at the premises when it was known as Annie's Bar, the statutory guidance is clear that each application must be considered on its own merits. Banksey's Bar is a different business to Annie's Bar and is ran by different people. The applicant emphasized that Banksey's Bar would be a wine bar/ café and, at some point in the future, may also offer tapas and finger plates. Unlike Annie's Bar, the focus is not on music or dancing which is demonstrated by the fact that they have replaced the dance floor with more seating and are no longer seeking regulated entertainment. The Sub-Committee noted that this was corroborated later on by the Environmental



Health Officer, Mr Wilson, who advised that the layout of the Premises was different to Annie's Bar and stated that he would be surprised if the Premises became another Annie's Bar. It was also noted that some of Ms Halliday's fears were allayed on hearing the applicant's evidence. As such, the Sub Committee found there was no evidence that the Premises would be operated like Annie's Bar and, although not currently in operation, there was evidence that it would be a calmer bar with a different target of clientele. Furthermore, the Police conditions on CCTV, the use of door staff for regulated events, and search and drugs policies adequately deal with any such potential risks of crime and disorder. These conditions are also in accordance with the Council's own statement of policy.

- v. As for public nuisance, the Sub Committee has every sympathy with the residents given the past issues but again it must consider the application on its merits. That said, evidence was heard on the size of the premises, its very close location to residential premises and the fact that Premises' main door and windows were on Ross Street which is primarily residential. Ms Fletcher, in particular, described the houses on Ross Street being close to the Premises as they were terrace houses and that there were no grass verges to mitigate the impact of any noise. She also recounted how she would hear glass bottles being thrown out in the early hours of the morning when the premises was Annie's Bar despite living 13 doors away. As such, Sub-Committee considered that the noise related conditions, particularly conditions 34, 35, 36, 39 and 40, were necessary to promote this licensing objective.
- vi. In respect of the sound limiter condition proposed by Environmental Health, the Sub-Committee is mindful of the statutory guidance on this and considers that this condition is disproportionate and not justified in light of the amendment to the licensing hours (discussed further below) and the other conditions.
- vii. In addition, evidence was heard from the applicant that smokers would be directed to the front of the Premises on Albert Road. The Sub-Committee therefore considered conditions on providing a cigarette bin and keeping the area immediately outside the Premises clean were also necessary and proportionate.

- viii. As for the remaining licensing objections – protection from children from harm and public safety – again the Sub Committee considered that the Police conditions adequately deal with these concerns as do the conditions proposed by the applicant on the operating schedule.
- ix. Submissions were also heard from the residents about the proposed hours of the license. In taking into account the Council's statement of licensing policy, particularly paragraphs 39 and 48, the Sub Committee considered that the close proximity of the Premises to the residential premises justified a reduction in the hours, so as not to undermine the licensing objections, particularly the prevention of statutory nuisance as discussed further at paragraph v. above. The Sub Committee considers that the new hours strike the right balance between the interests of the residents who live in Ross Street and the Applicant's business.

The Sub-Committee have been comforted by the cooperative nature of the Applicant and the willingness to work with residents going forward. Again this shows how she is a responsible business owner. It is hoped that this open communication is maintained by all parties, if there are future issues.

If issues do crop up, the Sub-Committee would like to remind residents that there are powers to deal with premises if a licence leads to the licensing objectives being undermined. Not least is the power for residents or responsible authorities to bring review proceedings where steps can be taken to restrict the licence, impose further conditions or, in extreme circumstances, revoke the licence when evidence shows issues result from a licensable activity. Action can also be taken separately by environmental health in relation to statutory noise nuisance, if reported. The sub-committee hopes that this brings some reassurance to the residents.

**TIME THAT THE DETERMINATION SHALL TAKE EFFECT**

Forthwith.

*Meeting ended at 6.31 p.m.*