

## Licensing Sub-Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Monday, 4 December 2023 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

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### **Licensing Committee members present:**

Councillors Birch, Ellison and Moliner

### **Officers present:**

George Ratcliffe, Assistant Democratic Services Officer

Patrick Cantley, Senior Licensing Officer

Carmel White, Solicitor

No members of the public or press attended the meeting.

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### **3           Declarations of Interest**

None.

### **4           Application for a new Premises Licence - Corkscrew Wine Bar, 57a Victoria Road West, Cleveleys, FY5 1AJ**

The Corporate Director Environment submitted a report to provide members of the Licensing Sub-Committee with information to assist them at a hearing to determine an application submitted under section 17 of the Licensing Act 2003 by The Corkscrew Wine and Cheese Company Ltd for a new premises licence in respect of Corkscrew Wine Bar, 57a Victoria Road West, Cleveleys, FY5 1AJ.

The representor did not attend the meeting. The Senior Licensing Officer informed the Sub-Committee of the latest communications with the representor and confirmed that the representation had not been withdrawn. Members considered that it was not necessary to adjourn in the public interest and voted to hold the hearing in the representor's absence.

The Senior Licensing Officer introduced the report. He explained that the application as submitted was for the applicant to be authorised to provide the following licensable activities:

Sale of alcohol for consumption on and off the premises, between 09:00 and 23:00 hours on all days with an additional non-standard timing sought for New

Years Eve between 09:00 hours and 01:00 hours of the following day.

Opening hours between 09:00 and 23:30 hours on all days with an additional non-standard timing for New Years Eve between 09:00 hours and 01:30 hours.

The matter was before the Sub-Committee due to a representation which was concerned that the possible effect of granting the licence would undermine the licensing objective 'prevention of public nuisance' in this location.

The applicant addressed the members. He explained that he had owned the family business next door for two years and had never experienced any problems. He highlighted that his current business catered for families and Corkscrew Wine Bar would continue this theme. He confirmed that he had followed all the Environmental Health guidelines.

The applicant then answered a question from a member of the Sub-Committee.

The applicant and the Senior Licensing Officer left the chamber and the Sub-Committee considered the application in private.

In reaching their decision, the Sub-Committee had regard to:

- the Council's own Statement of Licensing Policy, particularly the following sections: 9.3 Conditions imposed at a hearing 13.1 Prevention of crime and disorder 13.3 Prevention of public nuisance 17 Need for licensed premises;
- the Statutory Revised Guidance issued under section 182 of the Licensing Act 2003 in August 2023, in particular the following sections: 1.16, 9.3, 9.4, 9.12, 9.26-9.30, 9.37-9.40, 9.42-9.44 and 10.8-10.10;
- the representation;
- Licensing Act 2003, and;
- Human Rights Act 1998 and Equality Act 2010

After the Sub-Committee had deliberated and reached a decision, the applicant and the Senior Licensing Officer returned to the chamber and the Chair delivered the decision and the reasons for it as below. The rights of appeal were explained to the applicant and that he would be sent a written notification of the decision.

### **Decision**

The Sub-Committee resolved that the Application be granted subject to the conditions set out below.

### **Reasons for the Decision**

The Sub-Committee had regard to the nature of the proposal, namely a

premises licence for the supply of alcohol, including off sales, between 9am and 11pm on any day closing to the public at 11.30pm but with non-standard hours on New Year's Eve only for the supply of alcohol, including off sales, between 9am and 1am, closing to the public at 1.30am.

The Sub-Committee gave careful consideration to the issues raised by the Representor. It noted that the main objection was the impact on the high street in the daytime and that the Representor acknowledged that this main objection was related to land use rather than to the licensing objectives. Other concerns raised were:

- possible noise to residential premises above
- anti-social behaviour from outside drinking in this particular location

The Sub-Committee considered the general concern of the Representor regarding possible noise and disturbance affecting residential premises. Mr Dunning confirmed that the Applicant's intention was to play background music only and the Sub-Committee noted that the Application did not seek licensing of regulated musical entertainment. He commented that the Applicant had agreed to an acoustic ceiling. The Sub-Committee noted that the Environmental Protection had proposed conditions regarding the prevention of public nuisance and that those conditions had been agreed by the Applicant. It noted that there was no representation on this issue from any other source. The Sub-Committee had regard to all the mediated conditions agreed with Environmental Protection, particularly conditions 5, 8, 9, 10 and 11 and to those proposed by the Applicant and considered that they would promote the licensing objective and would satisfactorily address the issue raised.

The Sub-Committee had careful regard to the terms of the Application and the location of the premises in relation to other licensed premises in the town centre. The Sub-Committee considered the conditions which the Applicant had agreed with Environmental Protection be imposed upon a licence, if granted, in relation to this locational issue. It noted all the proposed conditions, particularly condition 4 and 7 of the mediated conditions and all those conditions proposed by the Applicant for the prevention of crime and disorder and public nuisance. The Sub-Committee noted further that there was no objection to the Application from any Responsible Authority (subject to the mediated conditions) nor from any other person and that no other evidence or examples had been provided. In all the circumstances it considered that the conditions would appropriately promote the licensing objective.

The Sub-Committee considered carefully all the conditions that had been proposed and subsequently agreed by the Applicant to promote the four licensing objectives. It was of the view that the granting the Application with these conditions would support the licensing objectives. In all the circumstances the Sub-Committee was of the view that granting the Application with these conditions would be proportionate and appropriate in the circumstances of this case.

Therefore, the Sub-Committee resolved that the Application should be granted subject to the conditions set out below and subject also to the mandatory conditions required to be contained as a matter of law.

**The conditions consistent with operating schedule are laid out in sequence below**

**a) General – all four licensing objectives (b, c, d and e)**

1. All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon.

**b) The prevention of crime and disorder**

2. A CCTV system shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.

3. The CCTV system shall continually record whilst the premises is open for licensable activities. It shall operate during all times when customers remain on the premises.

4. All recordings shall be stored for a minimum period of 31 days with correct date and time stamping and shall be made available immediately upon the request of Police or an authorised officer of the council throughout the preceding 31day period.

5. The CCTV system shall be updated and maintained according to police recommendations.

6. 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 must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

7. CCTV shall be downloaded on request by the Police or authorised officer of the council.

8. Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.

9. A documented check of the CCTV shall be completed weekly to ensure all cameras remain operational and the 31 days storage for recordings is being maintained.

10. A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months.

11. The register shall record all incidents which may have occurred which

are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include, but not be limited to, complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises and all refusals to sell alcohol.

12. The register shall be readily available for inspection by an authorised person upon reasonable request.

13. Super-strength lagers, beers and/or ciders, i.e. those with an ABV of 6.5% or higher, shall not be sold at the premises.

#### **c) Public safety**

14. All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.

15. The premises licence holder shall ensure that a suitable fire risk assessment and emergency plan is in place at all times.

16. Regular checks and maintenance shall be carried out on all equipment, electrical installations, emergency lighting and fire alarms and equipment to ensure their continued safe operation. A written record of these checks shall be kept and made available to an authorised officer of the licensing authority.

17. Empty glasses and bottles shall be removed from public areas quickly and efficiently.

18. An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.

#### **d) The prevention of public nuisance**

19. Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.

20. No person shall be allowed to leave the licensed area whilst in the possession of any open drinking vessel or open glass bottle, whether empty or containing any beverage.

21. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and ensure that there is no public nuisance.

22. Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.

#### **e) The protection of children from harm**

23. The Licensee to adopt a "Challenge 25" policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age. The Licensee to prominently display notices advising customers of the "Challenge 25" policy. The following proofs of age are the only ones to be accepted:

- Proof of age cards bearing the "Pass" hologram symbol
- UK Photo Driving licence
- Passport
- A Military ID Card

24. Notices advertising that the premises operates a "Challenge 25" scheme shall be displayed in a clear and prominent position at the premises entrance.

25. All occasions when persons have been refused service shall be recorded in the premises daily register.

26. The register will contain details of time and date, description of the attempting purchaser, description of the age restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the salesperson refusing the sale.

27. Documented delegation of authorisations to sell alcohol shall be maintained at the premises and shall be available on request by an authorised officer of the Licensing Authority or a constable.

28. A prominent clear notice shall be displayed at the point of entry to the premises advising customers that they may be asked to produce evidence of their age if seeking to purchase alcohol.

**Following mediation between the Applicant and Environmental Protection, following conditions as agreed by the Applicant are to be added:**

1. Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.

2. No person shall be allowed to leave the licensed area whilst in the possession of any open drinking vessel or open glass bottle, whether empty or containing any beverage.

3. The premises licence holder shall ensure that any patrons drinking and / or smoking outside the premises do so in an orderly manner and ensure that there is no public nuisance.

4. Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.

5. Any outside area which is used for the consumption of alcohol shall

cease to be so used at 22.00 hours. Signs shall be displayed in prominent positions warning customers that they will not be permitted to drink in the external areas after these times.

6. Any outside seating area is to be clearly defined and separated from the public footpath. A fixed or removable barrier must enclose the outside seating area.
7. All tables and chairs in the outside area shall be stacked, secured and covered promptly and in any event no more than 30 minutes after the time at which patrons are no longer permitted to consume drinks in the area.
8. In the outside area, all customers consuming alcohol shall be seated.
9. There shall be no amplified sound including but not limited to music or voices emitted to the external licensed area.
10. The volume of amplified sound including but not limited to music and voices shall, at all times, be under the control of the Licence Holder or Management and the controlling mechanism shall be operated from a part of the premises inaccessible to the public.
11. The designated premises supervisor or the personal licence holder for the premises who is supervising the sale or supply of alcohol at that time, shall not permit customers to congregate and consume alcohol sold or supplied by that premises in a public place within the immediate vicinity of the premises and in an area not so licensed for consumption to the annoyance or obstruction of others and shall prevent the removal of alcohol if it is intended for such a purpose.
12. Management at the premises will routinely assess the noise emanating from the premises and take steps to reduce the level of noise where it is considered likely to cause a disturbance to residents living in the vicinity. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.
13. No nuisance shall be caused by noise coming from the premises or vibration transmitted through the structure of the premises.
14. There shall be no emission from the premises of any offensive smells, which are likely to cause a nuisance.
15. No light from or on the premises and any other light under the control of the premises shall be provided where that light causes a nuisance to any nearby premises.
16. Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around licensed premises.
17. There shall be provided at the premises containers for the storage and

disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

18. There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, (or member and their guests) notices requiring customers to leave the premises and the area quietly. (Note, this may also include a reference to vehicles).

19. The premise licence holder will arrange for litter and cigarette debris dropped in the vicinity of the licensed premise to be collected and removed at the end of operating hours each night.

**In addition to the above all mandatory conditions required by law are to be added to the licence granted.**

## **5 Exclusion of the public and press**

In accordance with Paragraph 11 of the Access to Information Rules in Part 4 of the Council's Constitution, the Chief Executive had determined that the report submitted under agenda item 5 of the agenda was "Not for Publication" because it contained "exempt information", as defined in Schedule 12A of the Local Government Act 1972.

The Committee passed the following resolution "That the public and press be excluded from the meeting whilst agenda item 5 was being considered, as it referred to exempt information as defined in category 1 (information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information."

## **6 Complaint relating to conduct whilst using licensed Hackney Carriage. Failure to report conviction or associated incident to the Licensing Authority.**

The Chair introduced the Sub-Committee and the officers attending the meeting.

The driver's legal representative and complainant introduced themselves. The Sub-Committee agreed to the admission of further written information from the driver. The Chair ensured that the driver and witness had received all necessary information and paperwork for the hearing.

The Senior Licensing Officer introduced the report. He explained that the driver was before members because a complaint had been received. The complainant outlined his complaints and answered questions from the driver's legal representative and a member of the Sub-Committee.

The legal representative spoke on behalf of the driver. The representative



highlighted that the driver was of good character, having no criminal or driving convictions against him. He explained that he had been a licenced driver since 2010 and had previously received no formal complaints made against him. He clarified that a driver improvement course was offered as an alternative to a prosecution.

The driver and legal representative answered questions from members of the Sub-Committee and Senior Licensing Officer.

The complainant and driver and his legal representative were each then invited to sum up their cases.

The driver, legal representative, witness and the Senior Licensing Officer left the chamber to allow the Sub-Committee to discuss the matter in private session.

In reaching its decision, the Sub-Committee had regard to:

1. The Hackney Carriage and Private Hire Licensing Policy including its Convictions and Other Relevant Matters Policy for Wyre Council
2. The Local Government (Miscellaneous Provisions) Act 1976
3. All information presented within the report and at the hearing, including the character references in support of the driver.

The Sub-Committee then reconvened and the Chair announced the decision. The Chair outlined the rights of appeal and said that a letter would be sent setting out the full reasons for the decision.

## **Decision**

The Sub-Committee resolved to suspend the driver's Wyre Dual Driver's Licence for a period of three months.

## **Summary Reasons for decision**

It was not disputed that the driver had been involved in a collision that resulted in an injury to a cyclist whilst driving privately and had accepted attendance on a driver improvement course. The Sub-Committee found that the course was in lieu of a prosecution for driving without due care and attention. The Sub-Committee found that the matter should have been reported by the driver to the Licensing Authority pursuant to the Convictions and Other Relevant Matters Policy but was not. The matter came to light only by chance as a result of a telephone discussion overheard by the complainant on the journey. The driver was not a newly licensed driver and should have been well aware of the requirement to report.

The Sub-Committee found the complainant to be impartial and their evidence to be persuasive. It accepted the complainant's account of the driver's use of the mobile phone in the course of the journey, which was at times through less well lit roads. It found that although the phone was in a cradle, the extent of the driver's use was excessive and of such an extent that the complainant

was reasonable in having felt unsafe due to the drivers use of the phone and in breach of the driver's duty to the travelling public.

The Sub-Committee took into account all the mitigating factors in this case but considered that its findings were of sufficient seriousness to warrant suspension.

The meeting started at 6.02 pm and finished at 8.30 pm.

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