

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee B held as a Virtual - Online meeting on Monday, 20th December 2021 at 12.30 pm

PRESENT: Members:

Councillor York (Chair)

Councillors Gubb and Yabsley

Officers:

Solicitor, Public Protection Manager, Licensing Officer and Licensing Officer

12. VIRTUAL MEETING ETIQUETTE AND PROCEDURE

The Senior Corporate and Community Services Officer read out the virtual meeting etiquette and procedures as well as confirming all those who should be in attendance were present.

13. APOLOGIES FOR ABSENCE

There were no apologies for absence.

14. DECLARATIONS OF INTEREST

There were no declarations of interest announced.

**15. APPLICATION FOR THE GRANT OF A PREMISES LICENCE;
MASQUERADE, 98 HIGH STREET, BARNSTAPLE, DEVON, EX31
1HR, REF 053418**

Also, present:

Mr Brennan, applicant, and

Mr and Mrs Berkley, persons who had made a representation.

The Sub-Committee considered the application for the grant of a Premises Licence in respect of Masquerade, 98 High Street, Barnstaple, EX31 1HR (circulated previously), reference 053418.

The Chair introduced herself and invited those present to introduce themselves.

The Licensing Officer confirmed that all the formal requirements had been met for the submission of the application.

The Solicitor outlined the hearing process.

The Licensing Officer presented his report. He confirmed that the persons who had made a representation in respect of the Licensing Objective Prevention of Public nuisance were present at the hearing. No responsible authority had made a representation.

The Chair invited Mr Brennan, the applicant, to present his case.

Mr Brennan gave the Sub-Committee the following presentation:

- He had held a personal and premises licence for a number of years and during that time had never had any issues or incidents. He was very hands on running his premises and had previously run an establishment that had 1400 person capacity
- The capacity of Masquerade was 120/140
- With regard to the objection made by Mr and Mrs Berkley he had invited them to visit his premises. They had held an informal chat and he had shown them the premises and whilst he could understand their objection he couldn't understand why he was being likened to the premises a couple of doors away
- Masquerade was a listed building but a planning application of 2006 had given permission for the windows to be fully double glazed
- The premises was not going to be run as a pub or a club. This was to be an up-market establishment and attendance had to be pre-booked in advance
- The correct 28 day notice had been submitted but due to an error not of Mr Brennan's making a further 28 day period had to be served so technically a 56 day period was given for objections to be made. The Environmental Protection team had not made any representation but it seemed to Mr Brennan that on learning that a representation on noise had been made by a member of the public, he was contacted by the Environmental Protection team requesting that a noise management plan be submitted. Mr Brennan had submitted a 7-page plan detailing mitigations that he would put into place to reduce the possibility of noise nuisance. It was his understanding that this submission had not been passed onto the Sub-Committee by the Environmental Protection Service Lead Officer
- During his research into other premises operating in the town, Mr Brennan had discovered that no other premises had conditions applied to their licences. The only noise condition imposed on one premises was that a sign had to be displayed advising patrons to leave quietly
- Due to the economic down turn brought about by the Covid-19 pandemic many High Streets were in decline. Mr Brennan was attempting to revitalise the High Street and would be providing employment for 20 people
- Mr Brennan's intention was not to upset people and he was fully prepared to implement the conditions he had previously submitted in his Noise Management Plan
- He was intending for wall-mounted speakers to have rubber matting to help reduce noise vibration, four internal doors had been added to help reduce the escaping of noise. Customers would enter a lobby and then proceed through

another set of doors to enter the premises. There would be no outside seating, speakers would not be located at the front of the building and would be fitted with noise level inhibitors

- The reason for the request to open until 3 am every day was to keep things simple and to avoid having to re-apply for amendments to opening hours in the future. It would not be financially viable to open until 3 am on a Monday, Tuesday or Wednesday and he had no intention of doing so
- He rented a flat nearby in the High Street and hadn't been notified of any issues regarding noise nuisance from his tenants

In response to a question from the Chair regarding the submitted Noise Management Plan. The Licensing Officer confirmed this had been received and was to be reviewed by the Environmental Protection Service Lead Officer, and who was in dialogue with the applicant about this.

The Licensing Officer explained that when the Licensing Act 2003 came in other premises in the town with existing licences were transferred to the new regulations had what was known as Grandfather Rights, which meant they didn't have conditions on their licences.

In response to a question about whether the applicant had responded to the Environmental Protection Service Lead. Mr Brennan replied that he had received a confirmation from the EPSL on 9 December 2021 confirming receipt of the noise management plan. Mr Brennan was under the impression that his noise management plan had been accepted and no further action was required.

The applicant confirmed that the first floor terrace was unusable at present. A portion of the space would be sectioned off to allow for smokers but there would be no tables or chairs and no drinks would be allowed to be taken onto the terrace. The applicant confirmed he was happy that this area was not to be included in the premises licence application.

Mr and Mrs Berkley, persons who had made a representation, were invited to present their case.

The Sub-Committee heard the following from Mr and Mrs Berkley:

- They had welcomed the opportunity to meet with the applicant, to visit his premises, and see his plans
- They originally had run a retail unit in the High Street but now owned three flats above shop premises in the High Street, two facing onto the High Street and one overlooking Church Lane
- They were passionate about the High Street being a viable, lively place and felt people should be encouraged to live in the High Street
- Being a High Street noise was expected and the residents who lived there enjoyed the background bustle
- The issue was the noise from taxis and voices in the early hours of the morning and being woken from sleep at 2-3 am

- They understood the differences in what was being offered by Masquerade as opposed to the other premises and welcomed the Noise Management Plan
- The late opening hours was still a sticking point. They had had a previous tenant who had approached Environmental Protection regarding noise and had been keeping a noise diary and recordings of disturbances
- They wished the applicant all the best in his venture

The applicant summed up. He stated that he had never had an incident at any of his premises ever. A phone number would be advertised so anyone who may experience any issues could make contact to express their concerns. They wanted to provide a high quality, non-judgemental premises.

In his summing up the Licensing Officer referred to the list of steps available to the Sub-Committee as set out at paragraph 2.2.1 on page 6 of the agenda, as well as the list of conditions to be considered at Appendix F.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Solicitor and Corporate and Community Services Officers in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED, that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted upon and agreed.

RESOLVED that the premises licence for Masquerade, 98 High Street, Barnstaple, EX31 1HR (reference 053418) be granted subject to;

- (i) the terms sought by the applicant, including such conditions as are consistent with the operating schedule;
- (ii) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives
- (iii) the conditions listed at Appendix F with the addition of the agreement of the Noise Management Plan as submitted, by the Environmental Protection Service Lead Officer; and
- (iv) the applicant confirming that only the ground floor was to be the licenced premises

Chair

The meeting ended at 2.19 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.