

Licensing Sub- Committee Hearing

3rd August 2016

Members of the Panel:	Councillors Beck, Cook (Chair) and Lawton
Application Premises:	O'Malley's Irish Bar, 25-27 Church Square
Officers present:	Sylvia Pinkney, Head of Public Protection Hayley Martin, Solicitor Jo Stubbs, Democratic Services Officer
Applicant:	Sophie Haygarth (accompanied by Peter Holtham) John Ellwood, Legal Representative (accompanied by Laura Zielinski)
Objectors:	Mrs Buttery (accompanied by Mrs Drummond)
Decision:	
<p>The Licensing Sub-Committee considered an application from SC & J Trading Company Limited for a premises licence for the O'Malley's Irish Bar, Church Square. The Applicant had applied for a licence authorising the sale of alcohol from 11:00 am to midnight and regulated entertainment from 11:00 – 00:00. Sylvia Pinkney, Head of Public Protection presented to the Licensing Sub-Committee a report on behalf of the Director of Public Health. The Licensing Sub-Committee were advised that the premises are currently operating under a licence as a cinema with the ancillary sale of alcohol. Mrs Pinkney also explained the changes brought about by the Live Music Act which effectively mean that where an alcohol licence is granted; there is no requirement for a licence for Regulated Entertainment between the hours of 08:00 - 23:00.</p> <p>The Licensing Authority received two objections one from Mrs Buttery who lives next door to the premises and the other from Hartlepool Borough Council's Environmental Health Manager, Adrian Hurst. There were no further representations made by the responsible authorities, including the Police. Both representations related to the licensing objectives specifically 'the prevention of public nuisance.'</p> <p>The Applicant was represented by Mr Ellwood who presented the application to the Licensing Sub-Committee. Mr Ellwood referred to the Applicant's statement which had been approved by all parties prior to consideration by the Licensing Sub-Committee. He stated that the Applicant had offered to meet with Mrs Buttery in an effort to resolve the issues prior to the hearing but that understandably Mrs Buttery preferred to wait until the hearing to discuss the issue any further. Mr Ellwood explained that the Applicant and Mrs Buttery had met previously in an attempt to provide reassurance and look at measures that could be put in place to limit any noise disturbance. Mr Ellwood explained that such measures included positioning a speaker on the opposite wall in attempt</p>	

to reduce any noise. The Applicant also provided Mrs Buttery with her personal telephone number for making contact should she have any issues. Mr Ellwood explained that the Applicant had not had any contact from Mrs Buttery in the 8 weeks since they had taking over the premises.

Mr Ellwood went on to refer to the Council's Licensing Policy and the terms of the licence that currently remains in place. He advised that the 'Regulated Entertainment' application is purely for karaoke which would be held on Friday and Saturday nights until midnight and explained there was no desire to have live bands playing in the premises. Mr Ellwood offered to accept the imposition of a condition that no live bands would play in the premises at any time. This was considered outside of the Licensing Sub-Committee's powers although all agreed it was something which the Applicant could agree to although this wouldn't then be binding on any future licensee.

Following questioning by the Licensing Sub-Committee Mr Ellwood reiterated the point made in the Applicant's statement that they are a responsible licensee who regularly attends licensing meetings to discuss licensing issues and concerns town wide. This involves taking advice from other responsible authorities including the police who would offer advice on the use of doormen as required.

The Licensing Sub-Committee went on to hear representations from Mrs Buttery who was supported by her daughter. The Licensing Sub-Committee were referred to the written representations made by Mrs Buttery. Mrs Buttery and her daughter explained that the family had lived in the property a number of years and that the noise had been an issue since the premises changed from a grocery store to a bar. Mrs Buttery indicated that she had suffered significant disturbance from the previous occupants of the premises through noise (although nothing from the previous premises 'Flix'). This has included noise from the music as well as people gathering outside of her home, urinating on her palisade and smashed glass. Mrs Buttery advised that the gathering of people outside of her property can be intimidating not just to her but to her grandchildren who often stay over at weekends. Mrs Buttery wants the business to do well and doesn't like to make constant complaints however she feels that 23:00 is late enough and referred to past noise issues that had been reported to Environmental Health.

The Licensing Sub-Committee then heard representations from Adrian Hurst who explained that there had been a history of noise issues previously although none from whilst the premises operated as 'Flix.'

The Licensing Sub-Committee considered the application as presented by Mr Ellwood and the objections put forward by Mrs Buttery and Adrian Hurst. In reaching their decision the Licensing Sub-Committee considered Paragraph 9.42 of the Section 182 Statutory Guidance which states that the Council's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

The Licensing Sub-Committee decided that no evidence had been produced to demonstrate that the licensing objectives would be undermined if the application was granted.

The Licensing Sub-Committee considered the application and representations put forward by the Applicant and the Objector. Whilst having a lot of sympathy with the objector the applicant has demonstrated an understanding of the locality in which the premises is situated and appears mindful of the potential impact. The Sub-Committee is encouraged by the measures put forward by the Applicant and their assurance that the entertainment would be limited to karaoke and is therefore minded to approve the application as written with the condition that there not be any live music other than karaoke between 23:00 and midnight.

CHAIR