

## DECISION RECORD

Licensing Act 2003 (all section references in this record are references to the Act)

### LICENSING AUTHORITY FOR BRISTOL

#### LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 5 June 2014

##### AGENDA TITLE

Conduct of a hearing into an application for the GRANT of a licence made by Victoria Burrows in respect of Montgomery's Tea Rooms, Wapping Wharf, Wapping Road, Bristol BS1 6UD

##### MEMBERS PRESENT:

1. Councillor Payne (Chair)
2. Councillor Davies
3. Councillor Threlfall

##### OFFICERS PRESENT

Naseem Aziz, Legal Advisor  
Abbi Holman, Licensing Policy Adviser  
Allison Taylor, Committee Clerk

##### REPRESENTATIONS RECEIVED FROM:

Sergeant Jonathan Derrick 3763  
Anatasia Lowercall

##### Applicants, responsible authorities and interested parties

##### PARTIES & REPRESENTATIVE (IF ANY) in attendance

##### Applicant

Victoria Burrows

##### Chief Officer of Police (s.13(4)(a))

Insp John Derrick

##### Fire Authority (s.13(4)(b))

Not a party to this hearing

##### Health and Safety Enforcing Authority (s.13(4)(c))

Not a party to this hearing

##### Local Planning Authority (s.13 (4) (d))

Not a party to this hearing

##### Environmental Health (Pollution Control) (s.13 (4) (e))

Not a party to this hearing

##### Social Services Authority (s.13 (4) (f))

Not a party to this hearing

<b>Any other relevant Licensing Authority (s.13 (4) (g))</b>	<b>Not a party to this hearing</b>
<b>Weights and Measures Authority (s.13. (4) (i))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))</b>	<b>Not in attendance but the Committee had regard to the representation of Anatasia Lowercall</b>
<b>Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))</b>	<b>Not a party to this hearing</b>

**RECORD OF HEARING:**

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

**DECISION MADE:**

1. That the application be GRANTED subject to the conditions on the licence as modified as follows:
  - (i) The addition of conditions as detailed in Annex 3 below
  - (ii) The mandatory conditions included in the licence under section 19 and 21 of the Act
2. That the GRANT here agreed will take effect immediate effect.
3. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
  - (a) Victoria Burrows
  - (b) The Chief Officer of Police

And the following bodies that made representations:  
 Sergeant Jonathan Derrick 3763  
 Anatasia Lowercall

Accordingly the licence is to be issued subject to the following

Licensable activities authorised by the licence and the times the licence authorises the carrying on of licensable activities

## STANDARD TIMES

<b>Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities.</b>	
Sale of Alcohol	Sunday to Thursday 10:00 - 22:00
Sale of Alcohol	Friday and Saturday 10:00 - 23:00

Supply of alcohol authorised for On and Off the premises

<b>The opening hours of the premises</b>	
Sunday to Thursday	10:00 – 22:00
Friday to Saturday	08:00 - 23:00

<b>NON STANDARD TIMINGS</b>
Non standard timings not applicable.

### Annex 1 – Mandatory conditions

1 Mandatory condition Licensing Act 2003 - Supply of Alcohol

1.No supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Licensing Conditions - Additional conditions imposed by Policing and Crime Act 2009

Conditions numbered 1,2, and 3 shall be in force as of the 6 April 2010

Conditions 1, 2, 3 and 5 shall not apply where the premises licence authorises sale by retail or supply of alcohol only for consumption off the premises.

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or

encourage, individuals to-

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Conditions numbered 4 and 5 shall be in force as of the 1 October 2010

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

2 Mandatory condition Licensing Act 2003 - Door Supervision

Where this licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

(As required by s21 Licensing Act 2003 as amended by the Violent Crime Reduction Act)

## **Annex 2 – Conditions consistent with the Operating Schedule**

### **Conditions consistent with the operating schedule application submitted on 09 April 2014**

- 1 Food shall be available at all times that alcohol is on sale.
- 2 The Premises Licence Holder shall co-operate with Police or Officers of the Local Authority in the implementation of any initiatives to combat crime, disorder, antisocial behaviour or nuisance in the vicinity.
- 3 Overcrowding shall not be permitted on any part of the premises.
- 4 Noise from any ventilation, refrigeration or air conditioning plant or equipment shall not cause nuisance to the occupants of any properties in the vicinity.
- 5 The premises shall not be permitted to be used for any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children, which prohibited uses include, among other things, nudity or semi-nudity, films for restricted age groups or any relevant entertainment (with the meaning of the third schedule to the Local Government (Miscellaneous Provisions) Act 1982 except where that is expressly permitted under a licence or waiver granted or given under that legislation.
- 6 GS29 - All gangways, passages, staircases and exit ways must at all times be kept entirely free from chairs or any other obstructions and from any article or substance which may cause a person to slip, trip or fall.
- 7 TL01 - The premises licence holder shall ensure the designated premises supervisor, or nominated deputy in their absence, provides unhampered use of a telephone on the premises for use in an emergency, while licensable activity entertainment is taking place. In premises that do not have the benefit of a permanent phone installation then a mobile phone must be available.
- 8 NP04 - No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
- 9 NP57 - Clear notices displayed at all points where customers leave the building must instruct them to respect the needs of local residents and leave the premises and the area quietly.
- 10 WM3 - The licence holder shall ensure that adequate measures are in place to remove litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises. In particular, where necessary the premises licence holder shall ensure that adequate measures are in place to provide customers with sufficient receptacles for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter, etc.

### **Annex 3 – Conditions attached after a hearing by the licensing authority Conditions recommended by Responsible Authorities:**

#### **Police Conditions**

- 1 CC01 - CCTV shall be in use at the premises.
  - (i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed it shall be fully operational by commencement of this licence. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by commencement of this licence and the system be fully operational on that date.
  - (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
  - (iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority
  - (iv) The correct time and date will be generated onto both the recording and the real time image screen.
  - (v) If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
  - (vi) The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.
  - (vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all times that licensable activities take place.
- 2 CC14 - CCTV cameras shall monitor all areas used by premise patrons including any external smoking area to monitor numbers and prevent crime and disorder.
- 3 CC15 - The CCTV covering any dedicated smoking area shall be fully installed and operational before the smoking area can be used.
- 4 SA01 - All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.
- 5 SA02 - (a) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.  
(b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least

A5 size at the entrance to the premises and where practicable at each point of sale.

- 6 SA03 - The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required.
- 7 GB04 – During festivals such as the Harbourside Festival the premises licence holder shall ensure that all drinking glasses used within the premises are of toughened or safety glass to the appropriate safety standard, in that they shall not produce sharp shards when broken.
- 8 Alcohol shall only be served to seated customers by way of waiter/waitress service.

#### **Conditions attached after this hearing by the licensing authority on 05 June 2014**

- 9 No alcohol to be consumed on the premises other than to those seated at a table.
- 10 The Premises Licence Holder shall ensure that a barrier is in place in front of the seating area entrance to the premises whenever tables and chairs are placed outside and neither tables or chairs or the barrier shall cause obstruction to road users.
- 11 The premises licence holder shall ensure that all drinking glasses used outside the premises are of toughened or safety glass.

#### **Annex 4 – Plans**

Plans as deposited with the Licensing Authority on 9 April 2014.

#### **REASONS FOR DECISION**

The following paragraphs summarise the Committee's reasons for granting the application and for modifying the conditions on the Licence.

The Committee carefully considered the representations together with the information provided for the Hearing and that received during it. The Committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Committee first noted that the premises was an Art Warehouse and Framing Factory located by the harbour side and the applicant wished to open a tea room for customers, the public and be available for private functions.

Discussion took place regarding the issue of Public Safety expressed within the Relevant Person's representation and the applicant had contacted her to inform her that a barrier would be erected to protect the public from road users.

The Committee noted that the applicant had agreed all conditions with the Police which ensured that the premises could not become a bar.

The Committee, having carefully deliberated, agreed to grant the application as sought and subject to conditions agreed with the Police.

The Committee noted that the premises as a small one serving lunches and early suppers. There would be no draft beers. They noted that the applicant had agreed conditions with the Police which protected the premises from becoming a bar and had also been in contact with the Relevant Person regarding the erection of a barrier to ensure public safety by protecting customers from running into the road. In this regard, the Committee imposed conditions to promote the public safety licensing objective.

**SIGNED:**

**CHAIR**

**Name: Councillor Payne**