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NEWARK & SHERWOOD DISTRICT COUNCIL
LICENSING SUB-COMMITTEE

RECORD OF HEARING HELD ON
18 MARCH 2022
10:00 HOURS
MEETING HELD AT
CASTLE HOUSE, GREAT NORTH ROAD, NEWARK NG24 1BY

HEARING TO CONSIDER AN APPLICATION FOR THE VARIATION OF A
PREMISES LICENCE

McCARROLLS BARBERS
32 KING STREET
SOUTHWELL
NG25 0EN

SUB – COMMITTEE: Councillor Mrs S. Michael (Chairman)
(The Panel) Councillor M. Cope
Councillor Mrs R. Crowe
Councillor I. Walker

ALSO IN ATTENDANCE: Caroline O’Hare (Legal Advisor - NSDC)
Nicola Rowlands (Senior Licensing Officer - NSDC)
Brian Beddows (EHO – NSDC)
Chris Briggs (Planning Enforcement – NSDC)
Anna Meacham (Licensing Support Officer – NSDC)

Applicant: Paul McCarroll
Helen Gent

Representors: None in Attendance

Presentation by the Senior Licensing Officer

The Senior Licensing Officer presented to the Panel details of the application made by Paul McCarroll of McCarrolls’ Barbers, 32 King Street, Southwell, NG25 0EN. The report before the Panel presented Members with a summary of the application, the licensing history of the premise and the reasons for the Hearing.

The report set out the legislation in relation to the powers that licensing authorities had, the options available to the Panel and the relevant policies and guidance.

Questions

Councillor Michael queried whether the condition limiting the number of drinks served to each person was still in force. The Senior Licensing Officer advised that the condition had been removed in March 2019. She also confirmed that no complaints had been received in relation to the Temporary Event Notices (TENs) used at the

premises and that under de-regulations, any premise that has a premise licence can automatically play recorded or live music between the hours of 08:00hours to 23:00hours.

Councillor Michael queried with the Environmental Health Officer whether any complaints had been received arising from the TENs. The EHO advised that no complaints had been received in the previous 2 years and that was the reason that no representation had been submitted.

Presentation of Application

Mr. McCarroll advised that the pandemic had led to the business being quiet and that the current hour was too early to close. It was a small bar accommodating 25 people. He had never received complaints from closer residents. He felt that the representor had no evidence to support her claims. If the longer hours were granted it would not attract younger customers but more so his older customer who were a nice crowd. There had never been any incidents of ASB and the Police had not been called to any incidents.

Questions to Applicant

Councillor Cope queried what had changed since the last hearing held in 2019, other than the restrictions due to the pandemic. Mr. McCarroll advised that he had been served with a Noise Abatement Notice 2 days before the last hearing which was subsequently retracted. He stated that a recording device could not say where noise was coming from and that when the alleged noise nuisance had occurred, his premise had not been open for business. He felt that the issue had had a bearing on the outcome of the hearing and also he was now aware that if granted, he would have to secure planning permission to open longer hours.

Councillor Cope also queried what measures, via conditions, would be put in place to mitigate noise nuisance. Mr. McCarroll stated that it was his believe that previous issues had been due to having the door to the premise open but this had since been stopped. He added that he was looking to strengthen the sound proofing at the premise as the shop front was currently only single glazing.

Councillor Crowe queried where customers went who wished to smoke. Mr. McCarroll advised there was a little area at the rear of the premise but customers tended to gravitate to the front, adding that he tried to get them to be mindful of where they stood.

The Legal Advisor noted that the application implied that the request for longer hours was due to customer demand. She queried whether a further application would be submitted should demand increase again. Mr. McCarroll advised that he would not wish to be there any longer than the hours applied for. He stated that there was no guarantee that his customer numbers would increase and that the alleged noise nuisance was generated from other premises in the area.

Presentation of Representations

Chris Briggs – Planning Enforcement Officer

Mr. Briggs advised that the application to vary the licence could not be supported as it was in direct conflict with the planning conditions.

Anna Meacham – Licensing Support Officer

The Licensing Panel were informed that the representor, Ms Rachel Thackray, was unable to attend the Hearing due to a previous medical appointment. She had requested that a statement be read out on her behalf which the Business Manager – Public Protection had agreed to on this occasion. The statement was as follows:

I'm sorry that I can't attend today's Hearing in person but I want you to know that my non-attendance today is due to medical reasons – rather than a lack of interest – and that, had there been any way of attending, then I would have been here. This decision on whether or not to extend the licensing hours really matters to me and my family – and to other residents affected - as the noise disturbance, even from the current licensing hours, is making my life miserable.

*My fundamental position is that I **strongly object** to this application to extend the licensing hours and opening times at McCarroll's Barber's Shop from 9.30pm until 11pm on Thursday, Friday and Saturday evenings. Although the initial licence to serve alcohol was granted with strict conditions attached, McCarroll's Barbers' Shop is now operating SOLELY as a bar in the evenings - currently until 9.30pm - and this change to the licensing hours will mean that it would stay open - as a Bar only - until 11pm. Somehow, a Barbers' Shop which had a licence to serve alcohol to its hairdressing customers has morphed into a Bar in the evenings, currently open until 9.30pm and now applying to be open until 11pm. It doesn't seem right that a hairdressers/barbers has become a bar without the usual open planning consultation – and this licence is already causing problems for local residents.*

*For context - this Barbers' Shop is in a mixed residential/retail setting and is directly adjoined by homes – either as flats above or to the side and with neighbouring terraced homes with families – myself included – running alongside. This street was once all housing and sits in a conservation area with listed houses including in the neighbouring homes. As a resident who lives very close to McCarroll's, most of the problems caused by the Barbers Shop operating as a Bar fall under **Licensing Objective: Public Nuisance** and this application to extend the hours of operation will cause further public nuisance.*

At the moment, when the Bar is open, it really affects my quality of life. For example, there is anti-social behaviour with rowdy, drunken people drinking and/or smoking on the pavement outside the bar, littering, occasionally smashing glasses outside my door, sitting on our windowsill,

swearing, loud music, and disruptive behaviour as people leave the bar - and I can hear all of this in my house! At times, I can hear this in every room of the house - including the bedrooms - so there is no respite.

*The biggest impact the proposed changes will have are that the disturbance I've just outlined will continue for longer – and there will be a further loss of amenity to me and my family due to the noise nuisance. This is caused by loud music (which is clearly audible in my house and which prevents normal conversation and sleep) and the added negative impact of people causing disturbance when they arrive and when they leave the premises – and when they spill out onto the pavement for drinking/smoking and when the bar doors are open, particularly in the summer, when the noise of people in the bar, as well as the music, can be clearly heard in my house. This proposed extension would mean that this noise disturbance would continue for longer and later, **ruining all weekend evenings**, and preventing me from living my life as I want to in my own home (eg having a normal conversation without raising voices, being able to enjoy the TV or my own music at a reasonable volume, going to bed and being able to sleep at a time that we want to without having to wait for the bar to close (and the music to finish and the people to leave).*

*McCarrolls Barbers Shop was granted a licence to serve alcohol in Autumn 2018 with specific conditions restricting the sale of alcohol to hairdressing customers only and also limited to 2 drinks per customer – but, **since Day One**, the Barbers Shop has **operated purely as a bar in the evenings** - totally separate from the business of cutting hair - and this has caused problems for residents who live nearby, and for those residents who are walking along the street. **The noise nuisance and anti-social behaviour of staff and customers** is a major problem and has been since the original licence was granted.*

*I think it's important to say that the **noise disturbance and anti-social behaviour has been sustained and prolonged over many months** - this is not just a one-off case – as it happens every weekend. This noise nuisance and anti-social behaviour was logged by me for many months, Environmental Health were involved, as were the Licensing Team at Newark and Sherwood, and both departments visited McCarrolls to assess and advise them of the problems. I submitted the log as evidence at the last Hearing to extend the licensing hours (in October 2019) and the previous application to increase the licensing hours was rejected due to the negative impact on local residents, particularly the excessive noise and anti-social behaviour. **Although we have lived on King Street for 18 years, none of this had ever been a problem and we were never disturbed by people in the street until McCarroll's opened as a bar.***

*This current application to extend the licensing hours is exactly the same as the application in 2019 and, crucially, **nothing much has changed since the last Hearing where it was refused for exactly the same reasons as I am outlining now** – the problems have not gone away and there is still noise nuisance and anti-social behaviour caused by McCarrolls' operating as a*

bar in the evenings. The only difference between then and now is that we have had moments of relative peace when, due to Covid, the bar was closed and so we have had periods of respite from the disturbance it causes. One change which I have been told has happened is that McCarroll has changed his music system which has, in some part, reduced some of the thumping bass which could be heard in my house BUT I can still hear the bar noise in my house, including the recorded music and the people, and the consequence of this is that my weekends are ruined - I can't carry on with my normal life in the evenings as I can't hear the television at normal volumes, can't have normal conversations, and cannot go to sleep when we want to due to the noise of people and the music in the bar or outside and arriving and leaving. This weekend for example, I could hear the Bar music in my house, was disturbed by customers leaving, and there were empty glasses from the bar left on the pavement outside McCarrolls on Saturday night until he cleared them away the following day – they were there until Sunday morning/lunchtime at least when I walked past so I'm not sure when he took them inside.

By extending the hours of the alcohol licence and extending the opening hours of the bar until 11pm, **the problems of noise nuisance and antisocial behaviour will also be extended** - and that seems unbearable. It would mean that the excessive noise and disruption would continue until at least 11pm on Thursday, Friday, and Saturday, evenings and this would be miserable for me – it's awful every weekend now but at least it stops at 9.30pm; **the new extended hours would prolong the misery.**

I have looked at S182 and the details and guidance around the Licensing Objectives and I can see that **Public Nuisance** – which this clearly is - **also includes the reduction of living and working amenity of those who live and work in the area of the premises** and this is definitely the case for me and other residents as mentioned earlier. S182 notes that the licensing objectives should take into account the rights of people who live nearby – and, as a result, **I hope that the panel will consider the rights of residents who are complaining about the noise and anti-social behaviour even at the current hours of opening/licensing.**

I'd just like also to mention that I understand that recorded/live music is not specifically included in the premise licence but that, according to S182, **anyone who provides music entertainment (recorded or live) must still ensure that they do not cause a noise nuisance.** This is NOT happening – McCarrolls plays loud music in the evenings which is disturbing residents. Although I am the only resident to lodge an objection as an individual this time, I am aware that other residents have lodged their concerns about noise and anti-social behaviour to the Town Council and that these views have been conveyed to you in the objection from the Town Council. I know that some residents did not want to object directly this time in person due to fear of being identified – and because, in the past on this case, there has been a breach of GDPR by NSDC when lodging concerns about public nuisance with this 'Bar.' **I hope that due weight will be given to those residents, including myself, who are directly affected by this.**

Throughout the three and a half years that McCarrolls has been running an evening bar serving alcohol to drinking customers in a Barber's Shop, the licensing conditions have been broken on numerous occasions and it was operating until 2020 without the necessary planning permission (which was then declined when McCarrolls' applied for this retrospectively). This planning permission has since been granted on appeal but with clear conditions attached.

I have seen the Planning Inspector's report and it clearly states that it granted planning permission retrospectively **on the explicit understanding** that it should be subject to the following conditions, namely that it **should NOT be open outside the following hours: 09.00am to 9.30pm Mondays-Fridays, 08.30am to 9.30pm Saturdays, and 12.00 noon until 4pm on Sundays. Granting an extension to the current licensing hours – allowing later opening until 11pm - would be in contravention of the planning consent and would contribute to further public nuisance – one of the Licensing considerations. The Inspector's clear view is that the hours of operation should not be extended and that the licensing hours should not be changed.**

The Planning Inspector's report considered one of the main issues to be the "effect of the use of the . . .barbers and drinking establishment on the living conditions of neighbouring residential occupiers in terms of noise and disturbance.." and that a **"condition could reasonably be required to further limit the extent of the bar use in the interests of neighbours' living conditions."** It goes on to say that the **"a condition preventing the opening of the bar in isolation is needed** and that the fact that the premises have not been opening late into the evening may have been an important factor."

It seems that my objection to this extension of hours on the basis of public nuisance **is supported by the Planning Inspector** and his advice that planning permission be granted with certain conditions attached, specifically restricted opening hours. I really hope that this professional and objective view from the Planning Inspector about the negative impact on residents' quality of life is given due consideration.

The Planning Inspector's report also goes on to say that: **"the premises shall not be open to patrons or customers as a drinking establishment unless they are also open to customers as a hairdressers/barbers."** The report also says that Paul McCarroll submitted evidence to the Inspector which states that "whilst the bar serves drinks to customers who are not having their hair cut, as well as those that are, **the bar is only open when the hairdressers/barbers is also open for business. The premises are never used exclusively for bar activity."** This seems at odds with McCarroll's website which advertises the hours of hairdressing business which are separate from the hours when the bar is open eg Saturday **Bar Open 7-9.30pm.** (This website may, of course, be inaccurate). Paul McCarroll **IS openly operating a bar in the evenings – exclusive to cutting hair – and it seems that this is in contravention of the planning permission**

granted on appeal by the Planning Inspector. There also seems to be an inconsistency between the current licence - which states that all scissors should be locked away by 8pm - and the Planning Inspector's report which states that the premises shall not be open to customers for drinking unless also open to customers as a barbers.....

In his application, Paul McCarroll suggests that the extended opening hours will not cause a public nuisance saying that - and I quote: "the average client is .. . only popping in for a few drinks during licencing hours and ...would be a social drink...." Whether or not this is the case and regardless of how many drinks they are having, there is very clear public nuisance as a result of noise disturbance from groups of people socialising in the bar and outside on the pavement and from loud music. I can honestly say that, since McCarrolls started operating as a bar, the impact on my life at home has been negative – mainly from noise disturbance from people in the bar or on the pavement or leaving and arriving, as well as from loud music. Under the proposed extended hours of opening and serving alcohol, the noise disturbance will just go on for longer and until later in the evening.

Looking specifically at what Paul McCarroll says in his application about the increase in hours he says that this is a "modest increase" of hours and that these opening hours will not be used all of the time. I disagree with this statement as it is not the NUMBER of extra hours he is proposing but the fact that it will be open LATER in the evenings, prolonging the noise and misery for residents - and the impact would not be - I quote – "modest."

Paul McCarroll put forward this argument 2-3 years ago when applying for a similar variation in licensing hours and NSDC rejected it. They stated that McCarroll's rationale that it was a "modest" increase could not be used as a way of mitigating the clear negative impact of public nuisance (eg noise disturbance) for residents - and that extending the licensing and opening times of the bar later into the evening would affect residents and their quality of life.

Paul McCarroll also says in his application that he does not – I quote - "anticipate any anti-social behaviour at 9pm." I'm not sure why 9pm is relevant here as he is asking to open until 11pm.....however he also defends the extended licensing hours based on the fact that the clientele is older and beyond - I quote - "causing problems when drinking." This is impossible to guarantee and, regardless of the age of the customers, the very existence of a busy bar in this residential area is already causing noise disturbance and anti-social behaviour and impacting those living nearby. Assuming the clientele remains the same, the problems will continue until later. If the clientele changes it may be for the worse – later opening times could attract clients who have already been drinking elsewhere....I can only see things getting worse.

*Another concern that I have is that the licence is applied to the premises, **not to the person**, and, even if - as Paul McCarroll asserts in his application - he does not intend to stay open until 11pm every night, he could employ a*

manager or sell the business with the licence attached to someone who WOULD open until 11pm every night. He used this argument at the last application to extend the licence and the panel ruled that this was an unacceptable argument on several grounds, including that the uncertainty for residents of knowing whether their weekends would be ruined by late night noise disturbance was unacceptable and that the possibility of a disturbed weekend for local residents was just as bad as the reality.

I would like to make it clear that I am not opposed to businesses diversifying but I think it's only fair that residents should be entitled to some peace and quiet in their homes. We bought our houses here long before McCarrolls even had a Barbers' Shop, let alone a licence which somehow allows him to operate as a Bar in the evenings.

I hope that Paul McCarroll is able to continue running a successful barbers shop but in a way which allows me (and the other residents) to continue with our lives. Key to this is retaining the current opening hours and licensing arrangements – and also reducing the volume of music played during opening hours and trying to minimise the noise disturbance from customers. (Paul McCarroll has been in my house and heard for himself how loud the music can be and so I would hope that he can see that changes need to be made and that he should consider the impact on residents.)

Given all of the above, I really hope that the Panel will oppose this application.

***In summary**, had I not been so adversely affected by the evening bar activities, I would not have raised any concerns at all.*

I very much hope that the application is turned down given that even the current licensing hours are making my life – and other residents' lives – miserable.

If the panel decides to approve the extended hours then I would be grateful if you would consider attaching certain conditions to the licence in order to try to minimise the noise disturbance and anti-social behaviour for residents living nearby.

Thank you.

Rachel Thackray (Resident).

Questions

Mr. McCarroll noted that in Ms Thackray's statement it referred to smashed glasses on the street outside her door. He stated that these had not been smashed. He stated that throughout the statement it referred to 'we' with Mr. McCarroll stating that it was just Ms Thackray and he felt it to be personal. He added that there was no evidence to support the claims and that he could prove that other premises had later hours of operation and created noise.

Councillor Crowe asked for the location of Ms Thackray’s home to be pinpointed on the map within the paperwork. The Senior Licensing Officer advised the Panel of the location.

Councillor Walker noted that both Southwell Town Council and Ms Thackray had said complaints had been made but the EHO had no evidence of any being received. It was also noted that the Police had never been called to an incident at the premise.

The Panel’s Legal Advisor queried with the EHO whether there had been any contact with Environmental Health about the alleged noise nuisance. Mr. Beddows, the EHO, advised that he had checked their records and logs of call received and there had been no recent contact with Ms Thackray, Southwell Town Council, local residents or any district councillors.

The Legal Advisor noted that within Ms Thackray’s statement it referred to the premises being used exclusively for bar activity. Mr. McCarroll stated that the Planning Inspector had said that neither service could be offered exclusively but Mr. McCarroll knew he had to lock away his scissors from 20:00 hours. He clarified that a barber service did not necessarily mean the cutting of hair and that it could be the offering of a consultation for a future appointment.

Decision

Having considered all of the above in detail the Panel’s decision was that:

- 1. The hours where licenced sale of alcohol would be permitted on the premises were varied as follows:

	Opening Hours	Supply of Alcohol Hours
Monday - Wednesday	09:00 - 21:30	12:00 - 21:00
Thursday - Saturday	09:00 – 23:00	12:00 – 22:30
Sunday	12:00 – 16:00	12:00 - 16:00

- 2. The following conditions shall be applied to the licence:
 - i. The Licence holder/ anyone employed by him on the premises whilst it is open shall not permit customers to drink, smoke or congregate outside the front of the premises.
 - ii. The doors to the venue to remain closed at all times when it is open serving alcohol save for permitting the entrance and exit of customers.

Meeting closed at 11.05 am.

Chairman