

Minutes of the Licensing Sub-Committee (Hearing) Meeting held on Wednesday 29th November at Monkton Park, Chippenham commencing at 10.30am

Hearing Councillors Present: Councillors D. B. Allen, I. J. Henderson and J. M. Wood

Officers Present: M. Doran (Environmental Health Team Leader), L. May (Policy & Democratic Services Assistant), J. Poole (Temporary Policy & Democratic Services Assistant), P. Taylor (Assistant Solicitor), and K. Tiley (Licensing Officer)

LH3-7. Election of Chairman

Councillor J. M. Wood proposed and Councillor I. J. Henderson seconded that Councillor D. B. Allen be elected Chairman for this hearing only. There were no further nominations.

Resolved that Councillor D. B. Allen be elected Chairman for the duration of the hearing.

Councillor D. B. Allen in the Chair.

LH3-8. Chairman's Announcements

The Chairman gave details of the exits to be used in the event the fire alarm sounding.

LH3-9. Minutes

The Minutes of the Licensing Sub Committee (Hearing) held on 4th October 2006 (circulated with the Agenda) were considered.

Resolved that the Minutes of the Licensing Sub Committee (Hearing) held on 4th October 2006 be confirmed and signed as a correct record.

LH3-10. Declarations of Interest

There were no declarations of interest made in respect to the item contained in the Agenda.

LH3-11. The Great Western, 21 Pound Pill, Corsham

Summary of Application and Representations Received

The Chairman welcomed everyone to the Hearing, introduced the Councillors and asked Officers present to introduce themselves.

The Chairman then referred to the Hearing Procedure, which had been circulated with the Agenda that outlined how the Hearing would be conducted.

Consideration was then given to Report No.5 (circulated with the Agenda) which advised Members that relevant representations had been received in respect of an application by Mr and Mrs Reed to vary a Premises Licence at The Great Western, 21 Pound Pill, Corsham.

The hearing was informed that this was an application to vary a Premises Licence to provide regulated entertainment, to extend the hours for the sale of alcohol and to include late night refreshment. Seventeen relevant representations were received regarding noise from premises, noise from people leaving premises and use of foul language.

The location of the premises was clarified.

Summary of Applicant's Submission

Mr Rafferty, the Applicant's representative, addressed the Hearing and made the following submission:

- Details were given relating to the history of the Public House, in particular that it was built long before the area became residential. New homes had been built on the site of an old factory that operated in shifts and had created more noise than the Public House does. It was the Applicant's intention to only have live entertainment up to four times per year - Mrs Reed was pregnant with the couple's first child therefore the Applicants would not be wanting regular late night music themselves.
- In response to the representations that were submitted the Applicant's representative responded by saying that: there was no evidence that beer bottles and glasses left in nearby gardens were from The Great Western; very few patrons drove to the Public House as it was within walking distance from their homes so noise from cars was minimal; and the claim linking patrons of the Great Western to vandalism of the local bakery was unsubstantiated.
- The Applicants had only had live music on two occasions since holding the licence; the building was old with thick walls which little sound could get through; and the recent comedienne hired for entertainment did swear once but it was unintentional and she had apologised.

In response to questions from Councillors the Applicants clarified that:

- The Public House does not have double-glazed windows but when tested by the Applicant, music being played in the Public House could not be heard from the car park.
- There were not currently any notices displayed in the Public House asking patrons to leave in a mature manner. It was not felt necessary because the majority of patrons were elderly.
- The intention was to have live music on until 11pm at the latest with the exception of New Year's Eve

Presentations by Interested Parties

Representations (as attached to Report No.5) were received and the following people were in attendance to present their representations: Mrs T. Lang (speaking on behalf of herself and Mr & Mrs Brenndorfer), Mr J. Maggs, Mr H. Stanton and Mr J. Bright (speaking on behalf of himself, Miss Carter & Mr Jones). The application was opposed on the following grounds:

- Noise levels from music played at the Public House which could be heard by local residents;
- The geographical location of the Public House which meant that the noise created there resounded around the immediate area
- Doors and windows of the pub were left open in the summer;
- The factory that was previously located in the area had not created any noise nuisance;;
- That a Public House with live music would be better positioned in a town centre and not a prime residential area;
- Entertainment would attract additional customers from further afield in turn increasing noise from people and their vehicles;
- Additional noise may be detrimental to the health of local residents;
- The hired comedienne had sworn many times using language of a sexual nature which could be heard from inside the homes of residents five metres from the pub car park boundary;
- The proposal to potentially have strippers at the Public House was not felt to be suitable family entertainment;
- Residents had a duty to protect their children;
- The map showing the location of the Public House was outdated as there were now 18 additional residential properties in that area;
- Even if the current Licence Holders only intended to have live music four times per year, as the application stands if the pub were sold the new licensees would be entitled to have as much live music as they liked.

The Applicant's Summation

The Applicants' representative stated that the residential area had grown long after the Public House went into business. He informed Members that the Applicants were not looking to attract new patrons, rather they were just trying to provide a better service for their regular patrons. He stated that the Applicants do not believe that youngsters would be attracted to an 'old man's pub'. He informed members that he was surprised that Mr. Stanton could hear the comedienne, as this claim did not fit with their tests. He told Members that the application for recorded music to be played was applied for in case the need arose but currently the Applicants had no intention of using it.

At this point legal advice was provided stating that both the Applicants and those who had made relevant representations would have the opportunity to ask for the License to be reviewed and amended if necessary, and that if local residents had concerns about noise nuisance, complaints could be made to the Local Authority under other legislation.

The Sub-Committee were reminded that a comedian's act did not constitute regulated entertainment for the purposes of the Licensing Act 2003.

In response to questions from Councillors the Applicants clarified that:

- The maximum capacity of the Public House would be approximately 60 people. On an event night (a recent quiz night was used as an example) the pub had 24-25 participants.
- The pub was not air-conditioned.

Administrator's Note:

The Applicant's representative made reference to a Petition that had been signed by 87 local residents in support of the application for the variation of the Premises Licence, but this was not accepted as evidence by the Chairman as prior notice had not been given of the intention to introduce this.

Mr. Maggs had wished to circulate details of noise levels around the vicinity of the public house that he had obtained, but this was deemed as an introduction of new information that was not included within his written representations. The Chairman stated that this could be accepted only if the Applicants were willing to agree. The Applicants objected to the introduction of this new material, and the Sub-Committee did therefore not accept it.

The Chairman reminded both parties that this information would have been accepted had it been submitted before the deadline for representations.

Adjournment and Decision

The Hearing adjourned at 11:20am.

The Members withdrew from the meeting together with the legal advisor and Meeting Administrators to deliberate in private.

In reaching their decisions the Sub-Committee considered in particular the following evidence that had been presented:

- the residential nature of the area in which the premises were situated
- The intended hours open for supply of alcohol.
- The submission made on behalf of the applicant that they only wished to have live music events four times a year, with those events to finish by 11.00 p.m.
- The clientele of the premises

The evidence that had been presented was considered with reference to the Licensing Act Objectives of Prevention of Public Nuisance, Prevention of Crimes and Disorder, Public Safety and Protection of Children from Harm, the relevant sections of the government's statutory guidance and the Council's own Licensing Policy.

Resolved that:

- (1) The application to extend the hours for the supply of alcohol be granted subject to timings detailed below:
 - (i) Sunday to Thursday - 12:00 - 23:00;
 - (ii) Friday to Saturday - 12.00 - 01.00;
 - (iii) Christmas Eve – 12:00 – 01:00;

(iv) Christmas Day- 11:00 - end of permitted hours for the relevant day of the week on which it falls;

(v) New Year's Eve- 12:00 - 02:00

(2) The application for the provision of Regulated Entertainment be granted as amended and detailed below:

Live Music

(i) Friday and Saturday evenings only - 19.30 - 23.00

Recorded Music, Films, Performance of Dance and anything of a similar description

(i) Friday to Sunday evenings only - 19.30 - 00.30;

Late Night Refreshment

(i) Friday to Sunday – 23.00 – 00:30;

Indoor Sporting Events

(i) Friday to Sunday – 17:00- 23:00;

(3) The following additional conditions be attached to the licence:

(i) Live music events to occur no more than four times per year and to finish no later than 23:00;

(ii) Windows and doors to be closed no later than 21:00 when live or recorded music is to be played;

(iii) Prominent, clear and legible notices to be displayed at all exits asking patrons to leave the premises in a considerate and orderly manner.

Reasons for Decision

To promote the licensing objective of the prevention of public nuisance, on the basis that-

- a The premises are in a predominantly residential area, with houses in close proximity. There will inevitably be a degree of disturbance caused to those residents from patrons leaving the premises, particularly those leaving by car. The extension of hours for the supply of alcohol would provide a reasonable balance between the wishes of the Applicant to provide increased drinking hours for its customers and the wishes of the residents to have as low a level of disturbance as possible from the premises, particularly late at night. The applicant proposed the limit on the number of live music events and the termination time of 11pm.
- b It is considered that noise from live music events would be heard at neighbouring residences. If doors and windows were open, then this noise could become a

nuisance to neighbours, particularly later in the evening. Even with window and doors kept closed as far as possible, it could still cause some disturbance to neighbours. It was therefore appropriate to limit the number of live music events and to require them to stop at 11.00pm

- c The concessions offered by the Applicant were accepted but the additional conditions imposed by the Sub-Committee were considered necessary to promote the licensing objectives.

Announcement of Decision

Members returned to the meeting and the Chairman informed those present of the decision made and confirmed that written notification would be given in due course.

Administrator's Note:

The Chairman of the Committee also gave an Informative to the Applicants and those parties who had made relevant representations.

"The Panel does have some sympathy with the objectors and as an informative I must tell you that the applicant has a statutory right to apply for up to 12 Temporary Event Notices in any one year should they wish to do so.

We hope that the pub and residents can co-exist peacefully, however I will reiterate that it is possible for any party to request a review of the licence should this not be the case."

The meeting started at 10.30am and finished at 12.00pm.

There were 7 members of the public present.