

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

Minutes from the Meeting of the Licensing Committee held on Tuesday, 2nd February, 2016 at 11.30 am in the Committee Suite, King's Court, Chapel Street, King's Lynn

PRESENT: Councillors C Crofts (Chairman), Mrs S Fraser and M Hopkins

Officers:

Noel Doran - Legal Advisor
 John Gilbraith - Licensing Manager
 Rebecca Parker - Democratic Services Officer

1 APOLOGIES FOR ABSENCE

There was none.

2 ITEMS OF URGENT BUSINESS

There was none.

3 DECLARATIONS OF INTERESTS

There was none.

4 TO CONSIDER AN APPLICATION FOR GRANT OF A PREMISES LICENCE AT THE WHITE HART, 58 BRIDGE STREET, DOWNHAM MARKET PE38 9DH

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of the White Hart, 58 Bridge Street, Downham Market. He introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Regional Manager of the Applicant, Mr Draper and the Applicant's representative, Mr Connor introduced themselves.

The representatives from Community Safety and Neighbourhood Nuisance, Mr Poucher and Mr Whitmore, introduced themselves.

The other persons present, Mr Lane (representing Mr Patel), Mr Patel, Mrs Chase and Mr Merry introduced themselves.

All parties confirmed that fifteen minutes would be sufficient to present their case.

5 **PROCEDURE WHICH WILL BE FOLLOWED AT THE HEARING**

At the request of the Chairman the Legal Advisor outlined the procedure which would be followed.

6 **REPORT OF THE LICENSING MANAGER**

Before presenting his report the Licensing Manager referred to page 38 of the agenda which contained the representation from the Community Safety and Neighbourhood Nuisance Team. He explained that the Applicant had now agreed to the recommended conditions put forward by the Community Safety and Neighbourhood Nuisance Team as follows:

- Within 28 days from the start date of the licence, a detailed noise management plan shall be submitted to and agreed by the Community Safety and Neighbourhood Nuisance Team at the Borough Council of King's Lynn and West Norfolk and shall be implemented and approved thereafter. The majority of the management plan will cover the abatement of noise nuisance from patrons at the business but also to establish that plant noise (e.g air conditioning units) have been assessed so not to cause a noise nuisance to nearby residents.
- The licensee shall take appropriate steps to ensure that the customers entering and leaving the premises, and any customers queuing prior to admission, do so in a quiet and orderly manner.
- All external windows and doors must be closed, from 22.30 each day with the exception of normal access and egress.
- Patrons shall not be permitted to consume drinks in the rear garden after 22.30 between Sunday and Thursday. From 22.30 until close, Sunday to Thursday, customers shall only be permitted to access the restricted area of garden in order to smoke. The designated restricted area is hatched red as part of this paperwork.
- Patrons shall not be permitted to consume drinks in the rear garden after 23.00 on Friday and Saturday. From 23.00 until close, Fridays and Saturdays, customers shall only be permitted to access the restricted area of the garden in order to smoke. The designated restricted area is hatched red as part of this paperwork.

The Chairman asked the other persons present if the acceptance of the conditions had any effect on their objections. The other persons present stated that they did not wish to withdraw their objections.

The Licensing Manager presented his report and provided an overview of the application. In presenting his report, the Licensing Manager referred to the following:

- The application, which had been included within the Licensing Managers report.
- The Mandatory conditions, conditions consistent with the operating schedule and conditions which could be imposed by the Sub-Committee.
- The four objectives of the Licensing Act.

- There had been one representation from the Responsible Authorities, however the applicant had now agreed to the conditions put forward by the Community Safety and Neighbourhood Nuisance Team.
- There had been representations from seven other persons and their representations were included in the Licensing Managers report.
- The Borough Council's statement of Licensing Policy and Section 182 guidance.

There were no questions to the Licensing Manager from any of the other parties present at the Hearing.

7 **THE APPLICANT'S CASE**

The Applicant's representative presented the case on behalf of the Applicant. He explained that he would outline how the four licensing objectives would be promoted.

He explained that the site of the White Hart was currently a trading pub. J D Wetherspoon had conditionally acquired the site subject to planning and licensing and had successfully obtained planning permission for an extension.

Those present were informed that the premises already had a licence, which would be surrendered if the new application was approved. The Applicant's representative explained that they could have applied for a variation, but wanted to be transparent and therefore submitted a new application.

The Sub-Committee was informed that J D Wetherspoon would be investing £1.7 million in the premises and would carry out a kitchen extension and internal and external refurbishment. It was hoped that the site would become an amenity to the town and would provide additional jobs.

The Sub-Committee was referred to the plan of the premises which had been included at page 44 of the agenda. The area on the ground floor would be mainly open plan with a large kitchen to the rear. Toilets and staff provision would be located on the first floor. The open plan area would contain tables and chairs as the focus would be on food. CCTV would be in operation.

The Applicant's representative provided those present with a background of J D Wetherspoon. He explained that they had been operating since 1979 with 954 premises in the UK and Ireland. They wanted to achieve a family environment and good value whilst supporting local breweries by offering local guest ale. They did not provide music or any regulated entertainment. The aim for the White Hart was to focus mainly on food.

The Applicant's representative explained that he had written to all of the objectors to try and alleviate their concerns. He was confident that the four licensing objectives would be promoted.

The Applicant's representative did not feel that late night disturbances would be a problem. J D Wetherspoon had lots of policies and procedures in place and a strong Management Team. Staff underwent an online training programme and had a zero tolerance attitude.

The Applicant's representative explained that the Area Manager would meet regularly with the Police and if local residents were concerned they could approach the Manager.

It was explained that the garden area would be refurbished and a smoking area would be provided so that patrons did not stand out of the front of the premises where there was a narrow footpath. He acknowledged the proximity of the garden areas to residents and collective measures would be put in place such as signage, no music and staff monitoring.

The Applicant's representative reminded those present that the conditions had been agreed with the Community Safety and Neighbourhood Nuisance Team which included limitations on the use of the outside area. No drinks would be permitted outside after 22:30, or 23:00 on Friday and Saturdays. A plan which had been circulated to the Sub-Committee following publication of the agenda and showed a red hatched area which would be the only portion of the garden open to smokers after this time.

The Applicant's representative confirmed that a 3m acoustic fence would be erected and a noise management plan would be produced.

The Applicant's representative felt that, because of the nature of the premises, it would rarely be at capacity at closing time. The dispersal of customers would be managed.

The Chairman thanked the Applicant's representative for presenting his case and invited questions from all parties.

In response to a question from the Licensing Manager, the Applicant's representative confirmed that a temporary barrier would be in place to restrict access to the lower part of the garden when required because of the newly agreed conditions. Signage advising patrons of the arrangements would also be erected and staff would monitor the area.

Mr Lane referred to a noise assessment which had been carried out and had recommended a 6m canopy to reduce noise pollution. The Applicant's representative explained that due to the restrictions on access to the garden after a certain time the canopy would not be required.

Mr Lane asked what measures would be put in place to ensure that the neighbouring properties were not affected by light pollution. The Applicant's representative explained that there would be minimal outside lighting, and it would only be in the smoking area when the rest of the garden was closed. He explained that a condition had been attached to the planning permission which required a scheme to be approved by the Planning Authority pertaining to lighting arrangements.

In response to a question from Mr Merry, the Applicant's representative explained that he needed to strike a balance between customers and residents and if issues arose when in operation they could be reviewed.

Councillor Mrs Fraser asked what measures would be put in place to ensure that customers left the outside seating areas at the required time. The Applicant explained that as part of their operations they would start moving customers away from the garden half an hour before the required time. A barrier would then be put in place and staff would monitor. He explained that this was a licensing condition so the Applicant was duty bound to comply.

8 **RESPONSIBLE AUTHORITY'S CASE**

Andy Poucher from the Community Safety and Neighbourhood Nuisance Team explained that their proposed conditions had now been agreed by the Applicant. He felt that it was important to have a distinction between weekday and weekend operations, hence the differences in the proposed timing limitations. It had also been agreed that all windows and doors, with the exception of access and egress would remain closed after 22:30.

The Chairman invited questions from all parties. In response to a question from Mr Lane it was explained that the location of the smoking area could be reviewed if complaints were received.

9 **OTHER PERSONS CASE(S)**

(i) Mr Lane (on behalf of Mr Patel)

Mr Lane explained that Mr Patel owned properties to the rear of the White Hart. He referred to the application which meant that food could be served later than 11pm and felt that this was to encourage later drinking. He referred to the proposals to triple the size of the existing premises and explained that it was surrounded by residential properties. He referred to the plant and equipment which would be situated on the roof and could cause a noise nuisance. He felt that noise levels in the garden would be significant even if it was just people talking. Mr Lane referred to light pollution from the glazed windows facing residential properties.

He referred to an acoustic report which had stated that noise levels would be low, but this was with a canopy. He informed the Sub-Committee that there were children living in the surrounding residential properties.

The Chairman invited questions from all parties. In response to a question from the Licensing Manager, Mr Lane confirmed that the children who lived in the surrounding residential properties were tenants or relatives of Mr Patel.

(ii) Mrs Chase

Mrs Chase appreciated that she had always lived next to a pub, but the new application would provide a different operation. She stated that she would like the kitchen to close before 11pm. She acknowledged that there would be no music on site and was reassured by the fact that CCTV would be in operation, but stated that trade would change as the pub would triple in size and this would cause disturbance. She explained that currently the pub did not serve food, there were only three benches outside and the pub usually closed at 11pm. Mrs Chase referred to access to the site for emergency vehicles which she felt would be restricted and she was disappointed that no representations had been received from the Police or Fire Service.

She referred to a noise assessment which had been carried out on behalf of J D Wetherspoon, a copy of which had been made available to the Sub-Committee in advance of the Hearing. She explained that it stated that the density of seating would increase noise levels and referred to the proposed canopy. She also referred to World Health Organisation guidance.

Mrs Chase explained that the wall separating her property from the garden dropped to 1.25m in places and she felt that this would not be a sufficient barrier to abate noise.

There were no questions to Mrs Chase.

(iii) Mr Merry

Mr Merry presented his case. He referred to the fence between his property and the beer garden. He explained that he had put up the fence, at his own expense, to stop customers cutting through his garden. He did not feel that the current fence would make an appropriate acoustic barrier. He also asked that work be carried out to overhanging branches in his garden and commented that often bottles and cans were thrown over his fence.

Mr Merry informed the Sub-Committee that he had lived at the property for over 26 years and the noise levels had not decreased. He explained that he could hear people taking in the beer garden and accepted it to a point.

He felt that light pollution would increase and explained that light from the pub currently came through to his house. He asked that consideration be given to protecting local residents from light pollution.

There were no questions to Mr Merry.

10 **SUMMING UP - THE LICENSING MANAGER**

The Licensing Manager summed up his case. He referred to the Section 182 Guidance as contained in his report. He explained that any conditions imposed by the Sub-Committee must be relevant to the promotion of the Licensing Objectives.

He reminded the Sub-Committee that the planning process and licensing process were separate and the Licensing Committee were not bound by decisions made by the Planning Committee. He reminded those present that a review procedure was available for licensed premises if required.

The Licensing Manager reminded the Sub-Committee that three objectors had made representations and were not present at the hearing and their representations contained within the Agenda needed to be taken into consideration alongside the representations made at the Hearing.

He reminded the Sub-Committee that each application should be considered on its own merit.

The Sub-Committee was informed that they should have regard to the representations received and dispose of the application by one of the following methods.

- a) Grant the application under the terms and conditions applied.
- b) Grant the application with conditions that the Sub-Committee considers appropriate for the promotion of the licensing objectives.
- c) Reject all or part of the application.

The Sub-Committee were reminded that full reasons for their decision must be given as both the applicant and other persons making representations had a right of appeal against that decision to the Magistrates' Court.

11 **SUMMING UP - THE APPLICANT**

The Applicant's representative, on behalf of the Applicant summed up their case. He explained that light pollution would be mitigated as part of a planning condition. The rear garden was currently used as a beer garden and the Applicant had volunteered conditions to restrict the use after certain times. He accepted that the pub could be busy, and this

would be a benefit for the local economy, he referred to J D Wetherspoons track record of successful premises in a mixed residential and commercial area.

He explained that the Environmental Health department had not made any representations on the application in terms of noise nuisance.

The Applicant's representative stated that he would address the concerns of local residents, where appropriate, and would look at the boundary to ensure that fences were fit for purpose.

12 **SUMMING UP - RESPONSIBLE AUTHORITY**

The Community Safety and Neighbourhood Nuisance Team summed up their case. They were satisfied with the conditions which had now been agreed by the Applicant.

13 **SUMMING UP - OTHER PERSONS**

(i) Mr Lane (on behalf of Mr Patel)

Mr Lane referred to the noise assessment which stated that noise levels would be exceeded and the canopy which now would not be installed. He explained that no detail on lighting had been provided. He felt that the proposed smoking area was too close to Mr Patel's properties, some of which had children's bedrooms facing the beer garden.

(ii) Mrs Chase

Mrs Chase referred to the kitchen extension and how the pub would triple in size, which would result in more patrons and have an impact on neighbouring properties. She asked that consideration be given to mitigating noise and light pollution. She explained that she would prefer to see the beer garden closed from 9pm.

(iii) Mr Merry

Mr Merry stated that he had nothing further to add.

14 **OUTSTANDING MATTERS**

The Legal Advisor advised there were no outstanding matters.

15 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied and advised by the Democratic Services Officer and the Legal Advisor on specific points of law and procedure.

16 **DECISION**

The Chairman read out the Decision as follows:

Findings

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and at the Hearing by the Community Safety and Neighbourhood Nuisance Team and the other persons present.

The Sub-Committee understand and acknowledge the concerns raised by the local residents. They noted that no representations had been made from any other Responsible Authorities and the recommended conditions put forward by the Community Safety and neighbourhood Nuisance Team had now been agreed upon, which is a matter to which weight must be attached. The conditions proposed to be attached to the licence regulate the use of the site to a greater extent than currently applies and the Sub-Committee are satisfied, given the responsible attitude demonstrated by the applicant, that the conditions are suitable and sufficient to promote the licensing objectives in the context of this application.

Conditions

The Sub-Committee note that the conditions put forward by the Community Safety and Neighbourhood Nuisance would be added to the licence.

Determination

The Sub-Committee grant the application for the White Hart, 58 Bridge Road, Downham Market.

Right of Appeal

It was noted that both the applicant and persons making representations had a right of appeal against that decision to the Magistrates Court.

The meeting closed at 1.30 pm