

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

Minutes from the Meeting of the Licensing Committee held on Tuesday, 27th June, 2017 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX

PRESENT: Councillors C J Crofts (Chairman)
Councillors Miss L Bambridge and D Whitby

OFFICERS:

Noel Doran – Legal Advisor
John Gilbraith – Licensing Manager

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was no urgent business.

3 **DECLARATIONS OF INTERESTS**

There were no declarations of interest.

4 **TO CONSIDER AN APPLICATION FOR A PREMISES LICENCE FOR NO. TWENTY 9, MARKET PLACE, BURNHAM MARKET**

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 No. Twenty 9, Market Place, Burnham Market, Norfolk. He introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Chairman informed those present that Senior Licensing Enforcement Officer, Marie Malt and Councillor Sandell would be observing the Hearing.

The Applicant, Mr Roberts from Ambury Developments (SKN) Limited introduced himself.

The other persons present, Mr and Mrs Cartwright introduced themselves.

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 at the Hearing.

6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub-Committee and made reference to the following:

- The application, as included in the Licensing Managers report.
- The four licensing objectives.
- The Mandatory Conditions and conditions consistent with the operating schedule.
- That under the Live Music Act (2012) as amended by the Licensing Act 2003 (Description of Entertainment)(Amendment Order 2013) live and recorded music could be offered on licensed premises between 8am and 11pm without a licence, provided that certain conditions were met.
- There were no representations from any of the responsible authorities to consider.
- There were seven representations from other persons to consider, which had been included in the Licensing Managers report. The Licensing Manager explained that the Sub-Committee would need to give consideration to the representations, even if the other persons were not present at the Hearing to present their case.
- The Sub-Committee would need to have regard to the King's Lynn and West Norfolk Borough Council's Statement of Licensing Policy and the Section 182 Guidance issued by the Home Office.

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

7 **THE APPLICANT'S CASE**

The Applicant, Mr Roberts, presented his case. He explained that he had some additional documents which he would be referring to, which could be circulated to attendees at the Hearing if requested. Mr Roberts provided information on his personal and business background. He felt that his application for a premises licence confidently addressed the four Licensing Objectives.

The Sub-Committee were provided with information on the history of the site and the required planning permissions which had been granted. Mr Roberts explained that he had attended Parish Council meetings to provide information on his plans for No Twenty 9 and had copies of the minutes of the Parish Council meetings available. He explained that the Parish Council had initially not objected to the planning application, but at a subsequent meeting Mr Cartwright had

raised concerns and asked for the application to be reconsidered. The application was then reconsidered and the Parish Council supported the application with a few comments. Mr Roberts provided information on how he planned to mitigate the comments made by the Parish Council. He explained that use of the Courtyard would be restricted to 9pm. He also referred to other Licensed Premises in the village and explained that another pub had a licence until 12pm, seven days a week.

Mr Roberts explained that the application for late night refreshment from 11pm to 11.30pm was to cover 'drinking up' time. Mr Roberts stated that he felt that he had satisfied the Mandatory Conditions and he would be the Designated Premises Supervisor. He explained that he held a Personal Licence and the Challenge 25 scheme would be introduced at the premises.

The Sub-Committee was informed that the conditions consistent with the operating schedule had been agreed by the Police as required and would be adhered to.

Mr Roberts provided a response to the seven letters received from other persons and highlighted the following:

- He did not agree with some of the distances that other persons had included in their representations and explained that there was not a direct line of view.
- The application for late night refreshment was to cover 'drinking up' time.
- He explained that some of the other persons had also objected to the planning application.
- He felt that Burnham Market was a vibrant village and the new car park was often busy, even in the evening.
- He did not feel that a 9.30pm end time and closure on a Sunday was appropriate, as other businesses in the village had longer opening times.
- He was not intending for the premises to be an events venue, it would be a Bar and Restaurant.

Mr Roberts explained that he had applied for an amendment to his Planning Application to bring his opening hours in line with the hours applied for under the Premises Licence. He also stated that he had a plan detailing the proximity of residents from his Premises and from the other Pub in the village.

The Licensing Manager clarified that live and recorded music could be provided at licensed premises between 8am and 11pm without requiring a licence. At the request of the Licensing Manager the additional information which Mr Roberts referred to was circulated to the Sub-Committee.

Mr Roberts responded to questions from the Sub-Committee and he explained that he had originally requested regulated entertainment on his licence, but this was subsequently withdrawn as he did not realise that this was no longer necessary. He explained that any live entertainment would take place in the bar area at the front of the premises.

8 **THE OTHER PERSONS CASE**

Mr Cartwright presented his case. He stated that his wall abutted the north boundary of the premises and faced the Orangery. He informed the Sub-Committee that there were currently builders working at No Twenty 9 and he could hear their radio, even when his windows and doors were shut. Mr Cartwright explained that he was concerned about the disturbance and noise which would be caused by the Premises and he disagreed with Mr Robert's statement that there were not any permanent residents surrounding the Premises. He explained that retired residents surrounded the premises on the north, east and west boundary.

Mr Cartwright was concerned about live music and dance and referred to the original application which had this added onto it, but was subsequently withdrawn. He explained that he was a permanent resident and he and his wife were retired. They felt that Burnham Market was a quiet village, especially after 6pm and the car park was often empty in the evening. He stated that the venue was surrounded by residential neighbours and he was concerned about noise disturbance.

Mr Cartwright explained that he was objecting to the application under the prevention of public nuisance licensing objective.

He stated that he felt that the modifications to the building and the new Orangery extension, would not abate noise and instead would amplify it out onto the Courtyard. He explained that the Planning Permission was based on a restaurant and bar which would provide a small and intimate dining experience and there was no indication that music and dancing would be provided. He explained that by originally applying for regulated entertainment and then withdrawing the application, as it was no longer required to be applied for, the Applicant was showing intent on using the venue for regulated entertainment.

Mr Cartwright referred to the amendment to the Planning Permission, which had been applied for to extend opening hours to match those applied for on the Premises Licence. He felt that neighbours should have been consulted on this, before the planning application was submitted.

Mr Cartwright referred to his objection letter, which had been included in the Licensing Managers report. He referred to the conditions which

he suggested be attached to the Licence, should it be granted. These included:

- Live music must not be allowed
- Dancing must absolutely not be allowed
- Recorded music to be background music for quiet dining only
- Music to be indoors only
- Music to be allowed only between the hours of midday and 9.30pm
- Alcohol to be served indoors only between the hours of 12pm and 9.30pm Monday to Saturday.
- No alcohol to be served outdoors
- Use of outdoor area to cease at 8pm
- No trading on a Sunday

Mr Cartwright responded to questions from the Licensing Manager and confirmed that he believed his suggested conditions would be appropriate to attach to the licence.

The Licensing Manager advised that the Sub-Committee did not have to power to impose conditions regulating live and recorded music.

Mr Roberts asked Mr Cartwright why he felt that the venue would be primarily used as a music and dancing venue. He stated that it would be an intimate dining venue and private areas would be available. Mr Cartwright explained that this was included in the Applicant's original application.

Mr Roberts asked which residents Mr Cartwright was referring to, who surrounded the Premises as he was only aware of two permanent residents. Mr Cartwright explained that there were three that shared a boundary wall with No Twenty 9, Market Place.

In response to a question from Councillor Bambridge, Mr Cartwright explained that the music coming from the builders' radio was positioned inside the premises and he could still hear it in his house.

Councillor Crofts asked if there was ever a disturbance from live and recorded music at the other licensed premises in the village. Mr Cartwright explained that sometimes he could hear it, but it was much further away.

9

SUMMING UP - LICENSING MANAGER

The Licensing Manager summed up his case. He reminded the Sub-Committee that although only one of the other persons were present at the Hearing, due regard should be had to all of the representations submitted and included within his report.

The Licensing Manager clarified that the Applicant had originally requested regulated entertainment, but this was subsequently withdrawn as live and recorded music could be provided on licensed premises between 8am and 11pm without a licence, provided certain conditions were met. He explained that if the application was granted and caused disturbance for residents, they could call for the Premises Licence to be reviewed and a review Hearing could impose conditions relating to live and recorded music.

The Licensing Manager referred to the Section 182 guidance and the extracts from it, as included in his report. He explained that the Sub-Committee should have regard to the guidance, or give reasons why it would deviate from it. He explained that the objections related to the prevention of public nuisance licensing objective.

The Licensing Manager explained that there were ten licensed premises in Burnham Market and only two of them closed before 11pm.

The Licensing Manager requested that the Sub-Committee consider the information included in the Agenda and presented at the Hearing and take such steps as it considered appropriate for the promotion of the four licensing objectives and dispose of the matter by using one of the following options:

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

The Sub-Committee were reminded that full reasons for their decision must be given as all parties had a right of appeal against that decision to the Magistrates' Court.

10 **SUMMING UP - OTHER PERSONS**

Mr Cartwright summed up his case. He confirmed that he now understood the legal position regarding live and recorded music and that the Sub-Committee could not condition it at this stage. He explained that the only way the Sub-Committee could consider the concerns of residents would be to limit the licensed hours. He asked the Sub-Committee to focus on reducing the licensed hours to be appropriate to a restaurant.

11 **SUMMING UP - APPLICANT**

Mr Roberts summed up his case. He explained that he had spent a lot of time preparing for this Hearing, which showed his commitment to the Premises. He reminded the Sub-Committee that only one objector had

turned up to the Hearing and he hoped that his evidence had alleviated any concerns that the Sub-Committee may have. He explained that he had worked with the Planning Department and Conservation Officer at the Council and had presented plans to the Parish Council as appropriate. He explained that it was not his intention for it to become an entertainment venue.

He felt that the opening of the bar and restaurant would be a benefit for the local community and would offer employment opportunities. He explained that he would personally be running the premises and would make his contact details available to immediate residents, so that they could contact him direct if they had any concerns.

12 **OUTSTANDING MATTERS**

The Council's Legal Advisor advised there were no outstanding matters.

13 **REACHING A DECISION**

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

14 **DECISION**

FINDINGS

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the Hearing by all parties.

DETERMINATION

The Sub-Committee, in reaching its decision, notes the concerns raised by nearby residents, both orally and in correspondence, in relation to the statutory objective of the prevention of public nuisance. It recognises that the opening of new licensed premises has the potential to cause issues, including noise and other disturbance, that may amount to a public nuisance. It therefore understands the position of those that have objected to this application.

The Sub-Committee must also note that no representations were received from any of the Responsible Authorities, which is a matter to which it must attach weight. In addition, the Sub-Committee notes the efforts made by the applicant, himself a local resident, to address the issues raised by all the relevant regulatory bodies and to engage with the local community.

While the opening of new licensed premises can cause a public nuisance, there is insufficient evidence before the Sub-Committee that the granting of this application will result in the compromise of any of the statutory objectives.

The Sub-Committee grants the application for a premises licence for No. Twenty 9, Market Place, Burnham Market, Norfolk PE31 8HF, subject to the addition of the Mandatory Conditions and the proposed conditions consistent with the Operating Schedule as set out in the Licensing Manager's Report.

The meeting closed at 12.07 pm