

LICENSING SUB-COMMITTEE HEARING

DETERMINATION NOTICE

Date of Hearing	5th November 2024
Sub-Committee Members	Councillors Moriarty (Chair), Sandell (Vice Chair) and Rust
Legal Adviser	James Arrandale Amy Pearce
Democratic Services Officers	Lauren Steele Rebecca Parker
Licence Holders (Applicants)	The Buck Inn Ltd
Interested Parties	Nicholas Todd Hunter Other (Identity confidential upon request)
Licensing Authority	Craig Pease – Senior Licensing Officer Marie Malt – Licensing Service Manager
Responsible Authorities	Nathan Reed – Community Safety and Neighbourhood Nuisance Officer, Borough Council
The Premises	The Buck Inn, 2 Church Road, Tilney St Lawrence, King's Lynn
Application	Application for a variation of an existing Premises Licence

APPLICATION

The Borough Council of King's Lynn & West Norfolk (the **Council**), being the relevant licensing authority, received an application for a variation of an existing Premises Licence from The Buck Inn Ltd at the above address (the **Application**).

During the 28-day representation period, the Council received three letters of representation from other persons.

HEARING

On 5th November 2024, a hearing was held to consider the Application. The Sub-Committee heard from:

- The Senior Licensing Officer;
- The Applicants;
- The two Interested Parties in attendance; and
- Mr Reed on behalf of the Council in respect of noise management and related matters.

SUMMARY OF EVIDENCE

Senior Licensing Officer

The Senior Licensing Officer presented his report. He drew particular attention to:

- The layout of the premises and proposed hours under the Application (p55 and p56);
- The mandatory conditions (para. 3 of the report);

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- The proposed conditions (para. 4 of the report); and
 - Conditions agreed with the Council's Community Safety and Neighbourhood Nuisance (CSNN) team (appendix 2 p.49).

He invited the Sub-Committee either to grant the Application under its current proposed terms, to grant with conditions it considers reasonable, or to reject all or part of the Application.

In questioning from the Applicants, it was confirmed that the Applicants had agreed with Norfolk Constabulary to retain CCTV footage for 28 days.

No other questions were received from the other parties present.

Applicants

The Applicants presented their case. They stated that the pub and beer garden has been there since the premises has, and that they make efforts to regulate noise, including by using signage to achieve this, but have limited control of noise generated by customers.

The Senior Licensing Officer asked what events have been held in the beer garden since it was reopened; the Applicants confirmed this was only the screening of England football matches during Euro 2024. The Applicants stated that their indoor activities were in compliance with their music licence. The Senior Licensing Officer asked whether complaints had been received relating to the screening of football matches, and how these had been dealt with. The Applicants confirmed they had been approached by the neighbours, and had told them they could seek legal advice. The Senior Licensing Officer asked how they intend to prevent complaints.

There were no questions to the Applicants from Mr Hunter.

The other Interested Party questioned how the Applicants intend to prevent the noise. The Applicants responded that they would follow any rules set by the Council.

In response to questions from Cllr Rust:

- The Applicants confirmed that prior to their taking on the Licence, the beer garden had been closed for 10 years.
- In response to questions whether they believe it is reasonable for the neighbours to expect steps to be taken to consider impact of noise, the Applicants stated that the neighbours have chosen to live near to a pub, and so it should be accepted.
- In response to why the proposed hours are so extensive, the Applicants said it was worth trying for the longer hours, but if not granted then they will accept the hours granted.

In response to questions from Cllr Sandell:

- The Applicants advised that ca. 60-80 people attended the football matches shown in the beer garden.
- With reference to the report, and reported disturbances, and whether the Applicants would work with the neighbours to alleviate the issues, the Applicants stated this would depend on whether the neighbours approached them in a polite way.

In response to a question from Cllr Moriarty, the Applicants confirmed that the televisions in the beer garden do not have soundbars.

Interested Party – Mr Hunter

Mr Hunter stated that his relationship with the Applicants had previously been positive, and accepted that he had moved next door to a quiet village pub. However, he stated that the opening of the beer garden had caused him stress and anxiety, and prevented him from enjoying his garden.

In response to questions from the Senior Licensing Officer:

- Mr Hunter alleged that when raising concerns about noise, the Applicants were initially receptive but became less cooperative.
- He completely objects to outside events due to the issues raised.

The Applicants had no questions of Mr Hunter.

In response to a question from Cllr Sandell, Mr Hunter stated that that he was aware that the beer garden would be opening, but not the detail of what this would entail.

In response to questions from Cllr Rust:

- Mr Hunter was unable to give a view whether acoustic fencing would improve the situation,
- He suggested that instead of formal security staff a member of the pub team coming outside regularly could be sufficient to control noise, but that the signage requesting to keep noise down is not effective without a physical staff presence.
- He acknowledged that a certain type of clientele can be more boisterous, but although the Applicants cannot change who drinks in the pub, as landlords they can have a big input on how those customers behave.

In response to a question from Cllr Moriarty, Mr Hunter alleged that his key concern is in his complaints not being addressed. Mr Hunter recognised there needs to be a compromise but he considered the Applicants were not fulfilling the responsibilities that come with owning a pub. He expressed concern that an extension to the hours would not improve matters

Interested Party – [Identity kept confidential]

The Interested Party explained their domestic circumstances as relevant to the hearing, and stated that the noise affects family life. In addition, the Interested Party alleged there have been parking issues which could have caused access issues for emergency services, and raised concerns that these issues could be exacerbated if the Application was allowed.

The Senior Licensing Officer asked if the Interested Party is completely opposed to entertainment outside, or whether their objection purely relates to the hours. The Interested Party confirmed that their objection is only with the hours and noise, and not with music inside the pub, as it cannot be heard.

The Applicants and the Sub-Committee did not have questions for the Interested Party.

Responsible Authority

The CSNN Officer presented the Council's case as Responsible Authority. He explained that he had had some concerns regarding the application for the variation, relating to the neighbour complaints. He observed that "people noise" is difficult to manage as a Responsible Authority, in particular where the noise source is proximate to the affected individuals. He stated that the Responsible Authority will need to have confidence in the management moving forward that any changes are going to work.

The CSNN Officer confirmed that the Council can call for a review of the licence if noise management issue arise, and can exercise powers under statutory nuisance legislation.

The Senior Licensing Officer asked the CSNN Officer whether, based on his experience, the Applicants can comply with the proposed restrictions/conditions. The CSNN Officer considered that this may be challenging even for the most experienced pub owners.

The CSNN Officer noted that other pubs have improved noise levels by restricted times or certain occasions for outdoor events. He noted that specific closing times could be applied for the beer garden. He also observed that he has tried to work with the Applicants in respect of their proposed business model.

The Interested Parties had no questions.

In response to a question from Cllr Rust, the CSNN Officer was not aware if there was suitable training available to the Applicants to improve their ability to manage noise nuisance, but observed that it would help for them to follow a noise management plan.

In response to a question from Cllr Sandell, the CSNN Officer confirmed two complaints have been received since the Applicants have been running the pub.

In response to questions from Cllr Moriarty regarding enforcement processes, the CSNN Officer explained that:

- the Council would seek to remedy any non-compliance or noise issues in the first instance using informal means, rather than taking formal action. He reaffirmed that controlling people's behaviour is difficult, especially where alcohol is involved, but options included agreement over times during which the beer garden could be closed;
- if this did not work, the Council would give an amount of time to remedy the issue. The length of time would depend on what was causing the noise, e.g. people noise or music;
- if it became appropriate to review the licence, this would likely take around a month and a half, but it is difficult to put a specific timeframe on it as a notice could require action immediately, a week, two weeks etc.
- the Council had the option of issuing a Community Protection Warning, depending on type of complaint made, but this could possibly take 6 months.

Summing Up

The parties summed up.

The Applicants stated that they are happy to negotiate with the Interested Parties, and the Licensing Authority, but do not wish to compromise their business. Mr Hunter confirmed that he was open to compromise with the Applicants.

FINDINGS AND DETERMINATION

The Sub-Committee has considered the Application on its own merits with a view to promoting the four licensing objectives. In reaching its determination, it has had regard to:

- The relevant parts of the written and oral evidence above;
- The Council's Licensing Policy; and
- Statutory Guidance issued under the Licensing Act 2003.

The Sub Committee has determined to grant the following variation to the Applicants' licence:

1. Regulated entertainment may take place indoors between 7pm and 10pm on Sunday-Thursday inclusive.
2. Outdoor activities authorised are permitted between 4pm and 8pm on Friday or Saturday. However, such activities are permitted only on one day in any calendar month, and those days must not fall on consecutive weekends.
3. No children under the age of 11 are allowed in the beer garden or outside areas of the Premises after 8pm.
4. The beer garden shall be closed from 9pm Monday to Sunday.
5. The Sub Committee endorses the timings set out within the table at Appendix 2 to the Report, except for the restrictions at points 1-4 above.
6. The Sub Committee also endorses the following additional condition added by the Police and the Council's CSNN Officer:
 - a. A Noise Management Plan, NMP1, must be submitted to and approved by the Council's CSNN team within 7 days of the grant of this Application, and must be implemented as approved at all times thereafter. Any amendments to the plan must be approved by the CSNN team. The Noise Management Plan must be made available upon request at any time to the CSNN Team.
 - b. The Applicant shall operate, and keep in good working order at all times, a CCTV system. The CCTV cameras will be positioned to cover both the inside and outside of the premises, including the doorway and till areas, and must be capable of facial recognition of all persons. The system must record and store images for a continuous period of at least 28 days (as agreed with Norfolk Constabulary). Images must be capable of being downloaded upon reasonable request from representatives of the Police or the Licensing Authority. All staff on duty at the premises must be trained in the use of the CCTV system and be able to comply with any such request.

- c. Signs must be displayed in prominent positions requesting that customers show due consideration of neighbours when leaving the premises.
- d. All staff must receive regular training in the challenge 25 age verification scheme and records of such must be kept on the premises and made available to authorised officers upon request. Challenge 25 signage must also be displayed at prominent positions within the premises.
- e. The licence holder shall maintain records of all refusals of the sale of alcohol and other incidents that may occur at the premises in a book that will be kept for that purpose (a **Refusals / Incident Book**). The Refusals / Incident Book will be produced for inspection upon reasonable request from representatives of the Police or the Licensing Authority.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates' Court. An appeal must be commenced within 21 days beginning with the day on which you receive notification of the decision. You may wish to seek independent legal advice from a solicitor or the Citizens Advice Bureau regarding this.

Signed:

A large black rectangular redaction box covers the signature of the Councillor.

Date: 12th November 2024

Councillor Jim Moriarty (Chair of the Licensing Committee)