

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Friday 22 December 2017, at the Town Hall, Royal Leamington Spa at 10.00 am.

**Present:** Councillors Davies, Heath and Mrs Redford

**Also Present:** Mr Howarth (Council's Solicitor), Mr Leach (Democratic Services Manager) and Ms Russell (Licensing Officer).

(The meeting had been moved through agreement with all parties from 12 December 2017 to 22 December to enable all parties to be present)

1. **Substitutes**

There were no substitutes.

2. **Appointment of Chairman**

**Resolved** that Councillor Davies be appointed as Chairman for the hearing.

3. **Declarations of Interest**

There were no declarations of interest.

4. **Application for a variation of a premises licence issued under the Licensing Act 2003 The Old Coffee Tavern, 16 Old Square, Warwick.**

The Panel considered a report from Health and Community Protection which sought a decision on an application for the variation of the premises licence issued under the Licensing Act 2003 for The Old Coffee Tavern, 16 Old Square, Warwick.

The Chairman introduced the members of the Panel and the officers present. The other parties then introduced themselves as:

Mr McCann the solicitor for the applicant and Ms McIntyre the general manager of the premises was present along with Mr Joburn who had objected to the application.

The Council's Solicitor explained the procedure for the hearing.

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the variation to the premises licence should be approved and, if so, whether the licence should be subject to any conditions.

An application to vary the premises licence for The Old Coffee Tavern, 16 Old Square, Warwick was received on 2 November 2017. The premises operated as a restaurant and bar with a hotel situated above the premises. The Phoenix (City) Pub Company Limited had applied to vary the hours for sale of alcohol, late night refreshment and opening hours on Thursday, Friday and Saturday. They sought

to include the use of minibars in the bedrooms. Details of the variation were attached as appendix 1 and the plans were attached as appendix 2 to the report.

A Representation had been received from a local resident, which was attached as appendix 3. Environmental Health had not submitted a representation following the agreement of additional conditions. The conditions agreed with Environmental Health were as follows:

1. From 23.00, any patrons that order taxis will be encouraged by staff to wait inside the premises until the taxi arrives.
2. The licence holder (or his/her nominees) shall ensure that exits are supervised at closing time to ensure that patrons leave the area quickly and as quietly as possible.
3. The last entry time to non-residents will be 30 minutes before the terminal hour for the sale of alcohol.

The applicant's representative, Mr McCann, addressed the Panel and provided copies of photographs of the premises, including the bedrooms for the Panel and objector to see. He explained that no representations had been received regarding the proposed use of minibars within the bedrooms and therefore he would not comment on this during the submission to the Panel.

Mr McCann explained that the intention was to extend the hours for the sale of alcohol and late night refreshment on Thursday, Friday and Saturday nights. There was not an intention to always trade to these hours but to add flexibility within the business to use when the Town Centre was busy, both for planned events and unexpectedly and therefore would reduce the need for Temporary Event Notices (TEN). This was especially important when the Town Centre was unexpectedly busy because a TEN would require ten working days.

Mr McCann explained that in relation to the initial application five local residents and Environmental Health had objected to the application. On this occasion only one resident and Environmental Health had objected. He highlighted that the objection from Environmental Health had been resolved through the agreement to the proposed additional conditions. He also highlighted that, in his opinion, the premises had shown itself to be responsible operator, there had been no increase in crime or public nuisance as a result of the premises being open and that no complaints had been received by the premises from local residents, the Police or Environmental Health.

Mr McCann explained that he wanted to engage with local residents and they had written to Mr Joburn but had not had any direct communication with him until today.

In response to questions from the Panel Members, Mr McCann advised that:

- The bedrooms were now finished and about to go live - if the premises caused nuisance to these rooms, they would get complaints from the people staying there and the investment in the rooms would be wasted;
- The intention was to keep noise to a sociable level through background music and not live or recorded music;
- the premises was not allowed to have regulated entertainment regardless of what happened with this application;
- there was a dispersal policy, a condition of the operating schedule, in place which advised that customers were to wait inside for taxi's and this had been operating and this was not a concern that had been raised;

- patrons did not tend to congregate outside the premises, they tended to say good bye and then go home;
- there had been no complaints from the use of side garden up to 10pm and after 10pm patrons would need to go to the front of premises; and
- the highway area out front was outside the control of license holder.

The interested parties did not have any questions for the applicant.

Mr Joburn, an interested party and local resident, addressed the Panel and advised that the application was to extend the drinking and eating into more unsociable hours within a residential area.

He respected that there needed to be a balance between the residents, the town and the promised high class eatery with rooms. His main concern was that this application was another small extension.

Mr Joburn accepted there had been no complaints to date but also explained that residents did not always complain and that, in his opinion, the purpose of the Panel was to protect the residents from potential issues.

Mr Joburn explained that, if approved, the premises would put more people into a residential area later at night and it was not the responsibility of the premises to disperse them.

Mr Joburn concluded by explaining that this was not the Town Centre and the beer garden was overlooked by residential properties. He also confirmed he had no objections to the mini bars.

Mr Howarth, solicitor for the Council, explained to the panel that the premise was in a mixed use area within the area that was recognised as the Town Centre of Warwick.

In response to questions from the Panel, Mr Joburn stated that:

- Two people had raised concerns with him about the premises but he recognised he was here to represent himself and there were no other objections to the application; and
- He accepted there would be odour from the flu but he was confident that while this was difficult to mitigate the premises would.

The Panel asked a further question of the applicant who explained that the flu had been addressed as part of the planning application and the relevant equipment had been installed with no noise or smell nuisance recorded.

In summing up, the applicant explained the conditions proposed by Environmental Health were reasonable, there had been no breaches of their current conditions and if they did, there could be a review of the licence.

In summing up Mr Joburn explained that in his opinion it was the vagaries of the Act which nobody knew about the application.

At 10.38 am, the Chair asked all parties other than the Panel, the Council's Solicitor and the Democratic Services Manager to leave the room, in order to enable the Panel to deliberate in private and reach its decision. He informed people leaving the room that if they did not wish to wait for the decision, they would receive notification by email.

**Resolved** that the application to vary the premises licence be granted, subject to the applicant's operating schedule, and the conditions agreed with Environmental Health, for the following reasons:

The Panel has considered the representations made by the applicant and Mr Jobburn.

The panel notes that there is no objection from the Police or Environmental Health in respect of the application. The Panel notes that Environmental Health withdrew their objection on the basis that three conditions have been agreed with the applicant, these are contained within paragraph 3.4 of the report.

Mr Jobburn has raised a number of objections in relation to the application - these include unsuitability of the locality to contain a late night licensed premises, the unsuitability of the building due to its fabric and listed status, the inevitable impact of the proposed licensable activities on people living within the vicinity, the fact that Old Square is a narrow one way street, and the impact of patrons who wish to smoke at the entrance to the premises after 10.00pm.

Dealing with Mr Jobburn's objections in turn, the Panel notes that the premises is located within a mixed use area within the Town Centre, and that there are also four other licensed premises within the vicinity of the premises which have licensable activities until 1.30am - one of the premises has licensable activities until 2.00am.

The Panel notes that the premises has been operating since 21 June 2017 carrying out licensable activities until 11.30pm on Thursday and 12.30am on Fridays and Saturdays. The Panel has heard from the applicant's solicitor that they have not received any complaints regarding noise from the premises or in relation to patrons congregating at the front of the premises whether they are smoking or waiting for taxis.

The Panel has not heard any evidence that supports the contention that the location of the premises is unsuitable.

With regard to the fabric of the building, the Panel heard from the applicant's solicitor that a great deal of money had been spent on making alterations to the fabric of the building to provide noise attenuation.

The Panel also heard that the accommodation rooms have just gone live and that the premises will now be taking bookings from paying guests. The Panel heard that this will provide a form of self-regulation in that the premises will be able to monitor the escape of noise and any disturbance

to persons residing in the rooms through feedback from such persons and websites such as Trip Advisor. The applicant's solicitor stated it would be in the applicant's interest that paying guests are not disturbed by noise from the premises.

In relation to the impact of persons within the vicinity as a result of noise from the premises, the Panel has not been provided with any evidence that this will occur. The Panel notes that there have been no complaints regarding noise from the premises and Environmental Health have withdrawn their objection, subject to conditions.

The Panel has also considered the objections from Mr Joburn regarding the noise from taxis waiting to collect patrons from the premises. The Panel notes that Old Square is a narrow one way street. The Panel notes that the premises currently has a licence to stay open until 12.30am and that there have been no complaints about noise from taxis. The Panel has not seen any evidence that would suggest an extension of the licensable hours will result in any additional impact in noise arising from taxis waiting to collect patrons.

The Panel has considered the likely impact of patrons who wish to smoke and congregate at the front of the premises after 10pm. Again, the Panel notes that patrons who wish to smoke can already congregate at the front of the premises up until 11.30pm on Thursday and 12.30am on a Friday and Saturday. The Panel notes there have been no complaints regarding noise from these patrons.

The Panel also notes that Environmental Health have withdrawn their objection as they are satisfied that the conditions agreed with the applicant and detailed within paragraph 3.4 of the report, will prevent any such impact.

The Panel has not been provided with any evidence which supports the view that there will be an impact upon local residents as a result of patrons congregating at the front of the premises after 10pm.

After considering the representations made, the Panel is satisfied that the extension of hours will not impact on the licensable objectives and therefore resolve to grant the application in accordance with the report including the applicant's operating schedule, the conditions detailed at 3.3 of the report and the additional conditions agreed with Environmental Health detailed at 3.4 of the report.

At 11.10am all parties who had remained were invited back into the room and the Chairman invited the Council's Solicitor to read out the Panel's decision.

All parties were advised that they had the right to appeal within 21 days of the formal decision being published. (The meeting ended at 11.15 am)