

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Thursday 30 June 2011, at the Town Hall, Royal Leamington Spa at 10.00am.

PANEL MEMBERS: Councillors Mrs Goode, Guest and Mrs Knight.

ALSO PRESENT: Michael Goucher (Council's Solicitor), David Davies (Licensing Services Manager) and Peter Dixon (Committee Services Officer).

1. **APPOINTMENT OF CHAIRMAN**

RESOLVED that Councillor Guest be appointed as Chairman for the hearing.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR 48 STATION ROAD, KENILWORTH**

A report from Community Protection was submitted which sought a decision on a premises licence application in respect of 48 Station Road, Kenilworth.

The Chairman introduced the members of the Panel and the officers present and then asked all other parties to introduce themselves.

Mr M Legg (Solicitor) attended to represent the applicant, Mr P Murphy, who was also in attendance. No responsible authority was present, but a number of objectors, those being Ms R Comins (local resident), Mr R Palmer (representing ROCK, a local residents association), Dr R Morris (previously a Neighbourhood Watch coordinator), Mr A Garsed (Neighbourhood Watch coordinator), Mr C Burt (resident) and Mr V Lobb (resident).

The Council's Solicitor read out the procedure that would be followed at the meeting.

The Licensing Services Manager outlined the report, asked the Panel to consider all the information contained within it and determine if the application for a premises licence should be approved.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The report from Community Protection which was submitted to the Panel presented an application to permit the following:

The sale of alcohol (on the premises)
11:00 to 00:30 Sunday to Thursday

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11:00 to 01:00 Friday to Saturday

Late night refreshment (indoors only)

23:00 to 00:30 Sunday to Thursday

23:00 to 01:00 Friday to Saturday

Live music and the performance of dance (indoors only)

08:00 to 23:00 seven days a week

Recorded music (indoors only)

11:00 to 00:30 Sunday to Thursday

11:00 to 01:00 Friday to Saturday

The opening hours are shown as:

08:00 to 00:30 Sunday to Thursday

08:00 to 02:00 Friday to Saturday

All the above hours extended on New Year's Eve until the end of permitted hours on New Year's Day.

The Council's Licensing Policy Statement provided that the authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

The meeting was informed that, since publication of the agenda, Warwickshire Police had withdrawn their objection subject to the applicant agreeing to an additional condition installing CCTV, which the applicant had accepted.

Mr Legg and Mr Murphy made their representation to the Panel, talking about Mr Murphy's intention to open a public bar and restaurant serving food and beverages. The establishment would not be a night club, but a high class champagne bar. There was no intention for the regular performance of live or amplified music, or the performance of dance. Mr Murphy was a licensee who had considerable experience of running a number of pubs. The establishment would provide background music only, with possibly the occasional employment of a musician with an acoustic guitar, probably on Sunday afternoons. The target clientele was people over the age of 25.

Following the representation on behalf of the applicant, members of the Panel queried the location of the premises on the map and expressed dissatisfaction with the poor quality of the map included in the report. The location of the premises was identified in relation to South Bank Road, where many of the objectors to the application resided.

Responding to a question from the Chair, the applicant confirmed that he was not seeking to allow the performance of dance, but to have the facility for dance, which was different. Mr Murphy confirmed that he intended to install air conditioning and that the rationale for extending opening hours was essentially to compete with other late opening establishments. He answered questions from interested parties on how he proposed to manage

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no entry to the establishment after midnight and the management of noise. In response to concern about a perceived discrepancy between the end of licensed hours and closure of the premises at 2am, Mr Legg suggested that the condition was superfluous, as background music would end with the sale of alcohol at 1am, allowing for a cooling off period before closure of the premises at 2am. The Licensing Services Manager reminded all parties present that background music was not licensable.

Dr Morris made a representation to the Panel. As a local resident who had lived in the area for 40 years, he was pleased to see new business aiming to establish itself in the area but concerned about its impact on antisocial behavior problems which were already affecting local residents. He was not convinced that the applicant would be able to effectively manage clients who left the premises and congregated outside, and he was concerned about the reduced police presence in the area. For these reasons he suggested that licensing hours should not extend beyond 00:30 on any day of the week. Dr Morris also passed on the concerns of another resident who had been unable to attend the meeting, but who wished to convey concerns about noise and its effect on her young family. Mr Garsed objected to the application on similar grounds, citing incidents of anti-social behavior and public nuisance which had taken place and which had increased over the past year. Mr Palmer represented 93 member households, objecting to the proposed opening hours. He suggested that there was clearly common concern from many quarters regarding antisocial behavior and the effect of noise on local residents. Ms Comins was already subject to much noise late at night and expressed concern that, if approved, the proposed application would exacerbate the problem.

In response to a question from the Panel, residents gave details of vandalism which had occurred in the area and confirmed that the most recent incident took place a week ago.

Summing up on behalf of the applicant, Mr Legg pointed out the Panel's obligation to look at this application, the premises in question and this applicant. Mr Murphy was a responsible operator and intended to run a quality establishment. Mr Murphy fully appreciated the concerns of interested parties, but did not accept that the objections related directly to him or his premises, but rather were existing problems. The application before the Panel properly and comprehensively addressed the licensing conditions, evidenced by the lack of representations by responsible authorities against the application.

At 11.00am the Chairman asked the applicant, the Licensing Officers and interested parties to leave the room to enable the Panel to deliberate and reach its decision.

In taking its decision, the Panel paid due consideration to the relevant legislation and guidance, application and the representations made about it.

Having heard representations from the applicant and interested parties, the Panel was of the opinion that the licence should be granted as sought, including the additional condition concerning installation of CCTV, as agreed with Warwickshire Police.

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At 11.20am all parties were invited back in to the room so they could be informed of the Panel's decision.

RESOLVED that the Licensing Panel's decision be as follows:

Having considered the application and the written and oral submissions made on behalf of the applicant, and those of the interested parties, and noting the absence of any objections by Warwickshire Police or WDC Environmental Health, it is the considered opinion of this Licensing Panel that the licence be granted as sought.

However, the Panel have sympathy with the residents of Kenilworth, and while they recognize that there are problems in the area, these cannot be laid at Mr Murphy's feet. There is a review process in place to address any future problems.

All parties in attendance are reminded that they have the right to appeal this decision to the Magistrates Court within 21 days of formal notice of this decision.

(The meeting finished at 11.25am)