

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Thursday 24 November 2016, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors Ashford, Mrs Cain and Gifford

Also Present: Mr Howarth (Council's Solicitor), Mr Leach (Democratic Services Manager & Deputy Monitoring Officer) and Mrs Dudgeon (Licensing Enforcement Officer).

1. **Appointment of Chairman**

Resolved that Councillor Gifford 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 66-68 Clemens Street, Royal Leamington Spa**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence from Mr Crowther for 66 to 68 Clemens Street, Royal Leamington Spa.

The Chair, Members of the Panel, officers and applicant introduced themselves.

The Council's Solicitor explained the procedure that the hearing would follow.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it, and the representations made at the meeting, in order to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any conditions.

Following discussions between the applicant, Environmental Health and Warwickshire Police, the applicant had amended their original application. The revised licensable activities requested were:

- The sale of alcohol on the premises from Sunday to Wednesday 09:00 to 00:00, Thursday 09:00 to 01:00; Friday and Saturday 09:00 to 02:00 and on Christmas Day and New Year's Day from 09:00 to 02:00;
- live music on Sunday from 12:00 to 18:00, Monday 12:00 to 23:00, Tuesday to Saturday 18:00 to 23:00 and Christmas Day and New Year's Day from the end of permitted hours until 00:30;
- recorded music from 09:00 to 00:00 every day; and
- late night refreshment (indoors and outdoors) Sunday to Wednesday from 23:00 to 00:00, Thursday 23:00 to 01:00, Friday and Saturday 23:00 to 02:00 and until 02:00 on Christmas Day and New Year's Day.

The Panel was reminded that all conditions relating to live or recorded music would not be enforced on the premises between the hours of 08:00 and 23:00 because of the introduction of the live music act.

An operating schedule had been submitted by the applicant and would form part of any licence issued. This was detailed in section 3.3 of the report.

Mr Crowther outlined the application and explained that he was currently the licence holder for three premises, including The Fat Pug and The Royal Pug in Royal Leamington Spa. His intention was for this premise to operate as a coffee shop at street level, with a bar/restaurant in the basement.

He explained that The Fat Pug was a similar property to the application premises in that it had adjoining residential properties. For this reason, he recognised the need to work closely with residents and had made alterations with the operation of the business to make sure it was a good neighbour.

In response to questions from the Panel, Mr Crowther explained that:

- the hours applied for on a Monday were necessary to cover bank holiday operations;
- the intention was for the premises to be family oriented, more so than The Fat Pug;
- since he had been operating The Fat Pug and The Royal Pug, there had been no issues reported to the Council;
- music at The Fat Pug was through small amplifiers only and the intention was the same for this premises;
- the original application had been until 2.00am to mitigate against a bottleneck in the area from people returning from the town centre to their homes;
- normal business would involve food service stopping at 22:00;
- he had tried to meet with objectors and would be willing to accept a terminal hour for live music of 22:00;
- the premises would be an exclusive venue and not a cheap venue and, therefore, it was unlikely to attract large numbers of drinkers, but it would be managed in the same manner as The Royal Pug and The Fat Pug;
- the restaurant would form at least 50% of the business plan;
- the premises would now close at 00:00 every night;
- he did not feel SIA door staff would be required, but this would be reviewed regularly;
- he did not feel that live music would be scheduled more frequently than once a month; and
- the emphasis was on coffee and dining, not vertical drinking.

The objector, Mr Hubbard, arrived during the questions from the Panel. In response to a question from Mr Hubbard, Mr Crowther explained that the coffee shop would be upstairs and somebody would be present at all times; and that he would work with neighbors to resolve any issues.

At the request of the Chairman, Mr Hubbard outlined his objection to the application. He explained that he had lived in the area for 25 years and supported the change of use for the premises. His main concern was the use of live music because the previous tenant had had live music which was so loud he had been unable to be in some parts of the house. It was for that reason he asked the Panel not grant the application for live music.

The Council's Solicitor provided Mr Hubbard with details of the Live Music Act, which stated that if a licence was granted for the sale of alcohol, the premises could have live music from 08:00 to 23:00, with only a restriction on the number of people present.

At the request of the Chairman, Mr Crowther explained that he did not know the previous tenant of the premises, but it was not his intention to have loud rock music and he was mindful of the impact that bass and drums could have on residents.

Mr Hubbard thanked the Council's Solicitor and Mr Crowther for their explanations and recognised the potential for involvement from Environmental Health and a review of the licence in future. Mr Hubbard also confirmed that he had no issues with the proposed hours for recorded music.

In response to a question from the Panel, Mr Hubbard stated that he accepted the implications of the Live Music Act and the constraints it placed on the Panel in restricting live music.

At 10.35am, the Chair asked all parties other than the Panel, the Council's Solicitor and the Democratic Services Manager & Deputy Monitoring Officer to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the licence should be granted as set out in the report, subject to:

(1) The conditions agreed with the Police and Environmental Health, as set out in the report; and

(2) a condition that the premises be operated in accordance with the operating schedule submitted with the application, as set out in the report.

In taking the decision, the Panel has considered the report, written representations within the report and representations made at the meeting by the applicant and Mr Hubbard.

The Panel notes that both the Police and Environmental Health have withdrawn their objections to the application, subject to the conditions set out in the report.

The Panel heard from Mr Crowther that the premises would be run as a coffee shop, bar and restaurant and that the food offering would form 50% of the business plan. Further to that, it was the intention that any live music would be used to enhance the customers' experience and it was the intention that it would usually take place once the food offering had ended.

The Panel also heard from Mr Crowther that he currently runs two other licensed premises in the District and that neither of these premises have experienced any licensing issues, which was confirmed by the Licensing Officer.

The Panel heard from Mr Hubbard that his main concern was regarding live amplified music. Mr Hubbard requested that the Panel imposed a condition relating to live amplified music. The Panel noted, however, that by virtue of the Live Music Act 2012, where there is a premises licence permitting on sales, live music is taking place between 8.00am and 11.00pm and when there are less than 200 people on the premises, all licensing conditions applicable to the control of live music are deemed not to be in operation.

Whilst the Panel notes Mr Hubbard's concerns and the concerns of the other objectors, it is the Panel's view that there is no evidence before it that the grant of the licence would result in an impact on the licensing objectives as a result of live amplified music.

The Panel notes that should residents experience noise nuisance from the premises then they have the ability to complain to the Council's Environmental Health team and also the Licensing team.

The Council's Environmental Health team has a statutory obligation to investigate any complaint made to it and has the power to serve a noise nuisance abatement notice in the event that a noise nuisance is evidenced. The Licensing department has the power to call for a review of the licence in the event that there are complaints of noise nuisance; this could result in the licence being revoked or conditions being applied to control live amplified music.

It is the Panel's view that these powers, together with the conditions agreed with the Police and Environmental Health, will adequately safeguard and provide an effective remedy in the event that there is a noise nuisance caused by live amplified music.

The Panel, however, does not believe this will be necessary in this case as they believe the applicant has a proven track record of running licensed premises responsibly within the District.

At 11.15am, all parties were invited back into the room, at which time the Council's Solicitor read out the Panel's decision.

All parties were advised that they had the right to appeal to the Magistrates' Court within 21 days of the formal decision being published.

(The meeting ended at 11.20am)