

LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Monday 8 August 2011, at the Town Hall, Royal Leamington Spa at 2.00 pm.

PANEL MEMBERS: Councillors: Mrs Bromley, Heath and Vincett.

ALSO PRESENT: John Gregory (Council's Solicitor), Emma Millward (Licensing Enforcement Officer) and Graham Leach (Senior Committee Services Officer).

1. **APPOINTMENT OF CHAIRMAN**

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

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **APPLICATION FOR A VARIATION TO A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE LAZY COW, 10 THEATRE STREET, WARWICK**

A report from Community Protection was submitted which sought a decision on an application to amend the premises licence in respect of the Lazy Cow, in Warwick.

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

Mr Curtis, solicitor, was present to represent the applicant along with Mr Sanders the proprietor of the Lazy Cow and Mr Brian the Designated Premises Supervisor (DPS) for the premises. Mr Lawson was present to represent the objection from Environmental Health, Ms Simms was present to represent the objection from Warwickshire Police, along with interested parties Mr Roberts and Mr Arnold who were both present to represent their objections to the application.

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

The Licensing Manager, Mr David Davies, outlined the report and asked the Panel to consider all the information contained within the report 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 for additional hours and regulated activities. The

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applicant had also submitted an operating schedule, which was detailed in the report, that would form conditions within the licence.

The applicants representative explained that the applicant had considered the objections from local residents and responsible authorities carefully. For this reason because of the applicants desire to work with the community they wished to revise their application substantially so it was now as set out below:

The Sale of Alcohol for consumption on the premises for non-residents and their bona fide guest be extended by one hour on a Thursday, Friday, Saturday and Sunday evening;

The provision of recorded music for the same hours as the sale of alcohol;

The application for live music and late night refreshment (for non bona fide guests) was withdrawn;

The addition of a condition to reduce external noise by the closure of the garden area at 23:00;

The applicants representative explained that there was a dilemma faced with regard to managing the residents of the hotel and patrons of the premises who wanted to smoke after 23:00. The premises believed that if smokers were not allowed to take drinks with them they would not hang around outside while smoking and therefore they proposed that anyone going out to smoke would use the smaller side door under the canopy which would be easier to manage. In addition a table would be placed inside to leave drinks on.

The management team now at the premises was very experienced in the trade and they recognised that to be successful you needed to work with your local community and responsible authorities because of the right to review the application. As part of this commitment the applicant would be holding discussions with the Highways Authority to improve the boundary through the installation of planting to reduce noise impact from the garden area.

With regard to the specific request from Environmental Health the applicant would install the secondary glazing in the first floor function room; and the noise limiter and acoustic silencer on the function room fan would be installed. Air conditioning had been installed and this would mean that windows did not need to be opened because it would detract from the effectiveness of the air conditioning. The double glazing on the bar area would be unlikely to gain planning approval but the applicant believed this would now not be required because this was to reduce the impact from live music and the application for which this been withdrawn.

The applicant closed by explaining they had recognised the concerns of residents with regard to taxis collecting customers and while they had little control over this, a preferred supplier for this service would be introduced and their drivers briefed about the problems that needed to be avoided.

The applicant responded to questions from the Panel explaining the following points:

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- There was little that could be done by the premises regarding the parking problems raised but they were prepared to do a walk round leafleting cars near their premises parked unlawfully;
- There were no security staff employed by the premises because they felt this sent the wrong message to customers, but for some bigger events security staff had been employed;
- The main entrance doors were fire doors but could be closed and signage provided to the smaller door to the smoking area which would have a member of staff present to prevent drinks being taken outside;
- The cash bar would end at the end of the hours permitted under the sale of alcohol, and after this time, a room account would be required to charge the bar cost to; and
- The premises had a duty of care to residents staying in the hotel above the bar and if the premises was too noisy late into the night guests would complain and not return.

The applicant responded to a question from Mr Lawson explaining that principally the music provided would be background but there would be some events during the year including discos and there would be a need for some temporary event notices.

The applicant responded to questions from the Police authority explaining the staffing available to them and how they were trained. In response they explained they were trying to avoid comparison with their neighbours who could open until 1.30am without security staff and operated a similar business. Each application should be considered on its own merits, no issues had been raised regarding the premises with the manager and now they were aware of these, they were trying to respond to them.

At this point the Council's solicitor clarified with the Warwickshire Police representative that none of their objections related to Crime and Disorder matters which was accepted.

Mr Robert's asked for clarification on the current licence and it was explained that the current outside area could be occupied until 23:20 but if a temporary event notice was applied for, which was a separate licensing regime, this could be longer.

Mr Lawson made the submission to the Panel on behalf of the Environmental Health. The representation was based on the noise disturbances that had been reported to them and had been witnessed by the department. He explained that he was content with the agreement of the conditions and the understanding that the premises had shown to the conditions requested.

Mr Lawson, in response to a question from the Panel, stated that there was a need for noise limiter and the secondary glazing in the function room but the applicant had moved a long way to resolve the concerns raised; and confirmed to the applicant the secondary glazing in the bar was not now required because live music had been withdrawn from the application.

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Ms Simms explained, on behalf of the Police, that they would be content as long as CCTV was installed as requested.

Ms Simms, in response to a question from the Panel and applicant, advised that CCTV was in place, but this may need to be inspected by the Police and they were content for this to only cover the public areas.

Mr Roberts outlined his representation explaining that he was strongly against any extension to the hours. This was because normally the premises closed at 23:30 and the crucial aspect was the disturbance late in the evening from the garden.

Mr Arnold, while appreciative of the reduction in the application and the work to the premises to be undertaken to reduce the impact on residents, still had concerns. The concerns related to the times he had been woken in the early hours of the morning with disturbance outside his property. In addition, he believed that the premises customers were responsible for a number of parking problems in the area including the blocking the entrance to his drive.

There were no questions from members of the Panel but Mr Arnold could not confirm where the noise disturbance was coming from in the early hours if the Lazy Cow had been closed at the time.

The applicant summarised their submission highlighting that no crime and disorder issues had been raised and it was accepted that the premises was well run. In the opinion of the applicant door staff were unnecessary for the premises on a day to day basis. The premises was self contained and significant reductions had been made to the application once they had become aware of the concerns.

The Chairman asked all parties to leave while the Panel took a decision on the application.

RESOLVED that

Following consideration of the application, the representations submitted in writing and those submitted at the meeting the Panel were of the opinion that the application should be granted as follows:

At the commencement of the hearing, the Applicant stated that, after discussion with Environmental Health and local residents, they no longer wished the Licensing Authority to consider varying the licence to include Live Music or late night refreshment and so the Panel have not varied the Licence in this respect.

Sale of Alcohol for Non residents be extended for 1 hour on a Thursday to Sunday
Opening hours to the public be Monday to Wednesday 10:00 to 23:30, Thursday to Saturday 10:00 to 00:30 and Sunday 12:00 to 00:00.

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Recorded music be permitted for the same hours as the sale of alcohol for each day of the week.

The extension of hours for sale of alcohol and recorded music for bank holidays was agreed.

The following conditions be added to the licence:

- Doors and windows to be kept closed during the provision of regulated entertainment, save for the purposes of access and egress;
- A noise limiting device will be installed on the audio system(s) for providing regulated entertainment, which will be maintained and operated to the satisfaction of the Environmental Health Department of Warwick District Council;
- Installing and maintaining an acoustic silencer to the function room extractor fan to prevent escape of noise;
- Secondary glazing to be fitted to the 1st floor function room; to the reasonable satisfaction of the Environmental Health Department of Warwick District Council;
- The external area will be cleared of people and closed at 23:00 hours, save for the canopy area which will be supervised by a member of staff at all times, and drinks shall not be permitted to be taken outside or consumed outside after 23:00, which includes the canopy;
- The use of the main entrance, double doors, cease at 23:00 except for emergency access and egress; and
- The addition of CCTV in the manner prescribed by Warwickshire Police, save for the word public be revised to non-resident.

The Panel were agreed that this variation should not affect the rights of the premises as set out in the note on page 3 of the agenda.

Although it was not a condition, the Panel welcomed the applicants offer to look at introducing boundary treatment measures to reduce noise impact from the garden on local residents.

All parties were invited back into the meeting, the decision announced and reminded of their right to appeal the decision to the magistrates court within 21 days of written notification of the decision.

(The meeting finished at 4.30 pm)