

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Thursday 5 December 2019, at the Town Hall, Royal Leamington Spa at 10.00am.

Present: Councillors A Dearing, Murphy and Syson

Also Present: Mrs Gutteridge (Council's Solicitor), Ms Hartopp (Council's Solicitor, observing only), Mrs Tuckwell (Civic & Committee Services Manager), Miss Daud (Licensing Enforcement Officer), Mrs Rose (Licensing Team Leader), Mr Lawson (Senior Environmental Health Officer), Ms Warren (Technical Officer), Mr Cutts (Safer Communities Manager), Ms Clayton and Sgt Calver (Warwickshire Police)

(The meeting started 30 minutes after the published agenda start time of 10.00, to give all parties a chance to read the following documents circulated prior to the meeting: three complaint emails circulated by the applicant, a copy of the Hart & Co menus, a map of the area surrounding the restaurant with residential properties marked pink and other licensed venues marked yellow, and an email response dated 4 December 2019 from the applicant to the objection raised by Environmental Health officers dated 28 October 2019.)

1. **Apologies and Substitutes**

Councillor Syson filled in a current vacancy on the Panel.

2. **Appointment of Chairman**

Resolved that Councillor Murphy be appointed as Chairman for the hearing.

3. **Declarations of Interest**

All Members declared an interest because Mr and Mrs Gifford were known to them in their capacity as District Councillors.

Councillor Syson declared an interest because Mr Cave, objector, as well as some of the members of the public attending the hearing, were known to her.

4. **Application for a premises licence issued under the Licensing Act 2003 for Hart & Co, 27 Augusta Place, Royal Leamington Spa, CV32 5EL**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence for Hart & Co, 27 Augusta Place, Royal Leamington Spa, CV32 5EL

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

- Ms Marianne Talbot, objecting;
- Mr Andrew Cave, objecting;
- Mr Bill Gifford, objecting;
- Mrs Carolyn Gifford, objecting; and

- Ms Louise Hart, the applicant. Ms Hart was supported by Mrs Jackie Hart, Ms Joanna Hart and Ms Lesley Witham, observing only.

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

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it 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.

Warwick District Council Licensing Authority had received a valid application for a premises licence for Hart & Co, 27 Augusta Place, Royal Leamington Spa.

Representations had been received in relation to this application for the consideration of the Panel in the determination of the application.

L R Hart Ltd applied for a premises licence for Hart & Co, 27 Augusta Place, Royal Leamington Spa on 17 October 2019.

The licensable hours and activity applied by the applicant were shown in the table below:

Opening Hours	Monday to Thursday from 08:00 to 23:30 Friday and Saturday from 08:00 to 01:30 Sunday from 08:00 to 23:59
The Provision of Films – Indoors Only	Monday to Friday from 12:00 to 22:30 Saturday and Sunday from 08:00 to 23:00
Provision of Indoor Sporting Events	Monday to Thursday from 08:00 to 23:30 Friday and Saturday from 08:00 to 01:30 Sunday from 08:00 to 23:59
Live Music – Indoors only	Monday to Thursday from 12:00 to 23:00 Friday from 12:00 to 01:30 Saturday from 08:00 to 01:30 Sunday from 08:00 to 23:59
Recorded Music – Indoors Only	Monday to Thursday from 08:00 to 23:30 Friday and Saturday from 08:00 to 01:30 Sunday from 08:00 to 23:59
Late Night Refreshment – Indoors Only	Monday to Thursday from 23:00 to 23:30 Friday and Saturday from 23:00 to 01:30 Sunday from 23:00 to 23:59
Supply of alcohol (on and off)	Monday to Thursday from 09:00 to 23:30 Friday from 09:00 to 01:30 Saturday from 08:00 to 01:30 Sunday from 08:00 to 23:59

An operating schedule, which had been submitted by the applicant and would form part of any licence issued, was attached as Appendix 1 to the report.

The applicant had agreed conditions with Trading Standards which were attached as Appendix 2 to the report.

The Licensing Department had received objections from the following responsible authorities:

- Warwickshire Police; and
- Environmental Health.

These objections were attached as Appendices 3 to 5 to the report.

Representations had been received from local residents. These were attached as Appendices 6 to 9 to the report. The DVD mentioned in Appendix 9 to the report would be available for Members to view later on during the hearing.

No representations had been received from:

- The Fire Authority;
- The Licensing Authority;
- Enforcement Agency for Health and Safety;
- Authority Responsible for Planning;
- Authority Responsible for the Protection of Children; or
- National Health Service/Public Health.

A premises licence issued under the Licensing Act 2003 was in place from 2005 until 2011, time during which the premises were known as either Kasa, Barcode, Afterlife and then G's Bar. The premises licence lapsed in 2011 due to bankruptcy. Punch Taverns applied for a premises licence at this address in July 2016, and this licence was still in place. L R Hart Limited applied for a new premises licence for the same address in July 2017. This was issued in August 2017 and was currently in force at the premises. A copy of it was attached as Appendix 10 to the report. However, the current premises licence issued at the premises did not affect Ms Hart's ability to apply for a new premises licence.

These premises were located within the Council's Cumulative Impact Zone. This meant that the applicant had to prove that the application would not impact significantly on any of the Licensing Objectives – it was not for anyone making representations to prove it would.

A plan of the premises provided by the applicant was attached as Appendix 11 to the report, a map of the area was attached as Appendix 12 and photographs of the premises were attached as Appendix 13 to the report.

A copy of the Statement of Licensing Policy was attached as Appendix 14 to the report.

When given the opportunity to address the Panel, the applicant, Miss Hart, played a recording showing the premises and providing details of the business plan. Miss Hart explained that she wanted to create a safe environment for everyone: guests, neighbours, her team and the wider community. She had previously attended a Licensing Panel about two years ago, and since then, she had redecorated the facilities four times, including re-wiring of the electrics and repairs of the ceilings which had fallen through the kitchen and bathroom. However, she had not given up as her dream was to run an independent, unique kitchen and bar based on her family traditions. She wanted guests to feel part of the family and to enjoy the original concept and design. The restaurant was a replica of her grandmother's living room, and it had her grandmother's original sofas. Most people would have not heard of Hart and Co but would have seen the

bathtub. The venue was accessible to everyone: mothers, babies, young professionals, couples etc. There was a huge emphasis placed on the food offered, which was reflected on Social Media. Communication with guests through Social Media platforms was really good and had been instrumental in the running of Hart & Co. The venue was mainly female oriented, supporting feminism and promoting "everything pink" including food. Miss Hart wanted to provide a place for her customers to work, socialise, network and spend time with family. It was not her intention to make this a late night venue. She wanted people to enjoy a meal or a drink in her restaurant, which had been designed by local artists. In addition, Hart & Co supported the LGBTQ+ community and had run an event to raise awareness.

In her speech, Miss Hart emphasised that the food menu was designed to share, to pass it round just like when eating with family. The food portions were large and it was serving breakfast, lunch boxes from £8 and food served in the evening. On Sundays, a roast dinner option was provided, cooked by Miss Hart's mother.

Miss Hart added that cocktails were the main seller as most of the customers were female. Miss Hart supported local businesses and shops, including local artists who were involved in creating the design of the venue. Miss Hart emphasised that the road was heavily used and there was high foot traffic for people walking to / from St Peter's car park and Royal Leamington Spa train station. As a result, a lot of noise was generated not by her customers but by the passers-by.

Miss Hart was disappointed that she had inherited the bad reputation of the previous owners. She had worked really hard at changing this bad reputation and wanted to provide an "Instagramable", safe, family-oriented place.

Various events had been organised in the past, including:

- a networking event for women only, which proved to be a fun, relaxed and inspirational evening. 15 business women came and sold their products there one evening;
- co-hosted a group of women who had experienced baby loss or infertility;
- a group of mums who joined together for breakfast;
- partnering with two local florists, who provided classes on making flower arrangements;
- joined the national breastfeeding campaign and 40 women came to breastfeed together, and this had been the first campaign in Royal Leamington Spa;
- an event to do with anorexia and anxiety; and
- a clothes swap event to raise money for charity had been organised in autumn.

Miss Hart informed Members that Hart and Co would regularly host baby showers, hen parties, christenings and similar events. The current licence imposed a strict table service policy. This had been perfect to start with, but in the current economic climate, it had become impossible to survive. Miss Hart was now hoping to be able to attract and serve larger groups and having 20 people or more coming to the bar to be served, each wanting to pay separately and get their own drink, and the "table service" condition made it extremely hard for her to serve this type of clientele.

At the moment, Miss Hart was working seven days a week and could not take a day off. The business needed to make more profit in order to succeed, hence the application.

In terms of public nuisance, which was giving rise to most of the concerns, Hart and Co used pre-recorded music, the doors and windows remained closed after 9.30pm, there was no drink consumption outside and staff were keeping an eye on this. Staff gave guests lollipops and "as they sucked on them, they would not be making noise". In addition, staff booked taxis for guests so that they avoided taxis waiting at the front and producing noise. Alcohol prices were increased in order to discourage excessive consumption. Furthermore, the timing for deliveries was limited so that the neighbours would not be disturbed. Risk assessments had been done and door supervisors were on duty until close.

Miss Hart highlighted that CCTV had been installed and signed off as capturing 12 frames a second, maintained for a minimum of 28 days. There had not been any incidents related to crime on the premises, and security was dealing with any anti-social behaviour. All employees were thoroughly trained, which was essential to create the best experience for guests. In addition, uniforms were changed to pink so that staff could be easily identified among the crowd, and a minimum of one first-aider was on-site at all times. Tap water was always available at the bar and Challenge 25 was in place in order to protect children. At the same time, staff members were trained on what the course of action was if they were presented with a fake ID or no ID at all. A refusal book was in place which had not yet been used and there was a "one drink sold at a time" policy.

Some of the people who had used the premises in the past no longer came as it made them uncomfortable. There was no intention on Miss Hart's part to take out the food offer, she just wanted to extend the hours so that more profit could be made. They considered themselves as pre-drink venue before going in town. Staff made sure all customers were out by 11pm, and in-house radios were used within the building. Miss Hart was the licence holder and therefore, if she was not there, the business would not open. As a result, she could not take a break and had to be in every day. Door supervisors were in place Fridays and Saturdays from 7.30pm to close, which was two hours before the requested time of 9.30pm as per the licence in place. The outside area was not used and monthly training sessions were conducted by the security team.

In Miss Hart's opinion, the changes requested on the new licence would not change anything as there was no difference between a restaurant and bar in terms of the licence. At the moment, she had to turn away the customers coming in at 9.30pm as they would not be able to finish eating by the close time. The noise levels were monitored, earplugs had been given to all staff, although they never needed to use them. The live music area was the one most further away from the road and the manager on duty did several checks on the decibel levels. The lounge area had been partitioned in order to avoid noise spreading. Miss Hart had not received any noise complaints and the noise levels had never exceeded the legal limits.

Miss Hart did explain that it was hard to educate guests, which was one of the reasons why she did not want to change the current clientele, without which they would not survive. She just wanted to extend the service hours with one extra hour. Over £2,000 had been spent on buying tablets in order to take orders which were then printed behind the bar. She had employed extra staff in order to make the drinks and bring them over to tables, which meant five times more

labour than a normal bar. A local artist had been employed to design a "table service only" sign. Miss Hart advised Members that she was open to suggestions regarding opening hours. Her clientele was not the sort to watch wrestling, but she was hoping to provide live TV shows viewings of programmes such as Love Island finals.

Miss Hart drew Members' attention to the fact that the only objectors from Augusta Place were Mr and Mrs Gifford. She believed the sound on the recordings had been edited and therefore asked to see the original audio files for Mr and Mrs Gifford's filmed recordings, which would be displayed at the meeting later on. She was unable to change the exterior of the building due to planning regulations.

Miss Hart advised Members of an incident which happened when an Oktoberfest event was going on. At that time, ten people came to the bar. One person got into the bathtub and passed out. This individual had not been served a drink or anything else at the premises, but just passed out in the bathtub. Due to all of this going on, a friend of the individual had a panic attack and so the door staff were trying to manage that situation. An ambulance was called immediately, got him to safety and a few days later, he came in to thank the staff for what they had done.

With regards to an incident mentioned by the objectors to have taken place on 28 May 2019, Miss Hart advised Members that the venue was closed that day as it was her birthday and she was at her parents' celebrating. In respect of the 9 September incident, in Miss Hart's opinion, there was no evidence to prove that the individuals had come out from her premises. Regarding the 16 September 2019 incident and some unsociable behaviour from a group of women, Miss Hart explained that a hen party was taking place and whilst there was no excuse for that behaviour, Miss Hart questioned that if this had happened to any other business in town, would they have been penalised the same way as she was?

Miss Hart felt strongly that she had become a victim of harassment. From September 2017 when they opened, Miss Hart started being filmed by Mr and Mrs Gifford. Miss Hart agreed that once a premises had a licence and alcohol was being served, there was more of a likelihood for things to go wrong. However, in this situation, underage people, mothers breastfeeding, vulnerable as well as intoxicated people were being filmed by Mr and Mrs Gifford, all without consent. Miss Hart advised that she would submit a formal complaint regarding this situation.

When starting to recount a situation which had taken place on 29 May 2018, Miss Hart was asked by the Chairman to keep the topic on the licensing objectives.

Miss Hart promised that she would not go down the same path as previous businesses and hoped that the last year had proved this. She wanted to create an environment where everyone felt welcome and as if their own home.

In response to questions from parties, Miss Hart explained that:

- When receiving the email from Environmental Health, she had no knowledge regarding a lot of the comments, she did not know what to do and had to seek legal advice. She was a one-man band and had to run a business at the same time.

- She was aware of the previous issues with the licence having been revoked at the premises in the past, and she was under the constant pressure of being filmed.
- "bottomless prosecco" had been advertised at the premises in the past, but only for a short period of time and before the Licensing Enforcement officer contacted her. This was then stopped immediately.
- Another offer offered "bottomless food" – guests were allowed a table for no more than two hours, time in which they could order unlimited food, but drinks were on a separate menu and paid for separately.
- The internal door was closed at all times and had been installed on Monday prior to the meeting.
- She was aware that the licence stayed with the premises in case she decided to move on, but she had no intention to do so.
- 12.30am would be ideal as a closing time as it would give them time to catch the pre-drinkers. Monday – Thursday – up to 11pm for events, although most days it would close at 10pm. Friday and Saturday – midnight -12.30am would be good for the business, and Sundays – 8pm would be great for her.
- Although this was not needed at the moment, Miss Hart would be happy to ensure that door supervisors would remain at the premises for 15 minutes after the closing time.
- If she was not at the premises, her mother and other staff should be able to take on her role. Particularly, there was one individual who had moved from London and who held a licence.
- In terms of sporting events, she hoped to be able to show Rugby games on occasion.
- She wanted to display films in the lounge on Sundays so that the children could watch something whilst the parents were dining.
- There was a yoga class taking place on Wednesday mornings.
- TV programmes such as the Love Island final would be displayed, bringing the community together.
- At the moment, business was very quiet, and it was mainly when there were larger groups of people when there was an issue. Groups were now taken out via the back door onto Bedford Street, and there was no housing there, the only neighbours being the ones above. Miss Hart had found this to be working well. In case of events, the front door would be locked and only the back door would be used for exiting the building.
- The capacity was 103 people that could sit safely. There would be a fire hazard to have more than 103 people at one given time, but this capacity had not yet been reached.
- There were four exits in total, but only one was being used at any time. If there were larger groups of people, they would be asked to leave via the back door and turn right.

At the request of the Chairman for clarity, the Council's Solicitor summarised what had been said by the applicant:

- That she was now reconsidering her application, with the following closing times: Fridays and Saturdays – midnight – 12.30am; Monday to Thursday – 11pm; Sunday -8pm. However, the Council's Solicitor advised that the current licence allowed the applicant to close at 11pm on a Sunday.
- The current application was for an on-licence only, but the applicant confirmed that she would like to apply for an off-licence as well, if possible.
- In terms of entertainment and provision of films, this would require the applicant to restrict access to the age level given by the film.

Mrs Gifford was alarmed that the applicant now also intended to provide takeaway services.

At the request of the Chairman, Sgt Calver, on behalf of Warwickshire Police, advised Members that:

- The application had changed since the initial representation made by the Police.
- There were no specific issues with the new owners and it was accepted that there were new owners in place. However, Sgt Calver felt that part of this positive result was also due to the conditions which were currently attached to the licence, which did go some way in reducing crime and disorder.
- There was concern that if the operating hours were increased, the risk would also increase. Some of the concerns previously raised had been addressed at the meeting.
- In extending the opening hours, the application was moving away from what had initially been issued. Should Members be minded to approve the application, they were asked to consider last entry time and any conditions which might be imposed.
- The objection from Warwickshire Police remained.

In answer to questions from parties, Sgt Calver explained that:

- The Community Impact Policy was in place and it was viewed differently for restaurants, clubs or pubs. Restaurants were conditioned differently, with requirements such as table service etc.
- The table service was a way of keeping control of the situation. It gave the staff member the opportunity to assess how much an individual had to drink. Although the application venue was smaller, an individual could get ten drinks at the bar and there would subsequently be no control on how many people would drink them. The table service also meant that the drinks would often be served in conjunction with food and there was more opportunity to assess the age and behaviour of individuals.
- With regards to pre-booked events, temporary events notices could be submitted. With these, all conditions "drop off".
- It was the management's responsibility to find solutions on how to deal with large groups coming to the bar, and not for the Police to put in place. However, the Police would be happy to discuss this further with the applicant.

(At 12.29pm, the Chairman adjourned the meeting for a comfort break for ten minutes.)

When given the opportunity to address the Panel, Mr Lawson, the Senior Environmental Health Officer, advised that:

- The application had changed during the meeting.
- The applicant had not positively engaged with Environmental Health. The objection had been sent out on 28 October 2019. The response from the applicant arrived the day before the meeting, in the afternoon, and Mr Lawson had only seen it that morning. There was therefore no opportunity to discuss or verify the email with the applicant.

- The applicant had stated various measures were in place. However, Environmental Health had not had the opportunity to visit the premises, to look at the equipment, to monitor noise etc. and to discuss all this with the applicant.
- In terms of the noise levels previously referred to by the applicant, 95 decibels could cause hearing damage, and 85 decibels was extremely loud, which amplified the concerns.
- The Environmental Health's objection was to the late opening hours and entertainment as noise made more of an impact late at night. The increased movement in and out was a nuisance to residents.
- Whilst the last admission time was important, it was the last "kicking out" that was an issue in terms of the noise.
- The premises did not have any outside areas.
- There was no opportunity for Environmental Health to assess the situation in terms of customers exiting the premises via the back exit.
- There was a flat more or less above the area, and there was a potential that, whilst trying to protect residents facing the front of the premises, the customers could end up disturbing other residents facing the back of the property.
- The objection was to do with the proposed extension to the opening hours. As it went later into the evening, noise became more apparent, and individuals would get louder as more alcohol was consumed. In addition, if it was noisy in the venue, and customers were speaking loudly or shouting, then this would continue when they left the premises and onto the street.
- Environmental Health's objection would be satisfied if all entertainment, music and service finished at 11pm, and the premises closed by 11.30pm.

In answer to questions from parties, Mr Lawson advised that:

- He had been unable to go and look at the site due to the reasons explained above.
- The premises were located in a cumulative impact area and the changes proposed would fundamentally change the character of the business from a restaurant to a late night bar.
- Although the applicant emphasised that the restaurant was family-friendly, if granted, the licence would then facilitate a repeat of what went wrong in the past.
- No noise complaints had been received since the new management.
- It would be logical to survey the venue, to gather evidence of what was taking place. However, as the applicant only responded to the email received from Senior Environmental Health Officer the day before the meeting and the email came in the afternoon, there was no opportunity for the Senior Environmental Health Officer to discuss any of the issues with the applicant. A meeting could have been arranged at the premises and evidence gathered.
- There was no evidence that the previous recommendations and conditions had been positively discharged. The more noise there was inside, the more insulation was needed to protect the residents.
- The sticker from Environmental Health displayed on the door of the premises could have been from an environment agency and not from the District Council, but the Senior Environmental Health Officer would be happy to look at it.

(At 1.13pm, the Chairman adjourned the meeting for a lunch break for 45 minutes.)

(Sgt Calver and Ms Talbot left the meeting.)

When given the opportunity by the Chairman, Mr Cutts, the Safer Communities Manager, advised that:

- He was confused about the application. Officers were there to help and he was disappointed that their advice had been ignored.
- Ms Hart felt that she was hindered by the history of the premises. However, this was not the case because a licence had been issued and had been in operation. This showed a licensing process that listened and looked at individual situations.
- This was in the cumulative impact zone, and, in fact, the Leamington impact zone, with a large number of themed pubs and clubs. This had been identified as the centre of crime and disorder for the District and the County.
- There were additional street pastors and street marshals. However, the resources were limited, and looking at the wider picture, crime in the District was down apart from violent crime, which was up this year compared to last year and had been increasing since 2015. He was therefore concerned about managing the town overall.
- The Safer Communities objection remained and in the opinion of the Safer Communities Manager, the application should be withdrawn and "resubmitted properly".

When asked by the Chairman to make their representations, Mr and Mrs Gifford advised that they had provided the Licensing Enforcement Officer with several filmed recordings of the premises, which were deemed as relevant to the consideration of the application. These had previously been seen by the applicant.

Resolved that under The Licensing Act 2003 (Hearings) Regulations 2005, Paragraph 14(2), the press and public be excluded from the hearing for the presentation of the filmed recordings of the premises.

The applicant, objectors and interested parties remained in the room during the presentation of the recordings.

Mrs Gifford advised Members that she only filmed the premises when there was noise or disturbance. She stated that there were many, similar examples that could have been included, and whilst the behaviour prior to Miss Hart's management was not her responsibility, the clientele behaviour remained the same and patrons congregated in the same place.

The first clip shown was from 2005, followed by several recordings, both prior to and after Miss Hart taking over. Mrs Gifford provided detailed explanations whilst each film was being played, giving the context of each situation. In total, there were ten recordings taken by Mrs Gifford, who lived opposite the premises. Only two of the clips, 18.5.19 and 12.10.19, were taken when the premises were being managed by Miss Hart. The clips from 18.5.19 and 12.10.19 showed that there had been recent issues with dealing with intoxicated customers, although the incident on 12.10.19 took place during the day.

Miss Hart accepted that mistakes had been made and had implemented changes, including a change of door staff as a result of these incidents.

Members agreed to watch the recordings although they were prior to Miss Hart's time. These were considered relevant because they showed the situation whilst the venue did have a late night bar and the issues encountered then.

(The Safer Communities Manager left the meeting.)
(The meeting resumed in public session.)

In answer to a question from Mr Cave, the Panel was advised that, if a temporary event notice was given, conditions did not apply unless specifically imposed by the Licensing Authority at the request of the Police.

When asked to make his statement by the Chairman, Mr Gifford advised that:

- He was not trying to revoke the current licence and did not desire for the business to be closed. It was the brand new application which had brought everyone to the Panel.
- The new application was very similar to previous applications which had been issued for the premises in the past. He was therefore concerned that similar issues would come back if the application was approved.
- A different licence would bring in a different clientele and the venue would no longer be family friendly if it was open until the early hours of the morning.
- Miss Hart had been trying to run a business, but "the more people you have vertically, the more problems you get", and in Mr Gifford's opinion, no proof had been given that this would not be the case.
- It was worth remembering the history of the premises since the '90s, and its licence had previously been removed by the Magistrates' Court.
- Although Miss Hart's email stated that she did not intend the venue to become a late night drinking venue, Mr Gifford argued that it was likely for this to be a problem again based on the past experience, and granting a new licence would go against Warwick District Council's own policy.

When asked to make a statement by the Chairman, Mr Cave, objector, advised that:

- He was shocked by what he had seen in the recordings, and his experience was mainly from walking past the premises from time to time.
- The situation was not so bad anymore. Miss Hart had taken on a terrible premises and from Mr Cave's perspective, she managed to make it successful.
- He was warmed by Miss Hart's introductory statement and film. However, the recordings and statements made by the objectors were extremely different from what Miss Hart had presented. Although she had done a good job, there were some risks which remained.
- Prevention of public nuisance was one of the Licensing objectives and Mr Cave supported Mr Gifford's statement, in that this was pivotal part of the application.
- The recordings presented by Mrs Gifford showed clearly what had happened when the late opening hours were permitted.
- His experience with Hart & Co was extremely positive, and he congratulated Miss Hart on turning things round. Since the current setup was so successful, and the contrast between what it used to be and what

it was now, he urged the Panel to reject the new application so that the venue could continue to run the same way.

In her closing statement, Miss Hart emphasised that she was not looking to give any excuses for what had been seen in the films presented by Mrs Gifford. Miss Hart tried to react to each situation and to make improvements as much as possible. The reality was that the business was losing money and unless the new licence was granted, the business would eventually be forced to shut down. In retrospect, she should have employed a bouncer the day when the hen parties took place. The "live music" consisted of a DJ and she would be happy to apply for temporary event notices for that.

In his closing statement, the Senior Environmental Health Officer stated that his objection remained as explained previously.

In his closing statement and on behalf of both him and Mrs Gifford, Mr Gifford reminded Members that they did not object to Miss Hart's existing licence, which was, on the whole, perfectly acceptable. There were occasional problems, but this was not something they would object to. The objection was to the new application, and it was because they felt it would revert to the previous kind of premises. Mr and Mrs Gifford were not objecting to Miss Hart's management, but the premises licence stayed with the premises – she could sell the business and move on, and anyone else taking over might not share the same principles as Miss Hart.

In his closing statement, Mr Cave advised that, as stated in the report, the premises were located within the Council's Cumulative Impact Zone. This meant that the applicant had to prove that the application would not impact significantly on any of the Licensing Objectives, and in his opinion, that had not been proven.

The Council's Solicitor explained the options available to the Panel as detailed in Section 2 of the report.

At 3.13pm, the Chairman asked all parties other than the Panel, the Council's Solicitor and the Civic & Committee Services Manager to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the application is refused.

an application for a premises licence has been made in accordance with s.17 Licensing Act 2003 by L R Hart Ltd ("the Applicant") for premises known as Hart and Co at 27 Augusta Place, Leamington Spa ("the Premises"). The matter was determined at a hearing before the Licensing Panel ("the Panel") on 5 December 2019.

Ms Louise Hart attended and made representations on behalf of the Applicant. Sergeant Paul Calver from Warwickshire Police, Peter Lawson from Environmental Health and Peter Cutts from the Safer Communities Team attended and made representations on behalf of the Responsible Authorities. Mr and Mrs Gifford, Dr Cave and Ms Talbot, residents local to the premises, attended as Interested Parties and made representations objecting to the application.

When determining an application for a premises licence the Panel must consider the application in the light of the licensing objectives, the representations and the supporting information presented by all parties, the statutory guidance and the Council's statement of Licensing Policy.

The Panel had read the report and appendices in advance of the hearing. Before the hearing commenced further documentation was provided by the Applicant and Environmental Health which was also considered by the Panel, this included: -

- a map of the area surrounding the premises with residential property and other licensed premises highlighted;
- email from the Applicant to Environmental Health dated 4.12.19
- three emails and menus provided by the Applicant dated 5.12.19 8:34AM, 5.12.19 12:03AM and 3.12.19 at 3:21PM

Having listened carefully to all that was said at the hearing the Panel made the following findings:

1. The Applicant already operates the premises under licence WDCPREM00890. If granted, the new licence would permit the premises to open until 23:30 hours Monday to Thursday, 01:30 Friday and Saturday and on Sunday until 23:59, alcohol could be supplied on and off the premises until closing time, live and recorded music could be played up until closing time and food could be served on and off the premises until closing time. It was noted that the Applicant had also applied for a licence to show films and hold indoor sporting events as part of the application.
2. The Panel found that the two licensing objectives that were particularly engaged were the prevention of crime and disorder and the prevention of public nuisance.
3. The Panel were sympathetic to the Applicant and acknowledged that the business was relatively new and operating out of premises that had had a problematic history in terms of crime, anti-social behaviour and public nuisance. The Panel listened with interest to the Applicant's vision for the business and its success in terms of attracting a wide variety of customers and community groups to the premises. The Applicant explained that the business had been operating since September 2018 and that increasing the licensable hours would enable the business to operate more flexibly and more profitably.
4. The Police, Environmental Health and the Safer Communities Team objected to the application on the

grounds that the increase in hours and inclusion of other licensable activities including live music and an off licence would be likely to result in the premises becoming a late night drinking venue with customers leaving the premises late at night in an anti-social manner. The history of these premises, which had operated as a bar in the past (although not under the ownership or management of the Applicant), indicated that this was not a suitable location for this type of venue and that to grant the application would adversely impact on the prevention of crime and disorder and the prevention of public nuisance. In accordance with the Licensing Policy and the statutory guidance the Panel recognised that the promotion of the licensing objectives was the paramount consideration and that each responsible authority should be regarded as the expert in their respective field. The Panel gave great weight to the representations made by the Police and Environmental Health.

5. The Panel also noted that the premises were within the Cumulative Impact Zone and part 7 of the Licensing Policy applied, although it was noted that there was an existing licence already in operation at the premises. The Panel did not find that the Applicant had shown that the application would not impact on the licensing objectives.
6. The Panel also viewed ten video recordings taken by two of the Interested Parties who live opposite the premises. The earliest clip dated from 2005 and only two (18.5.19 and 12.10.19) were taken when the premises were being managed by the Applicant. The Panel acknowledged that a considerable amount of time had passed since the earlier recordings but they did find that the recordings were of some relevance as to the experience of local residents when the bar was operating as a late night drinking venue under ineffective management. The clips from 18.5.19 and 12.10.19 showed that there had been recent issues with dealing with intoxicated customers although the incident on 12.10.19 took place during the day. It was noted that the Applicant accepted that mistakes had been made and had implemented changes including a change of door staff as a result of these incidents.
7. The current licence includes a condition that requires *“supply of alcohol for consumption on the premises shall only be by waiter/waitress service”*. The application omits this condition and the Applicant explained that the condition made the premises difficult to run when large groups came in who wanted to pay separately. When considering whether or not it would be appropriate to remove this condition the Panel gave weight to Sergeant Calver’s representations on this particular point. Sergeant Calver explained that his view was that the

condition enabled the licensee to have more control over customers and to be more aware of levels of intoxication because table service allowed the person serving to assess the behaviour of a group in a way that was not possible when service of alcohol was via a bar.

8. During the course of the hearing the Applicant stated that they would accept a terminal hour of 00:00 or 00:30 on Friday and Saturday and 23:00 hours from Monday to Thursday and the email of 4.12.19 indicated that they were willing to work with Environmental Health to try and overcome their objections. The Environmental Health Officer expressed disappointment that the Applicant had not sought to do this in a timely manner before the hearing. The Panel acknowledged that they could grant the application with different hours to those applied for but were particularly persuaded by the Environmental Health Officer's representations on this point who explained that, in his view, a closing time of 00:00 or 00:30 would still be likely to cause public nuisance at a sensitive time for residents through customers leaving the premises, customers congregating outside the premises and music emanating from the premises.
9. The Panel considered whether it would be possible to grant the licence with a number of additional conditions. In particular, they considered whether a last entry condition or an increase in licensable hours only when the premises were being used for a pre booked private function could be applied. Having taken into account the various representations the Panel decided that neither of these conditions would be appropriate; as the Environmental Health Officer explained it was the exit of customers from the premises late at night that caused nuisance and the Panel also noted that the Applicant had stated that application for later hours were because they wanted to capture customers heading into town later in the evening so restricting later opening hours to private functions would not be a significant benefit to the business.

For the reasons stated above the Panel decided to reject the application.

At 3.34pm, all parties were invited back into the room and the Chairman invited the Council's Solicitor to read out the Panel's decision.

(The meeting ended at 3.36pm)

CHAIRMAN
26 February 2020