

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Monday 12 September 2016, at the Town Hall, Royal Leamington Spa at 2.25pm.

**Present:** Councillors Ashford, Mrs Cain J.P. and Gill.

**Also Present:** Mrs Gutteridge (Council's Solicitor), Miss Carnall (Senior Committee Services Officer) and Mrs Dudgeon (Licensing Officer).

## 1. **Appointment of Chairman**

**Resolved** that Councillor Ashford 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 Dale Temperance Hotel and Coffee House**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence from Phoenix (City) Pub Company Limited for Dale Temperance Hotel & Coffee Tavern.

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

- Mr McCann, on behalf of the applicant, Mr McDonald from Phoenix (City) Pub Co Ltd;
- Mr Purton, on behalf of Cobalt Developments Warwick Ltd; and
- Mr & Mrs Jobburn, local residents.

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

Prior to the start of the meeting, the applicant had circulated some amendments to the hours originally applied for. As a result, the Environmental Health Department had withdrawn its objection subject to certain conditions being attached to any licence issued. However, this had caused some conflict with the interested parties who were not satisfied that the conditions proposed would mitigate the potential issues they felt they would encounter.

The Chairman addressed the residents and the applicant and asked if they wished to adjourn the hearing. All parties agreed that they were content to continue.

The Licensing 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.

The application was for a premise licence for a pub with rooms for let. The application was as per the table and text below:

	Opening Hours	Sale of alcohol for consumption on and off the premises.	*Recorded Music (Indoors)	Late Night Refreshment (Indoors and outdoors)
Sunday to Monday	11:00 to 00:30	11:00 to 00:00	23:00 to 00:00	23:00 to 00:30
Friday and Saturday	11:00 to 01:30	11:00 to 01:00	23:00 to 01:00	23:00 to 01:30

For all the above from the end of permitted hours on New Year's Eve until the end of permitted hours on New Year's Day.

\* Note: Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

In addition, an operating schedule had been provided by the applicant which would form part of any licence issued and this was laid out at section 3.3 of the report.

As stated previously, the applicant had circulated amendments to the application which removed the request for regulated entertainment and reduced the hours applied for. The amended application was as per the table below:

	Opening Hours	Sale of alcohol for consumption on and off the premises.	Late Night Refreshment (Indoors and outdoors)
Sunday to Thursday	11:00 to 23:30	11:00 to 23:00	23:00 to 00:30
Friday and Saturday	11:00 to 00:30	11:00 to 00:00	23:00 to 01:30

In addition to the above, further conditions had been agreed with Environmental Health which read:

1. No regulated entertainment;
2. There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same of similar alcoholic drinks are sold, or usually sold, on the premises, unless accompanied by a substantial table meal;
3. The DPS shall make an ongoing professional risk assessment as to whether to employ SIA door staff at any time;
4. No speakers for the amplification of music or speech shall be placed on the outside of the premises or on the outside of any building forming part of the premises;
5. All windows and doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons;

6. All outdoor areas shall be cleared by 22:00, except for the purposes of smoking;
7. No regulated entertainment shall take place in the outdoor areas at any time;
8. No open vessels shall be taken outside the curtilage of the premises at any time; and
9. A sound limiting device shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorized officer of Warwick District Council's Environmental Health service to ensure that no noise nuisance is caused to local residents. The limiter shall not be altered without prior agreement with the Environmental Health Service.

The Licensing Officer advised that representations to the original application had been received from three residents living in the vicinity of the premises, attached as appendices one to three of the report and one from the owners of the Old Post Office, attached as appendix four. An objection was also received from Environmental Health, however, following the agreement of the above conditions and an amendment to the hours being applied for, this had been withdrawn.

In addition, an objection had been received from Warwickshire Police however, following the agreement of certain conditions relating to CCTV, the objection was withdrawn. The seven conditions agreed were detailed in section 3.5 of the report.

Mr McCann outlined the application and reminded Members that the applicant had withdrawn the request for regulated entertainment and had reduced the opening hours. He advised that this was a Grade II listed building in need of attention and referred the Panel to the 'Statement of Case' which had been circulated prior to the meeting. He stated that they had been trying to liaise with residents and was hopeful that this dialogue would continue.

Mr McCann referred to Mr Purton's representation which detailed a number of issues relating to planning permission and were therefore not relevant at this hearing. He advised that St Mary's Church had not made representation and the capacity figures stated in Mr Purton's document were incorrect, with capacity being unlikely to reach 200. He explained that with regards to noise, the regulated entertainment aspect had been withdrawn and only background music would be supplied, with conditions if necessary.

In addition, Mr McCann addressed the issues raised regarding CCTV by advising that conditions had now been agreed with the Police and the applicant would be willing to install cameras on the outside of the building, if permitted. With regards to the issue of smoking outside, Mr McCann advised that patrons would not be allowed to take drinks outside, which should mitigate the impact.

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

- The dispersal procedure would include dedicated taxi numbers, no drinks would be allowed outside of the premises and staff would be proactive in administering this;
- The premises would have ten letting rooms and approximately 70 covers;
- The applicant would not want customers who were staying to be disturbed and 22:00 would be the last order for food with the extraction system being turned off at the same time;
- There would be no segregation in the premises so customers just enjoying drinks would be mixed in with those who were dining;

- Once the premises was trading, the applicant would be able to determine the best areas for taxis to set down and drop off passengers;
- The background music would be Radio 2 style and 'middle of the road'.

In response to questions from Mr Jobburn, Mr McCann stated that:

- The applicant would be unlikely to proceed with the venture if they did not obtain a premise licence;
- The construction and soundproofing of the building was being discussed with the Planning officers, in conjunction with the Listed Building officers;
- The applicant would not look to restrict the number of smokers allowed outside at any time because this was a condition that would be unenforceable.

Mr Jobburn outlined his objection and made reference to the original objection submitted by the Environmental Health officer. He described the setting of Old Square and felt that the granting of the licence would have an adverse impact on noise with its mix of licensed and residential properties. He did not feel that the noise from licenced premises would end at closing time and customers would congregate on the street, causing disturbance to local residents.

Mr Jobburn noted that Environmental Health had withdrawn its objection on Thursday, subject to a number of agreed conditions. He was disappointed that he had been unable to contact officers from Environmental Health on Friday to discuss this because he felt that the conditions agreed did not match the comments officers had originally submitted.

He queried the alteration of the opening hours and the loss of a condition relating to windows and doors, solely because the regulated entertainment element had been withdrawn.

The Licensing Officer advised that an email had been forwarded to her by Environmental Health, explaining why it had withdrawn its objection. Having asked the applicant if they were content, the Legal Officer advised that the document could be circulated.

In response, Mr Jobburn felt that the email raised more questions because he was unsure if the conditions being proffered, met the residents' concerns. He stated that residents would prefer the licence to be rejected.

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

- He noted that condition 3 advised that SIA door staff would be employed if deemed necessary and a dispersal policy would also be included in the licence;
- He accepted that this area of Warwick did not fall into a Cumulative Impact Zone and any street disturbances would fall to the Police to deal with.

There were no questions from the applicant to Mr Jobburn.

The Chairman asked Mr Purton if he wished to address the Panel but he advised that he was satisfied with the Statement of Case he had already submitted.

When asked to make any closing remarks, the applicant reminded the Panel that Environmental Health had withdrawn its objection following discussions with the

applicant, had agreed conditions and were satisfied. He felt that officers had taken a balanced approach and had addressed the concerns raised. With regards to the issue of smoking, he felt that the applicant could erect signage to deter people, but did not feel it would be an issue because smoking was less fashionable nowadays. With regards to CCTV, Mr McCann suggested that it would be preferential to have the building in operation rather than derelict and reiterated that the applicant would be happy to install their own CCTV system outside if possible. He reminded the Panel that there was no representation from the Police and no evidence had been raised to suggest that the granting of the licence would impact detrimentally on the area. Finally, he explained that the applicant wanted to work with the residents and would monitor the smoking area proactively. He did not feel that the nearby application granted the previous week should have any impact on this application.

The Chair asked Mr Jobburn if he had any closing remarks and he reminded the Panel that this was a noise sensitive area which was predominantly residential. He reiterated that he felt the email sent by Environmental Health raised more questions than it answered.

At 3.31 pm, the Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

**Resolved** that the application for a premises licence be **granted**, subject to conditions, for the following reasons:

The Panel have considered the evidence before it and have also had regard to the statutory guidance, the WDC licensing policy and noted the representations and further correspondence from Environmental Health. The Panel have listened carefully to the applicant and the objectors. The Panel are concerned about public nuisance if the premises are licensed but they believe that their concerns can be mitigated by the imposition of suitable conditions and therefore they have decided to grant the licence with conditions.

There are a number of local residents in close proximity to the premises and the Panel consider that a balanced approach is required. The Panel have considered the latest representation made by Environmental Health and have noted that they now recommend a terminal hour of 23:30 Sunday to Thursday and 00:30 on Friday and Saturday. The Panel having listened to all representations and in particular those put forward by the residents at the hearing are of the view that an earlier terminal hour of 23:00 is appropriate given the situation of the premises and the close proximity of residential dwellings in order to prevent public nuisance.

The Panel believe that the outside area to the rear of the premises should be cleared of all patrons by 22:00 in order to protect residents living in close proximity who may work and also residents who are elderly living in the area.

The conditions that will be attached to the licence are as follows:

1. Opening hours and sales of alcohol shall be from 11:00 to 23:00 Monday to Sunday. All licensed activities are available 24 hours a day for residents only.
2. No regulated entertainment shall take place at the premises.
3. Substantial food and non-intoxicating beverages including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
4. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
5. Odour from any flue used for the dispersal of cooking smells serving the building shall not cause nuisance to the occupants of any properties in the vicinity.
6. An approved age scheme shall be adopted implemented and advertised within the premises such as "Challenge 25" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo card driving licence and passport.
7. All staff are to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a Police Officer.
8. The Premises Licence Holder shall require the Designated Premises Supervisor, or in his or her absence other responsible person, to keep an incident/refusals log in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed and by whom is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a Police Officer when required.

9. CCTV is to be installed and the premises licence holder shall ensure that:-
  - a. CCTV cameras are located within the premises to cover all public areas
  - b. The CCTV system records clear images permitting the identification of individuals
  - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
  - d. The CCTV system operates at all times when the premises are open for licensable activities. All equipment must have a constant and accurate time and date generation.
  - e. The CCTV system is fitted with security functions to prevent recordings being tampered with ie. password protected.
  - f. Downloads will be provided to a Police Officer or authorised officer of the Licensing Authority upon reasonable request.
  - g. The CCTV system shall be signed off by the Warwickshire Police Architectural Liaison Officer.
10. The Premises Licence Holder shall devise and implement a dispersal policy which shall include the provision of information on local taxi firms and transport links to all patrons leaving the venue to ensure that patrons do not congregate outside the premises and that they disperse from the premises in an orderly and quiet manner so as not to disturb residents within the vicinity.
11. A clear notice shall be displayed at any exit to the premises to instruct customers to respect needs of local residents and leave the premises and the area quietly.
12. A notice shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use area quietly.
13. There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold or usually sold on the premises unless accompanied by a substantial table meal.
14. The Designated Premises Supervisor shall make an ongoing professional risk assessment as to whether to employ SIA door staff at any time.
15. No speakers for the amplification of music or speech shall be placed on the outside of the premises or on the outside of any building forming part of the premises.
16. All windows and doors should be closed at 22:00 except for the immediate access and egress of persons.
17. All outdoor areas shall be cleared of patrons and residents by 22:00.
18. No open vessels shall be taken shall be taken outside the curtilage of the premises at any time.
19. A sound limiting device shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of

Warwick District Council's Environmental Health Service to ensure that no noise nuisance is caused to local residents. The limiter shall not be altered without prior agreement with the Environmental Health Service.

In imposing conditions the Panel have noted those offered by the applicant and have carefully listened to the representations made on behalf of the residents. They believe that the conditions imposed are proportionate appropriate and enforceable

At 4.46 pm all parties 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 4.54 pm)