

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Friday 29 September 2017, at the Town Hall, Royal Leamington Spa at 10.00 am.

Present: Councillors Ashford, Gill and Illingworth

Also Present: Mr Howarth (Council's Solicitor), Mrs Barnes (Senior Committee Services Officer) and Mrs Dudgeon (Licensing Officer).

1. **Substitutes**

There were no substitutes.

2. **Appointment of Chairman**

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

3. **Declarations of Interest**

There were no declarations of interest.

4. **Application for a variation of the premises licence issued under the Licensing Act 2003 for Wildes Wine Bar, 7 Parade, Royal Leamington Spa**

The Panel considered a report from Health and Community Protection which sought a decision on an application for the variation of a premises licence from Covert Drinking Clubs Limited for Wildes Wine Bar, 7 Parade, Royal Leamington Spa.

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

Mr Philpott, the applicant, Mr Dore, Covert Drinking Ltd, Mr Tebby, a local resident, objecting and Ms Nagasaki, local resident (observing).

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

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the variation to the premises licence should be approved and, if so, whether the licence should be subject to any conditions.

The application was to vary the existing licence to extend the current hours for the sale of alcohol and the opening hours and to provide late night refreshment and recorded music. A copy of the current licensable hours was set out in appendix 1 to the report and the hours applied for were detailed at appendix 2.

An operating schedule, which had been submitted by the applicant and would form part of any licence issued was detailed in paragraph 3.2 of the report.

Representations were received from two members of the public and these were attached at appendices 3 and 4 to the report. In addition, a representation had been received from Warwickshire Police, however, following the agreement of conditions the representation was withdrawn. The conditions agreed with the applicant were as follows and would form part of any licence issued:

1. CCTV to be installed and the premises licence holder must ensure that:-
 - a. CCTV cameras are located within the premises to cover all public areas.
 - b. The 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 while 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, i.e. password protected.
 - f. Downloads will be provided to the Police upon reasonable request in line with the DPA.
 - g. Signed off by Warwickshire Police Architectural Liaison officer
2. Door staff to be employed every Friday and Saturday night irrespective of closing time and to start no later than 21.00hrs.
3. Door staff to be employed on Christmas Eve and New Year's Eve, irrespective of closing time and to start no later than 21.00hrs.
4. DPS to make on going professional risk assessments as to whether to employ door supervisors at any other time.
5. No open vessels to leave the premises at any time.
6. Refusals book / registers to be maintained and made available for inspection on reasonable request from responsible authority.
7. Incident Handling - There will be bound books held on the premises, under the responsibility of the DPS or manager for the purposes of recording incidents that take place on the premises that shall be recorded as soon as practicable in the Incident Book. Any incident book must be made available for inspection to an officer of a responsible authority upon request.
8. Premises will be an active member of the locally approved retail radio scheme and conform to its policies and procedures.

A premise licence issued under the Licensing Act 2003 had been in place for a number of years and pre-dated the current owner of the business.

The applicant, Mr Philpotts, addressed the Panel and explained that he was the Designated Premises Supervisor at Wildes Wine Bar, having previously run the Clarendon Bar in Leamington for a number of years. He had taken on the new premises about three months ago and had found the existing licence to be confusing, so hoped to rectify this with the proposed variation.

He advised that in addition to the existing licence, the premise also had a 'supper certificate'. He hoped to transform the licence and make the premises safer and better run by providing door supervisors and CCTV, along with three personal licence holders and first aid training for staff. He explained that the bar had been licensed since 1976 and the proposal was only asking to extend the licensing hours by one hour.

In response to questions from the Panel Members, Mr Philpotts advised that:

- The premise had been purchased in June of this year and he had not received any complaints in that time.
- The aim was to tidy up and modernise the existing licence.
- The proposed licence would supercede the supper certificate.
- He would be happy to forgo the regulated entertainment aspect of the licence if necessary.
- Drinks would be served from the bar and at tables.

Mr Philpotts' colleague, Mr Dore also addressed Members and explained that they did not want to change the atmosphere of the wine bar and would still want customers to be able to talk to one another. Loud music would prevent that, and was not their aim.

The interested parties did not have any questions for the applicant.

Mr Tebby, an interested party and local resident, addressed the Panel and advised that he had been given permission to read out a statement from another resident, Mr Dick. Mr Tebby then outlined his concerns about the application which included the external noise created by both Wildes Wine Bar and the restaurant, the Oriental Star. This noise consisted of customers' conversations late at night, especially in the summer and the emptying of bottle bins up to midnight. Mr Tebby described that residents had had to put up with refuse trucks reversing up to the premises before 7am to collect empty bottles.

Mr Tebby provided some background about the residential dwellings at William House and George House which created a courtyard effect. Some of these dwellings shared party walls with the wine bar, with flats located above the premise as well.

Members were advised that Environmental Health had investigated the issue relating to bottle collection and the issue had virtually ceased since 1 September apart from two isolated incidents. Mr Tebby thanked Environmental Health and Wildes for their assistance in this matter and for assisting residents to get a good night's sleep.

Mr Tebby advised that there were 84 windows in direct audible firing line of Wildes and Oriental Star. He requested that, if the licence were to be issued, a noise limiter be added to the music system, to the satisfaction of Environmental Health.

Mr Tebby also asked that some of the wording in the operating schedule be amended to provide clarity and felt that more detail was needed with regard to where the air conditioning plant machinery would be placed and how many signs would be put up. He felt as though the upper part of the Parade was becoming more residential.

With regard to Crime and Disorder, Mr Tebby raised a concern that the premise could be a magnet to drinkers from other venues in the town that had closed earlier. With regard to public safety, Mr Tebby raised a concern regarding the wrought iron fence outside the premise which had a gap in it since the removal of a blackboard sign. He felt this could pose a risk to small children. Mr Tebby also queried the regularity of the checks that would be undertaken on the fire detection system.

In response to the wrought iron fence concern, the Legal Advisor, Mr Howarth, advised that this would be a highway safety issue and the Highways Authority could be contacted to pursue the matter. This was not an issue that could be dealt with under public safety and was not a relevant issue for the Licensing Panel to take into consideration. He did state that it may be in the premise licence holder's interest to resolve.

With regard to the proposed amendments to the wording in the operating schedule, Mr Howarth advised that the applicant could be invited to amend their operating schedule. Mr Howarth also reminded Members that the Fire Service was content with the arrangements being proposed.

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

- He did not see the top section of the Parade as the town centre; William House & George House had 84 bedrooms in total and the area was predominantly residential.
- In the summer, noise from customers leaving the premises could disturb him until after 11pm.
- He had lived in that location just over 10 years and did not recall what business had been there at the time.

The applicant responded to a number of the issues raised by Mr Tebby and advised the Panel that there were offices located above the premise and not residential flats. Mr Philpott assured the meeting that bins would not be going out after 8.00pm and would be dealt with in the morning. Following discussions with Fortress, it had been agreed that they would collect the bottle bins on a Monday, Wednesday and Friday with no collections prior to 7.00am. He had agreed that the rear garden would be closed at 11.00pm and the only increase in noise may be from more footfall at the front of the building. With regards to doormen, he was happy to stipulate the timings and frequency that they would carry out their checks and the sash window had been repaired to close the gap.

The Chairman then invited the applicant and interested parties to give their summations.

Mr Tebby reiterated that planning permission had been agreed to convert the building into more flats.

Mr Philpott stated that he understood Mr Tebby's position and he wanted the residents living near to the premises to be happy. He reminded the Panel that changes had been made to improve the bin deliveries and collections and assured them that their policies would be strictly adhered to. Everyone was entitled to a good night's sleep and he was happy to make reasonable changes to the licence to achieve this.

Mr Dore hoped that the changes to the licence would benefit the residents by tightening up on CCTV and door staff.

At 11.06 am, the Chair asked all parties other than the Panel, the Council's Solicitor and the Senior Committee Services Officer to leave the room, in order to enable the Panel to deliberate in private and reach its decision. He informed people leaving the room, that if they did not wish to wait for the decision, they would receive notification by email.

Resolved that the application to vary the premises licence be **granted**, subject to the applicant's operating schedule, with the amendments agreed by the applicant to replace "should" with "shall" or "will", the conditions agreed with the Police and the conditions imposed by the Panel below, for the following reasons:

The Panel has considered the application and has listened to the representations made by the applicant and the interested parties. The Panel notes that the Police have withdrawn their objections subject to conditions and there has been no objection from any other responsible authority including Environmental Health.

The Panel notes that the premises are located within the CIZ and therefore that it is for the applicant to prove on the balance of probabilities that the grant of the licence will not impact on the licensing objectives. The Panel has heard from Mr Tebby regarding his concerns about noise breakout from the premises and that the extension of the hours would mean that this would occur later into the night.

The Panel also heard from Mr Tebby about his concerns regarding disturbance caused by empty bottles being emptied into bins used by the premises and the collection of refuse from the premises by Fortress refuse trucks. With regard to noise breakout from the premises, the Panel note that the applicant's operating schedule currently provides for admittance and re-admittance to the premises to be restricted after 11pm and for the use of the external areas to be restricted after 11pm. Having heard from the Panel's legal advisor the Panel have concerns about the wording of the operating schedule in that it does not provide for an absolute prohibition on admittance or re-admittance after 11pm or use of the external areas after 11pm.

With regard to the noise from empty bottles and refuse collection the Panel heard from Mr Tebby that the issues now appear to have been resolved following discussions with Environmental Health. Mr Tebby advised the Panel that, with the exception of a couple of instances where there had been noise generated by the emptying of bottles, the matter had been largely resolved. The Panel heard from the applicant that they had, following discussions with Fortress, secured agreement that refuse collections would take place later in the day and in any event, Environmental Agency requirements prevent the collection of refuse before 7am.

It is the Panel's view having had regard to the representations made by the applicant, the applicant's operating schedule and the conditions agreed with the Police that the applicant has demonstrated that the grant of a licence would not impact upon the licensing objectives.

The Panel is however, concerned with the wording of the applicant's operating schedule relating to admittance and re-admittance and the use of the external areas, in that the wording does not provide for an absolute prohibition. The Panel is therefore minded to impose conditions to secure the following:

1. there shall be no admittance or re-admittance of patrons to the premises after 11pm; and
2. there shall be no use of the external areas by patrons after 11pm.

At 11.58am all parties who had remained 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 12.02 pm)