

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Tuesday 20 December 2022, at 10.00am.

Present: Councillors Gifford, Syson and Wright.

Also Present: Ross Chambers (Council's Solicitor), Emma Dudgeon (Licensing Enforcement Officer) and Graham Leach (Democratic Services Manager & Deputy Monitoring Officer).

1. Apologies and Substitutes

There were no apologies for absence made.

2. Appointment of Chairman

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

3. Declarations of Interest

There were no declarations of interest made.

4. Objection to a Temporary Event Notice received under the Licensing Act 2003 for Holly Bush, Holly Street, Royal Leamington Spa, CV32 4TN

The Panel considered a report from Health and Community Protection which had received a valid application for a new premises licence for Temporary Event Notice received under the Licensing Act 2003 for Holly Bush, Holly Street, Royal Leamington Spa. Representations had been received in relation to the application for the consideration of the panel in the determination of the application.

Ricky Mancini applied for Temporary Event Notice (TEN) for the premises known as Holly Bush on 5 December 2022. The TEN submitted by the applicant was attached as Appendix 1 to the report.

The notice was to extend the hours already permitted on the premises licence to sell alcohol (on the premises only) and to extend the opening hours. The applicant had indicated that the proposed event was a Christmas party.

Warwickshire Police and Warwick District Council Environmental Health had powers to object to a Temporary Event Notice where they were satisfied that allowing the premises to be used in accordance with this notice would undermine a licensing objective. The Licensing Department had received an objection from Environmental Health along with additional information in relation to the history of the premises. This was attached as Appendix 3 to the report. Warwickshire Police submitted an objection to the original notice, however, following an agreement between Warwickshire Police and the applicant to amend the end time of the TEN, they subsequently withdrew their objection. Details of this were attached as Appendix 4 to the report.

The Holly Bush had a premises licence issued under The Licensing Act 2003. The premises licence, including all current conditions, was attached as Appendix 2 to

the report. The TEN requests the extension of alcohol sales on the evening of 23 December into 24 December by one hour, from midnight to 01.00am. The TEN also requests the extension of opening hours by half an hour from 00.30am to 01.00am.

When a premises licence was in place under The Licensing Act 2003, a Panel was only able to add conditions from that licence to a Temporary Event Notice as part of their decision.

In accordance with Section 105 of The Licensing Act 2003, the Licensing Authority must hold a hearing to consider the objection unless the responsible authority, the premises user and Licensing Authority agree that a hearing was unnecessary. It had not been agreed that a hearing would be unnecessary and therefore a Panel must be held to make the decision.

The hearing must be concluded and notice of the decision given to the premises user, Environmental Health, and the Police, no later than 24 hours before the temporary event was due to commence.

A map showing the location of the premises and photos of the premises were attached as Appendix 5 to the report.

The Chairman asked Members of the Panel to introduce themselves. The other parties then introduced themselves as:

- Stacey Walsham - Environmental Protection Technical Officer; and
- Ricky Mancini – Applicant for the Temporary Event Notice.

The Council's Solicitor announced the procedure for the meeting. At the Chairman's request, the Licensing Enforcement Officer introduced the report.

An addendum was circulated prior to the meeting with further information from Environmental Health, which included audio and video recordings and an updated technical report from Environmental Health.

The Chairman adjourned the Panel at this time to ensure that the applicant had received all necessary paperwork and, if they had not, provided time for them to consider if they wished the Hearing to continue.

The Chair reconvened the Panel and confirmed with the agreement they were willing to proceed with the Hearing, which Mr Mancini agreed to.

The Chairman invited the applicants to introduce the application.

The applicant explained that times were hard, he wanted to take advantage of a time when people were willing to spend more money. He had considered a partial shutdown in January 2023 due to heating costs. In the applicants view, the local Council should be supporting local businesses. The complaints felt like a vendetta against the pub with an ulterior motive to get pub shut down. The applicant explained he was not responsible for parking, speeding, and drink-driving but was responsible for people inside the premises. He had tried to get people to lower their volume when outside to respect the premises neighbours.

In response to Questions from panel the applicant explained that:

- there were not normally door staff on site on a Friday or Saturday but there would be for this event;

- he understood the hours of operation as proposed and would stick with them;
- he would clean the premises once all other parties had left;
- the private party was for the local Jamaican community who looked to support local pubs and normally they brought a good trade;
- the Jamaican Community recognised that times were hard for pubs and wanted to help keep them going;
- if the application was refused then the premises would close earlier; and
- the intention of the application was to gain some extra income.

For clarification the Licensing Enforcement Officer explained that with the TEN, as applied for, every customer had to be off the premises by 01:00, which was accepted by the applicant.

In response to a question from Environmental Health, the applicant explained that there would be signage on the premises about the private party and would close around 23:30 to allow for drinking up time and moving non party members out of the premises.

The Chairman asked Environmental Health to make their submission to the Panel. They explained that:

- there were two complainants that the Council had been liaising with since August 2022;
- the premises licence stated that no unaccompanied children were allowed, and children must be out of the premises by 19:00. It also stated that the use of external areas was not permitted after 23:00;
- they had received evidence that on 16 September 2022 eight young children had been seen running out of pub and setting off complainant's security alarm;
- they had received evidence that on 18 September 2022 a complainant needed access to church car park but could not as access was blocked by patrons of the pub;
- a complainant was too afraid to use the Church Car Park;
- cars had been recorded leaving pub car park at 04:30;
- they had received evidence that on 25 November 2022 what looked like a fight had taken place;
- a complainant was too scared to go out in the evening because of the clientele outside the premises; and
- there had been evidence of public urination on residential property, causing distress to local residents and complaints about music after licensed hours which was very audible within their premises.

In response to questions from the Panel, the Environmental Protection Technical Officer explained that:

- there were two complainants to the Council but a third had withdrawn as they did not want to continue with the investigation;
- that from 23:00 in a residential area, there was a sleep zone and people should be able to sit peacefully in their own property without being disturbed after this time;
- there were no set decibel levels on what was deemed a statutory nuisance;
- having the alcohol sales extension to 01:00, everyone would be a lot jollier and livelier, and more likely to cause a nuisance to residents;
- they were concerned about dispersal at end of night because people would be leaving pre-midnight and more people leaving at 01:00;
- there could be more fighting and public urination;

- the people who left at midnight could still be lingering;
- they were concerned about all the potential noise on the street at 01:00; and
- officers were considering requesting a review of the premises licence and were in discussions with residents about it.

At the request of the Chairman the applicant summed up. They did not feel a fair picture had been provided by Environmental Health. He explained he had worked hard to change clientele, clamp down on drugs and noise. The picture painted was that people wouldn't want to go near the place, but that's not the case and in his opinion, there were two people who want the pub to close. In relation to a vehicle leaving the car park at 04:30, at the time he had someone living at the premises who was a shift worker and disputed that there were children running around in the street.

At 11.40am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Committee Services Officer to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be communicated in writing via email to the applicant and interested parties later on the same day, followed by a written notice with a full decision within seven days.

Resolved that having regard to all the written representations and supporting documents they had received and listened carefully to all the representations made at the Hearing, the panel were not satisfied on the evidence presented by Environmental Health that the extension of the time for the sale of alcohol on the premises by one hour, to 01:00, to accommodate a Christmas party on Friday 23 December 2022, would undermine the licensing objectives. The Panel noted that the Applicant understood the premises must close at 01:00 and were encouraged that door staff would be in attendance for the event. The Panel also noted that regulated entertainment was not covered by the TEN, and that live and recorded music must cease at midnight.

The Panel's decision was not to issue a counter notice and to allow the event to take place as applied for. The Panel requested that in the covering letter containing the decision the Applicant be reminded that the event must have finished, and patrons vacated the premises by 01:00. The Panel also expect door supervisors to be working during the event, as advised by the Applicant.

(The meeting ended at 12.05pm)

CHAIRMAN
20 March 2023