

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel meeting held on Wednesday 17 December 2014, at the Town Hall, Royal Leamington Spa at 10.00 am.

Present: Councillors Doody, Gill and Illingworth.

Also Present: Emma Dudgeon (Licensing Enforcement Officer), Lesley Dury (Committee Services Officer) and John Gregory (Council's Solicitor).

1. **Appointment of Chairman**

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

2. **Declarations of Interest**

There were no declarations of interest.

3. **Application for a Temporary Event Notice for Turtle Bay, 11 Regent Court, Royal Leamington Spa**

The Panel considered a report from Community Protection to consider a temporary event notice received from Turtle Bay in Royal Leamington Spa, for the extension of sale of alcohol and regulated entertainment on New Year's Eve from 23.00 to 01.00 hours the following day.

The Chair, members of the Panel and officers introduced themselves. The other parties then introduced themselves as the General Manager and applicant, Mark Hyatt and the Operations Manager, Richard Kilpatrick and Michael Jenkins, Warwick District Council Environmental Health Officer.

The Council's Solicitor explained the procedure that the hearing would follow.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it, and the representations made to the meeting, and to determine if the application for the temporary event notice could proceed.

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 Licensing Enforcement Officer advised that a representation had been received from Environmental Health, a copy of which was appended to the report.

Councillor Weber, Ward Councillor, arrived at the hearing whilst the Licensing Enforcement Officer was outlining her report. He was at the hearing as an observer only.

The Chairman confirmed with the applicant that the current licence required the restaurant to close at 23.30, which meant that serving of food had to stop by

23.00. The applicant confirmed that he did not have anything to say to introduce the application.

In response to a question from the Environmental Health Officer, the applicant confirmed that on the night in question, regulated music would not be played, and instead, only background music would be available. The applicant also confirmed that he had received a written statement from Environmental Health listing its objections. (This written statement had been issued when it had been thought a representative from the department would be unable to attend the hearing.)

The Environmental Health Officer explained the department's objections to the application which were also explained in the written statement that had been sent out prior to the meeting. He summarised by saying that the operation of the premises at night time presented a nuisance to residents. The nature of the street where the premises were located had unique acoustic qualities which had resulted in a large number of complaints; 16 complaints were on file concerning the noise in the street, and there were other complaints on file on other matters. The Officer maintained that the establishment was used for drinking at night, with the resultant high spirits and noise from the clientele. The customers' behaviour in the street could not be controlled. Noise levels would reduce on typical evenings if the premises operated solely as a restaurant, and not for the sale of alcohol.

The Chairman reminded everyone that this hearing was specifically to consider the application for the TEN, and not to review the licence.

When asked by a panel member whether the department should be acting on the normal licence, the officer responded that the department did not have good enough evidence to do so because the disturbance was not constant. Officers had witnessed five to six events in the last few months and had not built up evidence to call for a review of the existing licence.

The Chairman invited the applicant to speak and the Operations Manager voiced concern that the Environmental Health Officer had said that the premises operated as more of a drinking establishment than a restaurant. 11% of sales were drink related and the rest of the business was food sales at tables. It was pointed out that the TEN was for New Year's Eve and the TEN was required to extend the time people could book tables and to ensure that at midnight, they would be able to celebrate New Year with a glass of bubbly. No additional customers would be allowed onto the premises past 11pm.

Mr Hyatt informed the Panel that at the first event when they had applied for a TEN, a live band had attended the event which was to celebrate the opening of the restaurant. They had worked hard since then to make friends with local residents. For this current application for a TEN, it was intended that the kitchen would operate until 11pm, and the extension of hours would allow diners to remain seated until midnight. Drinks would be served at tables and desserts would be served until midnight. Only recorded/background music would be played. The music would not impact local residents; it was only people outside who might impact. Doors would be shut and new people would not be let in, but smokers would be allowed to go out and re-enter. In the period covered by the additional hours, door staff would ensure no new patrons were allowed entry. Their staff would do everything possible to disperse clients after they left, but

that in itself could create additional problems. On-line bookings would be encouraged to reduce the amount of "walk-in" business.

It was confirmed that the Panel could not apply conditions to the TEN that were not part of the existing conditions on the licence, so the Chairman sought an assurance that SIA doormen would be provided.

The applicant confirmed that on the current licence, the last seating time for food was 10pm, and the last ordering time for food was 10.30pm. For New Year's Eve, food would be served until 11pm and seating people for food would also run to 11pm. This would allow customers two hours to eat their meals and drinks would be served at tables.

The Chairman confirmed to those present that because the application was for a TEN, the Ward Councillor was not allowed to speak.

At 10.40am 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 to grant the application. The Panel has listened carefully to the representations of the applicant and Mr Jenkins from Environmental Health. They have had regard to the relevant legislation, the statutory guidance and to the Council's Licensing Policy.

The Panel appreciates that there are concerns about the way that the premises operates under its existing licence in terms of public nuisance. However, they don't consider that they have heard any evidence that the grant of this Temporary Event Notice, specifically for the special circumstances of New Year's Eve, would be likely to undermine the Licensing Objective of the prevention of public nuisance.

The application for a temporary event notice is therefore granted subject to all the conditions that are on the existing premises licence save for the condition that states; Substantial food to be available up until 60 minutes before close.

In reaching their decision, The Panel have had regard to the applicant's submission that new entrants will not be allowed into the premises after 11.00pm. Whilst they are unable to impose a condition to that effect, they would ask the applicant to ensure that this assurance is honoured.

At 11.02am all parties were invited back into the room, at which time the Council's solicitor read out the Panel's decision.

All parties were advised that the formal decision letter would be sent out within the next few days.

(The meeting ended at 11.04 am)