

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Monday 28 May 2012, at the Town Hall, Royal Leamington Spa at 10.00 am.

**PANEL MEMBERS:** Councillors Coker, Mrs Knight and Wreford-Bush

**ALSO PRESENT:** David Davies (Licensing Services Manager), Graham Leach (Civic & Committee Services Manager), and John Gregory (Council's Solicitor).

## 1. APPOINTMENT OF CHAIR

**RESOLVED** that Councillor Coker be appointed as Chair for the hearing.

The Chair introduced himself, other members of the Panel and Officers, and asked the other parties to introduce themselves.

Ms C Dobson was present to represent the applicant, Enterprise Inns, along with the interested parties objecting to the application, Mr Smith, Mr Joyce, Mr Regan, and Mr Weir.

## 2. DECLARATIONS OF INTEREST

There were no declarations of interest.

## 3. APPLICATION FOR THE GRANT OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR NAVIGATION INN, OLD WARWICK ROAD, LAPWORTH

A report from Community Protection was submitted which sought a decision on an application by Enterprise Inns for the Navigation Inn, Lapworth.

The Council's Solicitor ran through the procedure which the hearing would follow.

The Licensing Services Manager 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 a premises licence should be approved. He explained that the conditions requested by the Police and Environmental Health had now been agreed by the applicant and therefore the objections from these responsible authorities had been withdrawn.

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.

## **LICENSING PANEL HEARING MINUTES (Continued)**

The report from Community Protection, which was submitted to the Panel, presented an application to permit the following:

### **Sale of Alcohol (indoors only)**

Sunday to Thursday	09:00 to 00:00
Friday and Saturday	09:00 to 01:00

### **Sale of Alcohol (off sales)**

Sunday to Thursday	09:00 to 23:00
Friday and Saturday	09:00 to 23:00

### **Live Music, Recorded Music, Anything Similar to the Previous Groups and the provision of the facility for making music (all indoors)**

Seven days a week from 12:00 to 23:00

### **Live music (outdoors)**

Once per calendar month from 12:00 to 21:00

### **Films and Indoor Sporting Events**

Seven days a week from 10:00 to 23:00

All of the above extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

### **Opening Hours**

Sunday to Thursday	09:00 to 00:30
Friday and Saturday	09:00 to 01:30

Opening hours and the sale of alcohol (indoors only) extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day and an additional hour on the morning that British Summertime begins.

An operating schedule, which would form part of any licence issued, was also submitted to the Panel. The operating schedule explained steps the applicant proposed to take to promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children.

The Council's Licensing Policy Statement provided that the Authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

All parties present confirmed their satisfaction with the content of the report.

The applicant explained that the previous licence had been surrendered without the knowledge of Enterprise Inns and in breach of contract by the tenant. This new application broadly represented the hours held previously.

## **LICENSING PANEL HEARING MINUTES (Continued)**

The new tenants, Enterprise Inns hoped to secure, want to invest significantly in the premises and they had experience of running outside bars/catering in the community.

The applicant was looking for a fresh start with new tenants and hoped to operate sensibly as it had previously while retaining the pub within the local community. Enterprise Inns regretted that they had not been aware of previous problems with the premises but emphasised that there were no issues raised by either the Police or Environmental Health.

In response to questions from the Panel the applicant explained that:

- the licence was not for longer hours. The previous licence holder had chosen not to operate for the full hours within the licence, and the new tenant may also make the same choice;
- the limit of 150 people was thought to relate to the two restaurant areas of the premises but this would seem excessive, however the new tenant would be made aware of this;
- the intention of the provision of music outdoors was to provide a low key event in the garden once a month and really only in the summer months. The previous licence permitted this up to 21:00 everyday of the week but this was now only once a month.
- the nearest neighbour was over 25 metres away from the bank garden, excluding those moored on the canal;
- the large area adjacent to car park would not form part of this premises licence and therefore would require either a temporary event notice or separate premises licence for any licensable activity; and
- on average around 40 people would be in the premises and around 65 outside when busy.

The Licensing Services Manager explained that the Fire and Rescue Service no longer set capacity limits for premises and this responsibility was now a requirement for the licence holder on an event based assessment.

In response to questions from the interested parties the applicant explained that:

- the target client base would be a food lead business but the exact detail was yet to be confirmed;
- the premises were a tenanted and not a managed estate. The applicant provided support but not demands on day to day management.

Mr Smith outlined his objection, as set out in Appendix 6 to the report. He explained there had been problems with the previous tenant but everyone would welcome a good pub as long as the previous noise issues were not repeated.

In response to questions from the Panel and applicant he explained that the premises had been well run prior to the previous tenant, would prefer unamplified music outside to reduce impact on neighbours, and that he was not aware of who to contact with noise complaints.

Mr Joyce, outlined his objection as set out in Appendix 13 to the agenda. Generally he would welcome a well run premises because it was part of the community. There had been suggestions in the village that the new tenant was looking to have large events which could impact on the neighbours and

## **LICENSING PANEL HEARING MINUTES (Continued)**

community. In his opinion a maximum capacity should be placed on the premises of 75 to 100 people. Generally though, it was the lack of information that had led to the numbers of objections; however he felt that there should be no sales of alcohol after 23.30 Sunday to Thursday and 00:00 Friday and Saturday.

In response to questions from the Panel and the applicant:

- he understood that the field adjacent to the car park was not covered by this licence, nor was the potential for firework displays and other events outside the licensing regime;
- he felt that the words provided by the applicant and Environmental Health regarding noise nuisance were unclear and would prefer something more specific;
- he felt that amplified music should not be permitted as it was not in keeping with the aims of the premises;
- he had complained to the previous tenant on a couple of occasions but received little understanding;
- the biker nights that took place gave the impression of a tenant at a struggling premises grasping at straws to try and save it, but these events had highlighted general problems with the premises;
- he did not have training in setting capacity limits but felt a limit should be set because if the premises were successful, more people would be attending and leaving later, causing problems for local residents;
- the location of the premises and car park created a potential for accidents and more people attending would increase this risk;

The Solicitor for the Council explained that he would advise the Panel not to set a limit on numbers of people attending the premises because they did not have the technical knowledge or evidence that would be expected and under regulation it was the requirement of the premises to set these.

Mr Regan outlined his objection as set out in Appendix 8 to the agenda. He hoped to see the pub return to being a successful business because it had a special place at the heart of the community and a role in bringing the community together. However patrons leaving at midnight would cause disturbance for neighbours and outdoor music until late in the evening would cause disturbance to the community.

There were no questions for Mr Regan.

Mr Weir outlined both his and his wife's objection to the application, which was set out in Appendix 7 to the agenda. They believed that the premises would be a good country pub at the heart of the community. However the events held previously caused problems for the community and they wanted to ensure that this did not happen again.

There were no questions for Mr Weir.

At the request of the Chairman the applicant summed up, explaining that they wanted to take the premises forward. They accepted that the previous tenant was not a very good person for the premises. The majority of submissions related to the previous tenant and the use of the outside area, but not about inside the premises.

## **LICENSING PANEL HEARING MINUTES (Continued)**

The Chair asked the applicant, his representative and the Licensing Manager to leave the room at 11.40 am, to allow the Panel to deliberate and reach its decision.

Having considered the application, the representations made, the conditions agreed with responsible authorities and the submissions made, by both the applicant and objectors to the meeting, the Panel was of the opinion that the application be granted as set out subject to conditions.

The Panel was of the view that there was little or no evidence before them of public nuisance being caused by noise emanating from inside the premises. It also found no evidence that there was likely to be any problems with crime and disorder caused by the premises.

The Panel did conclude that there was some evidence given by the objectors as to previous and potential noise nuisance being caused by noise coming from the outside areas of the premises. However, after careful consideration, it was of the view that potential noise nuisance would be adequately controlled by the imposition of conditions.

The Panel did not consider that the condition limiting the number of people that could attend "function bookings" was appropriate. The applicant already needed to comply with statutory requirements relating to the health and safety of visitors and fire safety at all times and the Licensing Authority saw no reason for this condition to be imposed in terms of the Licensing Objectives. Further, the Licensing Authority did not wish to be seen as endorsing this figure on an appropriate capacity as it has had no evidence in this regard.

The Panel asked that the applicant respected local residents and engaged in positive communication with them on any issues that might arise. It also reminded local residents that they had the right to call for the licence to be reviewed should there be any problems with noise nuisance in the future.

Therefore it was, proposed duly seconded and

**RESOLVED** that the application be GRANTED

(1) For the following hours:

**Sale of Alcohol (indoors only)**

Sunday to Thursday 09:00 to 00:00

Friday and Saturday 09:00 to 01:00

**Sale of Alcohol (off sales)**

Sunday to Thursday 09:00 to 23:00

Friday and Saturday 09:00 to 23:00

**Live Music, Recorded Music, Anything  
Similar to the Previous Groups and the  
provision of the facility for making music  
(all indoors)**

Seven days a week from 12:00 to 23:00

## **LICENSING PANEL HEARING MINUTES (Continued)**

### **Live music (outdoors)**

Once per calendar month from 12:00 to 21:00

### **Films and Indoor Sporting Events**

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### **Opening Hours**

Sunday to Thursday 09:00 to 00:30

Friday and Saturday 09:00 to 01:30

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(2) Subject to the following conditions:

1. Noise from the premises shall not be such as to be a nuisance outside the premises boundary.
2. Live or recorded music shall not be intrusive at the nearest elevation of any neighbouring residential premises at any time.
3. Consumption of alcohol shall be restricted to the inside areas only after 23.00 and the outside areas of the premises shall be vacated by this time in respect of people there for purposes of the consumption of alcohol and licensable activities.
4. All doors and windows shall be kept closed after 23.00 save for access and egress.
5. Patrons of the premises are not to be permitted to take open vessels from the premises into the adjacent field or car park.

All parties were invited back in to the room so they could be informed of the decision, which was read out by the Council's Solicitor, and reminded of their right to appeal the decision to the Magistrates' Court within 21 days of the decision notice.

(The meeting finished at 1.30 pm)