

A meeting of the above Committee will be held at the Town Hall, Royal Leamington Spa on Monday 17 October 2022, at **5.00pm** and available for the public to watch via the Warwick District Council's [YouTube channel](#).

Councillor O Jacques (Chairman)
Councillor T Wright (Vice-Chairman)

Councillor A Barton	Councillor V Leigh-Hunt
Councillor A Boad	Councillor M Luckhurst
Councillor G Cullinan	Councillor D Norris
Councillor A Evans	Councillor P Redford
Councillor C Gifford	Councillor W Roberts
Councillor G Illingworth	Councillor S Syson
Councillor C King	

Agenda

1. Apologies & Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. Minutes

- (a) To confirm the minutes of the meeting held on 11 May 2022. **(Pages 1 to 2)**
- (b) To correct the meeting start time on the 5 May 2021 minutes from "4:30pm" to 7:50pm" and to correct the meeting end time from "4.47pm" to "8:04pm".

4. Minutes of Licensing & Regulatory Panels

To confirm the minutes of the Licensing & Regulatory Panels as set out below:

- | | |
|-------------------|------------------------|
| a) 22 March 2022 | (Pages 1 to 6) |
| b) 23 June 2022 | (Pages 1 to 10) |
| c) 12 July 2022 | (Pages 1 to 11) |
| d) 10 August 2022 | (To follow) |

5. Changes to the Membership of Licensing & Regulatory Panels

To make amendments to the membership of the Licensing & Regulatory Panels for the municipal year 2022/23.

	Councillor	Councillor	Councillor
Panel A	Barton (Whitnash)	Wright (Rural)	C Gifford (Leamington)
Panel B	Illingworth (Kenilworth & Rural)	Evans (Leamington)	King (Leamington)
Panel C	Leigh-Hunt (Rural)	Roberts (Leamington)	Boad (Leamington)
Panel D	Syson (Leamington)	Norris (Rural)	Cullinan (Leamington)
Panel E	Jacques (Warwick)	Luckhurst (Leamington)	Redford (Rural)

6. Public and Press

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Item Numbers	Paragraph Numbers	Reason
7	1	Information relating to an Individual
7	2	Information which is likely to reveal the identity of an individual

7. Confidential Minutes of the Licensing & Regulatory Panels

To confirm the confidential minutes of the Licensing & Regulatory Panel meeting held on:

- | | |
|---------------------|------------------------------|
| a) 5 April 2022 | (Pages 1 to 6) |
| b) 19 April 2022 | (Pages 1 to 2) |
| c) 3 May 2022 | (Pages 1 to 8) |
| d) 19 May 2022 | (Pages 1 to 6) |
| e) 16 June 2022 | (To follow) |
| f) 1 September 2022 | (Pages 1 to 4) |
| | (Not for publication) |

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For enquiries about specific reports, please contact the officers named in the reports.
You can e-mail the members of the Committee at LandRCommittee@warwickdc.gov.uk

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prior to the meeting, by telephoning (01926)
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Licensing and Regulatory Committee

Minutes of the meeting held at the Town Hall, Royal Leamington Spa on Wednesday 11 May 2022 at 7.45pm, following the Conclusion of Council.

Present: Councillors Ashford, Barton, Boad, Cullinan, C Gifford, Illingworth, Jacques, Leigh-Hunt, Luckhurst, Norris, Roberts, Syson and Wright.

1. **Apologies and Substitutes**

- (a) apologies for absence were received from Councillors Evans and Mangat; and
- (b) there were no substitutes.

2. **Appointment of Chairman of the Committee**

It was proposed by Councillor Wright, duly seconded and

Resolved that Councillor Jacques be appointed Chairman of the Committee for the 2022/2023 municipal year.

3. **Appointment of Vice-Chairman of the Committee**

It was proposed by Councillor Jacques, duly seconded and

Resolved that Councillor Wright be appointed Vice-Chairman of the Committee for the 2022/2023 municipal year.

4. **Declarations of Interest**

There were no declarations of interest.

5. **Minutes**

The minutes of the meeting held on 21 March 2022 were taken as read and signed by the Chairman as a correct record.

6. **Appointment to Licensing & Regulatory Panels**

The Committee considered the proposals for membership of the Panels and

Resolved that

- (1) the membership of the Licensing & Regulatory Panels for the municipal year 2022/23, be

Panel	Councillor	Councillor	Councillor
A	Barton	Wright	C Gifford
B	Illingworth	Evans	Ashford
C	Leigh-Hunt	Roberts	Boad
D	Syson	Norris	Cullinan
E	Jacques	Luckhurst	Mangat

LICENSING & REGULATORY COMMITTEE MINUTES (Continued)

- (2) all members of the Committee be appointed as substitutes for the above Panels; and
- (3) by virtue of the Licensing Act 2003, the Panels are not politically proportionate to the Council and the departure from political proportionality for the Panels not considering matters made under the Licensing Act 2003, be approved.

(The meeting ended at 7.44pm)

CHAIRMAN
17 October 2022

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 22 March 2022, at 10.00am.

Present: Councillors Luckhurst, Redford and Wright.

Also, Present: Sophie Vale (Committee Services Officer), Caroline Gutteridge (Council's Solicitor), and Emma Dudgeon (Licensing Enforcement Officer).

1. Apologies and Substitutes

- a) There were no apologies for absence; and
- b) Councillor Wright substituted for Councillor Mangat

2. Appointment of Chairman

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

3. Declarations of Interest

It was declared that Objector, Carolyn Gifford was a District Councillor, but for the purpose of this panel was speaking as a member of the Public.

4. Application for a Premises Licence under the Licensing Act 2003 for Polished Nail Bar, 34 Regent Street, Royal Leamington Spa, CV32 5EG

The Panel considered a report from Health and Community Protection which sought a premises licence application for Polished Nail Bar, 34 Regent Street, Royal Leamington Spa, CV32 5EG. Representations were received in relation to this application for the consideration of the panel in the determination of the application.

The Council's Statement of Licensing Policy 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 the promotion of the four licensing objectives. Each application would be judged on its own merits.

Details of the procedure adopted by the Licensing and Regulatory Committee for Panel Hearings were supplied to the applicant and those making representations. The procedure would be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

Polished Leamington Limited applied for a premises licence at 34 Regent Street, Royal Leamington Spa on 3 February 2022. The application was for a bar located in the salon for guests only. This was intended to be for group bookings for example Bridal Parties.

The licensable hours applied for by Polished Leamington Limited and an operating schedule, which was submitted by the applicant and would form part of any licence issued, was attached as appendix 1 to the report.

The Licensing Department received two objections from local residents. These were attached as appendices 2 and 3 to the report.

The Licensing Department also received a representation from Warwickshire County Council Trading Standards, however, following the agreement of conditions they subsequently withdrew their representations. A copy of all conditions agreed were attached as appendix 4 to the report.

No representations were received from:

- Warwickshire Police
- Fire Authority
- The Licensing Authority
- Enforcement Agency for Health and Safety
- Authority Responsible for Planning
- National Health Service/Public Health

A plan showing the location of the premises was attached as appendix 5 to the report along with the plan submitted by the applicant showing the internal layout. Photographs of the premises were attached as appendix 6 to the report.

Members were asked to consider the information contained in this report and decide whether the application for a premises licence at Polished Nail Bar should be granted and, if so, whether the licence should be subject to any additional conditions.

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

- Ms Bajralija, attending the hearing as the applicant; and
- Carolyn Gifford, speaking as a member of the public and on behalf of Dr Andrew Cave.

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

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

In her opening statement, the applicant Ms Bajralija stated that, as the business had survived lockdown, she intended to capitalise on its popularity and widen the range of services offered. There was a "nice bar" space in the salon that could serve tea, cakes and prosecco for pre-booked customers. This would be an opportunity to offer a "beauty treatment experience" for groups such as bridal parties and those celebrating other holidays like Mother's Day. Ms Bajralija reassured Members that this idea was nothing new and was a service that was commonly offered in salons across the country. As a "respectable salon owner with a buoyant business" she would ensure that this would not become a public drinking space for customers off the street, and that she would implement a 'Challenge 25' rule to ensure no one underage would be served alcohol.

In response to questions from the Panel, Ms Bajralija advised that:

- she initially applied for the premises licence until 9pm Monday-Thursday just in case events ran over, she did not have any plans to extend operating hours officially;
- the double doors leading onto a flat roof upstairs were, in fact, a fire escape, but there was no opportunity for people to slip and fall;
- the Fire Authority had visited the indoor space where drinks would be served and they had not expressed any concerns. She reassured Members that there would likely only be a maximum of 6 people in the room at any one time;
- it will all be spaced out properly – when a group came in, some would be drinking at the bar, while others would be having treatments done. Alcohol would not be served to everyday customers, only parties who had pre-booked; and
- in time, she hoped to hire a receptionist who would also serve as bartender, but as this would not be a full time position at the moment, she intended to serve the drinks herself.

When given the opportunity by the Chairman to make her representation, Mrs Gifford started with reading a statement on behalf of Dr Andrew Cave- a local resident who wished to object. In the interest of the prevention of public nuisance, crime and disorder, he suggested that if the applicant agreed to table service, then his objection would be withdrawn. Dr Cave's fear was that it would operate as a "nail bar by day and a bar by night" without conditions. He was also fearful that, in the future, the nail bar would move, but the premises licence would remain, leaving it open to be turned into a fully functioning bar. Speaking in her capacity as local resident, Mrs Gifford asked if there was any need to issue another premises licence, when there were already 23 licenced places within 100 yards of the salon. She noted that with some of those licenced places, conditions were agreed that stipulated service to table and she was worried that Polished Nail Bar had not yet agreed to any such conditions. Mrs Gifford explained that whilst there was currently no Cumulative Impact Zone, this was coming under review and it seemed reasonable to consider the impact of adding yet adding another licenced premises to the area, particularly a place that does not rely on the sale of alcohol as a core part of their business. Essentially, Polished Nail Bar was an already successful business and did not need the addition of alcohol. Mrs Gifford acknowledged that while every application needs to be considered on its own merit, this application would potentially contribute to the public nuisance that is already a problem on Regent Street at night and at weekends. However, after hearing the applicant speak, Mrs Gifford remarked that she was "reassured" and that if the applicant agreed to open until 8pm that would be considered acceptable by both herself and Dr Cave.

The Council's Solicitor asked Ms Bajralija if she would be happy to restrict the hours applied for to 7-8pm instead of 9pm. Ms Bajralija said she would be fine with this, the initial application for 9pm was "just in case" as she had never applied for a premises licence before. The applicant also suggested that table service could be offered.

In her final summary, Ms Bajralija explained that her salon had been very successful since it opened. She employed local people who possessed all the relevant qualifications. Her salon has an "upmarket feel" that would encourage customers from far and wide. She sees her business as "injecting life into the high street" and that this could be further improved by being able to serve alcohol to parties as well.

The Chairman then reminded those present of the procedure: the remote meeting would be ended by the Committee Services Officer; a separate meeting would be arranged with the Members of the Panel, the Council's Solicitor and the Committee Services Officer; 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 the application be **granted** for a premises licence at 34 Regent Street for the sale of alcohol for consumption on the premises during the hours as set out below

Supply of Alcohol for Consumption On the Premises:

- Sunday to Thursday from 12:00 to 19:00
- Friday and Saturday from 12:00 to 20:00

In addition, the Panel determined that the following conditions should be applied to the premises licence in order to prevent public nuisance, ensure public safety and protect children from harm in addition to the conditions in accordance with the operating schedule at Appendix 1 of the Report, the conditions as set out at Appendix 4 of the Report:

1. the supply of alcohol at the premises shall only be to a person who has pre-booked a beauty service and the supply shall be ancillary to the beauty services provided. Records shall be made of all bookings and shall be kept on the premises and made available for inspection by a responsible authority on reasonable request;
2. no external seating shall be provided at the premises;
3. no open vessels to leave the premises at any time; and
4. a written record will be kept of all staff training carried out. This record shall be kept on the premises and made available for inspection by a responsible authority on reasonable request.

At a public hearing on 22 March 2022 Warwick District Council's Licensing Panel considered an application made under the Licensing Act 2003 by Polished Nail Bar Limited ("the Applicant") in respect of premises at 34 Regent Street, Leamington Spa. The application was for the use of the premises for the licensable activities as set out in paragraph 3.4, 3.5 and Appendix 1 of the Licensing Officer's report ("the Report").

Representations from Warwickshire County Council Trading Standards were withdrawn following the Applicant's agreement to conditions as detailed at Appendix 4 of the Report.

Two objections from local residents, Carolyn and Bill Gifford and Dr Andrew Cave ("the Objectors") were received. Ms Carolyn Gifford attend the hearing on behalf of all Objectors. Ms Julia Bajralija attended the hearing on behalf of the Applicant. Ms Bajralija would be the Designated Premises Supervisor.

Ms Bajralija explained that the premises was an established beauty salon and that the intention was that a bar area would be created that would allow the service of alcohol to take place along with other refreshments to pre-booked customers. There was no intention to serve alcohol to the general public who were not customers of the salon but the grant of a licence would allow the business to serve alcohol to customers whilst they were having treatments. Ms Bajralija explained that although she had applied for a terminal hour of 9pm Sunday to Thursday and 10pm Friday and Saturday she did not intend to open any later than her current trading hours which were currently a closing time of between 5pm-7pm. Ms Bajralija explained that when she made the application, she had included later hours to give some scope should treatments overrun. In response to further questions from the Panel Ms Bajralija confirmed that the flat roof on the first floor served as a fire escape and that it was securely fenced. Ms Bajralija also confirmed that the Fire Authority had visited the premises.

Ms Gifford explained that the Objectors concerns were that the grant of a further premises licence in an area where there was already a significant number of premises with licences to sell alcohol could cause public nuisance and an increase in crime and disorder. Leamington town centre also had a large residential population. The terminal hours applied for meant that it was possible that the premises could effectively become a bar in the evening. Ms Gifford advised that the Objectors were aware that the Cumulative Impact Policy was not currently in force although under review and that the Panel could still consider whether the grant of a new licence could have a negative cumulative impact on one or more of the licensing objectives. Ms Gifford said that an earlier terminal hour of 8pm would be acceptable to her and also made the point that many of the premises licences in the locality were subject to conditions that alcohol could only be served with food or by table service.

In making their decision the Panel considered all of the information provided in advance of, and at, the hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel considered that the potential impact on the licensing objectives and in particular public nuisance. The Panel noted that whilst the premises was clearly a successful business Ms Bajralija was not an experienced licensee. They also noted that Ms Bajralija accepted during the hearing that there was no intention to open the premises late into the evening and that an earlier terminal hour for licensing activities would be acceptable together with a condition restricting sales of alcohol to prebooked customers having treatments.

(The meeting ended at 11.22am)

CHAIRMAN
17 October 2022

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 23 June 2022, at 2.00pm.

Present: Councillors C Gifford, Illingworth and Syson.

Also, Present: Sophie Vale (Committee Services Officer), Sarah Sellers (Council's Solicitor), Emma Dudgeon (Licensing Enforcement Officer), Amanda Allinson (Licensing Enforcement Officer), Peter Lawson (Senior Environmental Health Officer) and Stacey Walsham (Environmental Protection Technical Officer).

1. Apologies and Substitutes

There were no apologies for absence made.

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 made.

4. Application for a variation of a Premises Licence under the Licensing Act 2003 for The Shire Grill, Chesterton Drive, Sydenham, Royal Leamington Spa, CV31 1YJ

The Panel considered a report from Health and Community Protection which sought a valid variation of a premises licence to extend the licensable area for The Shire Grill, Chesterton Drive, Sydenham, Royal Leamington Spa, CV31 1YJ. Representations were received in relation to this application for the consideration of the Panel in the determination of the application.

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

- Mr Sahota, attending the hearing as the applicant;
- Mr Semper from The Licensing Guys, acting as agent on behalf of the applicant;
- Mr Lawson, attending the hearing as Senior Environmental Health Officer;
- Ms Walsham, attending the hearing as Environmental Protection Technical Officer;
- Mr Woodcock, speaking as a member of the public; and
- Mrs Woodcock, speaking as a member of the public;

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

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

Mr Shamsheer Sahota submitted an application to vary the premises licence to extend the licensable area to cover the beer gardens and patios surrounding the premises, including the use of a marquee, on the 9 May 2022. This was attached as Appendix 1 to the report.

The Shire Grill currently held a premises licence issued under The Licensing Act 2003 which permitted live and recorded music (inside only) until 00:00 hours Sunday to Thursday and until 01:00 on Friday and Saturday. A copy of the current premises licence for The Shire Grill was attached as Appendix 2 to the report.

The Licensing Department received objections from local residents. These were attached as Appendices 3 and 4 to the report.

A further three objections were received from residents, however, following discussions between the residents and the applicant these were subsequently withdrawn.

The Licensing Department also received an objection from Environmental Health. This was attached as Appendix 5 to the report.

No representations had been received from:

- Fire Authority
- The Licensing Authority
- Authority Responsible for Planning
- National Health Service/Public Health
- Enforcement Agency for Health and Safety

Two photographs showing the location of the proposed extension (currently with a marquee) in relation to the existing building of The Shire Grill, the play area and the car park were attached as Appendix 6 to the report. An aerial view showing the location of the premises in relation to surrounding homes was attached as Appendix 7 to the report. A plan of the premises submitted by the applicant was attached as Appendix 8 to the report.

In response to Environmental Health, the agent acting on behalf of the applicant created a noise plan. This was attached as Appendix 10 to the report.

Environmental Health submitted further correspondence regarding the application, this was attached as Appendix 11 to the report.

Members were asked to consider the information contained in the report and decide whether the application for a variation for a premises licence at The Shire Grill should be granted and, if so, whether the licence should be subject to any additional conditions.

The Chairman invited the applicant to introduce the application. The agent, Mr Semper, stated that this was simply an application to extend the areas in which the regulated entertainment authorised on the existing premises licence could take place to include the marquee, patios, and garden area. It did not seek to

change any of the authorisation in regards to alcohol or to change, by the way of extension or otherwise, the hours of the existing premises licence. There were also no proposed alterations or extensions that affected the current interior of the premises. The Shire Grill was the trading name of a successful business operating under a premises licence under the name of Bass Partners Ltd since March 2019. The premises itself had been licensed for many years, having previously been part of the Marston's chain. The premises was set in substantial grounds that consisted of a car park, gardens, patios, and a play area. A marquee had been erected on one of the patios immediately adjacent to the building on its south aspect- between the pub and the play area. This marquee was the focus of the application. The marquee was completely enclosed, standing approximately 25m from the site boundary and any neighbouring residential gardens. It was directly accessible from the main part of The Shire Grill and did not contain a bar. It had a capacity of 80 people and there was no formal layout; tables and chairs could be added depending on the type of function. The intention was to use this area for "prestigious" organised events such as conferences, weddings, and birthdays. These events would be ticketed or by invitation only and would be managed proactively and responsibly.

To provide some background context, Mr Semper explained that Mr Sahota and his three business partners decided to become restaurateurs after successful careers in London. Their business strived to be an exemplary licensed premises and has since received multiple awards and over 100 positive reviews on TripAdvisor. In addition, they also regularly collaborated with local charities and homeless shelters.

Mr Semper noted that the consultation period for this application ended on 6 June 2022, and by that date there were no representations received from any responsible authorities apart from Environmental Health. This meant that all other responsible authorities were satisfied with what was proposed by the applicant. Representations were received from five other persons within the relevant period. Three of those had subsequently been withdrawn, leaving two to be considered at this hearing. Those representations raised issues with a previous event and were "more akin to a review" and did not make any criticism of the operating schedule in any way. On 1 June 2022, the Senior Environmental Health Officer submitted his representation, and the additional conditions that were proposed were readily agreed by the applicant. The email received on 7 June 2022 (the day after the consultation period ended) stated that Environmental Health would not withdraw their application. The email dated 15 June 2022 from the Senior Environmental Health Officer used the word "objecting" for the first time. In Mr Semper's view, this amounted to a grounds of objection, but could not be accepted as such as it was made after the close of the statutory period for representations. He quoted the Secretary of State Section 182 guidance: "representations received within the time limit may be expanded upon but not added to". In his opinion, it would be severely prejudicial to the applicant to allow the Panel to consider the email from the Senior Environmental Health Officer dated 15 June 2022.

The applicant Mr Sahota added that he and his business partners of Bass Partners Ltd all grew up in Sydenham, and after successful careers in London felt that they should come back to their roots and open a restaurant. They opened the Grill in early 2019 and went into lockdown around a year later. Due to this, they had lost "immense" amounts of money and were now losing more because of the cost-of-living crisis. He stated that the marquee was an attempt to ensure their survival as a business.

In response to questions from the Panel, Mr Sahota and Mr Semper advised that:

- The email sent by Mr Lawson on 15 June 2022 was contradictory to his original statement and was sent to the applicant after the consultation period had ended. As such, Mr Semper requested that it be excluded from consideration.
- The beer garden and benches had always been in use, with the beer garden having been used for the past 30 years. They were not seeking to expand the usable space, but instead were hoping to bring the pre-existing beer garden within the premises licence.
- There were two entrances into the marquee. The main entrance would be accessed through the pub itself, but there was another entrance on the patio side which could be unzipped and opened.
- The point of this application was to ensure that the marquee could be used for regulated entertainment (including music) up until 23:00. In the absence of a Temporary Events Notice (TEN), the marquee could be used as a seating area.

In response to a question from Councillor Illingworth, the Licensing Enforcement Officer noted that the marquee was technically outside, but if the licence were extended to include that area, under the Deregulation Act 2015 it would no longer be relevant whether the licence said indoors or outdoors. At the moment, under the current licence, the live and recorded music did not require a licence until after 11.00pm. So, if the marquee was to be included within the licensed area, then up until 11.00pm it could be used for live or recorded music. After 11.00pm, the marquee could no longer be used for this purpose and any music would have to be moved inside. Mr Semper then confirmed this.

In response to a question from Mrs Woodcock, Mr Sahota stated that Lambourne Crescent was across the main road but was around the same distance (approx. 150m) from the Grill as Mrs Woodcock's property. Ms Walsham interjected, stating that there was a considerable number of houses as well as the main road between Lambourne Crescent and the Grill, and that Cobden Avenue was the same. Mr Lawson added to this, noting that the houses between Lambourne Crescent or Cobden Avenue and the Grill could provide shielding of noise. Therefore, the residents on those streets who had not experienced any problems according to Mr Semper may be experiencing reduced noise levels due to this shielding. Bankcroft did not have the same number of houses in between so would experience increased levels of noise nuisance.

Before the representation from Environmental Health, Mr Lawson asked whether his email correspondence dated 15 June 2022 should be taken into consideration after Mr Semper's earlier comments. He stated that he could still make his representation without using the 15 June 2022 email.

Mr Semper clarified that his earlier submission was that the 15 June 2022 was highly prejudicial but suggested that the Panel adjourn to decide whether to include it in the representation or not. Mr Sahota agreed, stating that he was happy for all other evidence to be included, just not this particular email.

At 3.12pm, 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 receive legal advice in respect of the communication from Environmental Health dated 15 June 2022 and reach a decision in private as to whether it should be given weight. The meeting then went into confidential session.

At 3.52pm, public session was resumed, and all parties re-joined the meeting. The Council's Legal Advisor announced that Members accepted that there was a technical issue with the late submission of the document dated 15 June 2022, and for the purposes of the hearing the Members would disregard the document, but they would still take into account the document submitted on 1 June 2022.

When given the opportunity by the Chairman to make a representation, Mr Lawson first acknowledged that he was only speaking to what was submitted by him on 1 June 2022, and that the 15 June 2022 email was to be disregarded.

In his statement, the Senior Environmental Health Officer noted that the marquee initially came to the attention of Environmental Health because of complaints received in April 2022 regarding noise from music and entertainment disturbing local residents. In May 2022, Environmental Health was consulted by the Licensing Department about a TEN that had been received regarding an intended event in the marquee on 30 May 2022. Environmental Health was concerned about the potential for noise escaping from the marquee and causing nuisance to local residents. Subsequently, on 9 May 2022, there was a meeting with the Licensing Guys and the applicants in the marquee to discuss the prevention of noise nuisance. For the purposes of the TEN, similar conditions to those listed in the representation from Environmental Health were agreed.

On 30 May, when this event was taking place, the Senior Environmental Health Officer and the Environmental Protection Technical Officer visited houses in Mathercroft and Bankcroft. He noted that the proprietors of The Shire Grill were aware that they were visiting nearby houses on that night as he had had discussions with Mr Semper about it beforehand. At 9.20pm, the Senior Environmental Health Officer and the Environmental Protection Technical Officer were in the street at the façade of the house around the junction of Mathercroft, Moncrieff and Bankcroft and could hear the noise of bass, drums, and amplified announcements. The noise was "quite apparent" in Mathercroft, which ran along the southern boundary of the premises.

Upon entering a house in Mathercroft, they found that the sound emanating from the marquee could be heard in the garden and that the noise (drumming, raised voices and cheering) was intruding into the first-floor rear bedroom. At around 10.00pm, the sound of amplified announcements could also be heard from inside the house with the window open and closed. After this, the Senior Environmental Health Officer formed the opinion that the noise would interfere with sleeping in that bedroom. Both Mr Lawson and Ms Walsham then went to meet with the proprietor at The Shire Grill car park gate and advised him of their observations.

Regarding the video of the sound meter reading, the Senior Environmental Health Officer stated that the applicant had not presented any evidence of the calibration of the noise meter, nor the competency of the operator. He explained that relying on noise meter readings as evidence of compliance with conditions was "fraught with difficulty" due to the technicalities of measuring noise, particularly music. In his view, this was why the advice given for the TEN and in

the terms of the variation of the licence looked at the practical issue of whether the noise was intrusive rather than looking at specific decibel limits. The noise comparison thermometer “missed the point” in terms of noise nuisance because what people perceived as intrusive was the difference in level or character of the noise and the normal background noise. So, as the Grill was situated in a relatively quiet area, the kind of noise from the marquee would stand out more.

In conclusion, the Senior Environmental Health Officer stressed that they wanted to make sure that if the licence were varied, a situation would not be inadvertently created where there could be uncontrolled entertainment going on in the marquee that would subsequently give rise to nuisance.

In response to questions from Members, the Senior Environmental Health Officer advised that:

- intrusive noise related to what the noise was like at the boundary of the premises. For example, if a conversation could be had between two people without them having to shout, then a noise was not intrusive; and
- the key to a successful noise mitigation plan was risk assessments. But first it had to be clear what events would happen in the marquee, for example no “rock concerts”.

Mr Sahota noted the Senior Environmental Health Officer’s definition of intrusive noise as people having to “shout” over the noise. Mr Sahota remarked that he accepted Mr Lawson’s professional opinion but wanted to make it clear that he did have conversations with previously objecting residents on Mathercroft and none of them raised issues about the event on 30 May 2022.

The Senior Environmental Health Officer clarified that ‘having to raise voices’ would be better than ‘having to shout’ in defining intrusive noise.

The Environmental Protection Technical Officer provided the legal definition of intrusive:

“To cause a disruption or annoyance through being unwelcome or uninvited.”

When given the opportunity by the Chairman to make a representation, Mr Woodcock stated that in all his time living near The Shire Grill, he had never had issue with noise. He admitted that he had in fact previously been a customer who had been to see bands at the location. However, on 13 April 2022- after the marquee was erected - an event took place which was so loud “the windows were shaking”. This prevented Mr Woodcock from sleeping properly, something which he needs for his job as a HGV driver. He stated that this “intrusion” was the reason behind his objection to this application. He acknowledged that this event ended at 23:00, but that when he went to the Grill to notify Mr Sahota of the noise nuisance caused, Mr Sahota told him to leave as “you lot complain about everything”. However, Mr Woodcock accepted that Mr Sahota had apologised, and no noise nuisance had happened since.

When making her representation, Mrs Woodcock stated that she stood by her husband’s submission.

The Council’s Solicitor asked if Mr Sahota was in agreement with the conditions set out by Environmental Health on 1 June 2022 (Appendix 5 to the report). Mr Semper confirmed that Mr Sahota was indeed willing to accept these conditions.

In his final summary, Mr Semper explained that the applicant's intention was the same as Mr Lawson's – to avoid inadvertently creating nuisance to neighbours. They had accepted all conditions put forward by the Senior Environmental Health Officer and were keen to revisit the noise risk assessment regularly in order to prevent nuisance. He also clarified that the applicant had no intention of hosting "rock concerts or discos", it would be pre-booked events and that any entertainment would be ended at 11.00pm.

At 4.39pm, 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 the application be **granted** for a variation of a premises licence under the Licensing Act 2003 at The Shire Grill, Chesterton Drive, Sydenham, Royal Leamington Spa to extend the licensable area to include the areas marked on the plan at Appendix 8 of the officers' report (consisting of patios, beer garden area and a marquee adjacent to the main pub building).

In addition, the Panel determined that the following conditions should be applied to the premises licence in order to prevent public nuisance as set out in the Environmental Health comments at Appendix 5 of the Report:

1. the sound of music and amplified voices shall not be intrusive at the boundary of the premises;
2. the Premises Licence Holder or DPS must immediately comply with any request to adjust sound levels made by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police;
3. there shall be a Noise Management Plan in place, which must include:
 - A noise risk assessment
 - Procedures and control measures for noise
 - Bookings policy
 - Briefings of users/entertainers on noise precautions
 - Monitoring of noise during events
 - Noise complaints procedures; and
4. no regulated entertainment shall take place in the Marquee, patios or beer garden after 11pm.

At a public hearing on 23 June 2022 Warwick District Council's Licensing Panel considered an application made under the Licensing Act 2003 by Mr Shamsheer Sahota ("the Applicant") in respect of premises at The Shire Grill,

Chesterton Drive, Leamington Spa. The application was for a variation of the licensable area of the premises to extend it to cover outdoor areas consisting of patios, beer garden area and a marquee adjacent to the main pub building as per the red line shown on the plan at Appendix 8 of the Licensing Officer's Report ("the Report"). No change was sought to the existing hours of operation or licensable activities.

An objection was received from Warwick District Council Environmental Health Team in their capacity as a Responsible Authority.

Two objections were received from local residents Mr Paul Woodcock and Mrs Victoria Woodcock. A further three objections received from local residents were withdrawn following discussion between the objectors and the applicant.

Mr Nick Semper attended the hearing as the representative for the Applicant.

At the hearing verbal representations were also made by the following persons:-

- Mr Shamsheer Sahota - the Applicant
- Mr Peter Lawson - Senior Environmental Health Officer for Warwick District Council
- Mr Paul Woodcock – local resident
- Mrs Victoria Woodcock – local resident

Mr Semper explained that the premises was a well-established restaurant business which had been under the current management since March 2019. The effect of the application would extend the area for regulated entertainment. The Applicant intended to use the marquee to host organised events. The marquee was located adjacent to the pub which had generous grounds. No change was sought to the hours of operation or interior.

The Applicant was willing to agree to conditions in the terms suggested by environmental health were the application to be granted. The proposed conditions included having a noise management plan in place and that no regulated entertainment take place in the marquee or beer garden after 11.00 pm.

Mr Sahota also addressed the Panel in support of the application and outlined his intended approach to using the marquee for events and his intention to operate within the confines of the noise management plan. Mr Sahota responded to questions from Members regarding use of the marquee and the beer garden.

The Panel adjourned briefly to consider some points put on behalf of the Applicant regarding whether the

environmental health email of 15 June presented new material that should not have been put before the committee given the wording of the representation of 1 June. For the purposes of the hearing the Panel decided to disregard the email of 15 June but found that the representation of 1 June did set out an objection to the application by environmental health.

Mr Lawson addressed the committee on the reasons why environmental health were objecting and outlined some of the observations that had been made whilst an event was taking place under a TEN on 30 May. Concerns included disturbance to nearby residents as observed at nearby locations and the potential difficulties with controlling the sound levels in the marquee. It was felt that controls were needed for music before 11 pm. Mr Lawson addressed the Panel regarding the proposed conditions if the application was granted and the importance of noise risk assessment by the Applicant in terms of use of the marquee. The issue of whether noise was intrusive would be a practical one and Mr Lawson cautioned against relying on noise meter readings alone.

Mr Paul Woodcock and Mrs Victoria Woodcock, local residents, addressed the Panel regarding an incident on 13 April when they had experienced unacceptable levels of noise at their property from the Premises. Whilst this had never happened previously, on the night in question the noise had been very loud and this was the reason they had objected.

Mr Semper re-stated the Applicant's intention not to hold events that would cause noise issues and his willingness to address noise risk assessments and re-visit the noise management plan.

In making their decision the Panel considered all of the information provided in advance of, and at, the hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel considered the potential impact on the licensing objectives and in particular public nuisance. The Panel noted the Applicant's assurances given as to how events would be operated and his commitment that the location would not be used for loud events that would be unsuitable for the marquee. The Panel regarded this as an important measure and noted that it would be publicised to hirers and referenced on booking material. On balance the Panel reached the view that it would be acceptable for the variation application to proceed subject to the conditions which had been proposed by Environmental Health and which the Applicant had agreed to comply with. The Panel expected the Applicant to actively manage the Noise Management Plan and to be proactive in responding to any

neighbour concerns or issues around activities at the Premises.

The Applicant or any person who has made representations may appeal against the decision of the Panel to the Magistrate's Court within 21 days of issue of formal notification of the decision.

Cllr Illingworth (Chair)
Cllr Gifford
Cllr Syson

(The meeting ended at 5.10pm)

CHAIRMAN
17 October 2022

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 12 July 2022, at 10am.

Present: Councillors Illingworth, Syson and Wright

Also Present: Emma Dudgeon (Licensing Enforcement Officer), Lesley Dury (Principal Committee Services Officer), Sue Mullins (Council's Legal Advisor), Paulette Samuels (Environmental Protection Team Leader), Stacey Walsham (Legal Advisor, observing only)

1. **Apologies and Substitutes**

Councillor Illingworth substituted for Councillor Mangat, Councillor Syson substituted for Councillor Luckhurst and Councillor Wright substituted for Councillor Jacques.

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.

4. **Application for a premises licence under the Licensing Act 2003 for Atic, Unit 1, Moss Street, Royal Leamington Spa**

The Panel considered a report from Health & Community Protection which sought a decision on an application for a premises licence for Atic, Unit 1, Moss Street, Royal Leamington Spa, CV31 2DA.

The Chairman asked the Members of the Panel and the officers present to introduce themselves. The Environmental Protection Team Leader informed everyone that she was attending in place of her colleague, Peter Lawson, who was unable to attend but had been the case officer for these premises. The other parties then introduced themselves as:

- Mr Ryan Mold, the applicant; and
- Mr Frank Fender, a licensing consultant representing ROCKTHEATIC Limited.

The Legal Advisor explained the procedure for the hearing.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the application for Atic, Royal Leamington Spa, should be granted and, if so, whether the licence should be subject to any additional conditions.

Warwick District Council Licensing Authority had received a valid application for a premises licence for Atic, Unit 1, Moss Street, Royal Leamington Spa, CV31 2DA

from ROCKTHEATIC Limited on 1 June 2022. The application was for a comedy club.

The licensable hours and activity applied for by the ROCKTHEATIC Limited and an operating schedule, which had been submitted by the applicant were shown below (and set out in Appendix 1 to the report) and these would form part of any licence issued.

“Operating schedule:

Sale of Alcohol for Consumption On and Off the Premises

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Plays (Indoors only)

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Between the hours of 08:00 and 23:00, when plays are taking place to an audience of less than 500 people all licensing conditions applicable to the control of plays on this licence are deemed not to be in operation.

Films (Indoors only)

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Performance of dance (Indoors only)

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Between the hours of 08:00 and 23:00, when performance of dance is taking place to an audience of less than 500 people all licensing conditions applicable to the performance of dance on this licence are deemed not to be in operation.

Late night refreshment (Indoors only)

Sunday to Wednesday from 23:00 to 23:30

Thursday to Saturday from 23:00 to 01:00

The applicant has also requested the following for all licensable activities:

From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day. An additional hour on Bank Holiday Friday, Saturday and Sundays, Christmas Eve and Boxing Day.

On the morning on which British Summertime begins, where the terminal hour is later than 01:00hrs, the terminal hour shall be extended by an hour.

Normal Opening Hours

Sunday to Wednesday from 17:00 to 24:00

Thursday to Saturday from 17:00 to 01:30

Prevention of Crime & Disorder

1. A CCTV system with recording equipment shall be maintained at the premises and operated with cameras. All recordings used in conjunction with CCTV shall:

- Be of evidential quality in all lighting conditions
- Indicate the correct time and date

- Be retained for a period of 31 consecutive days
- 2. A member of staff trained to use the system shall be on duty at all times, as the recorded images must be made available for inspection and downloading within 24 hours following a request by the police and officers of Responsible Authorities.
- 3. All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.
- 4. Door Supervisors shall be employed at the premises on occasions as deemed necessary by the Designated Premises Supervisor and/or Premises Management following a risk assessment.

Public Safety

An incident/refusals book shall be kept at the premises, in which details of crime and/or disorder relating to the premises shall be recorded. The Incident book shall contain the following details;

- Time, date and location of incident/refusals.
- Nature of the Incident/refusal.
- Names, addresses and contact details of persons involved.
- Result of the incident/refusals.
- Action taken to prevent further such incidents.
- Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS; and
- Retained for a period of no less than 12 months and made available to the Police for inspection upon request.

Prevention of Public Nuisance

1. Customer notices to be displayed at all exits asking patrons to please leave the premises quietly and to respect the needs of the local residents.
2. Patrons shall not be allowed to enter or leave the premises whilst in the possession of any alcoholic drink in unsealed containers.
3. On Friday and Saturdays last entry will be 1 hour before the end of Licensable activities.

Protection of Children

1. A Challenge 25 scheme shall operate at the premises. Any person who appears to be under 25 years of age shall not be served alcohol unless they produce an acceptable form of identification (passport, photo driving licence, PASS accredited card or HM Forces identity card.)
2. Challenge 25 notices will be displayed in positions within the premises.
3. Training records for each member of staff shall be kept and these records to include the following areas:
 - Preventing underage sales of alcohol
 - Preventing proxy sales of alcohol to underage persons
 - Preventing sale of alcohol to a person who is drunk
4. These records to be made available for inspection and copying by the police and other officers of responsible authorities immediately on request and all such records to be retained at the premises for at least 12 months."

The Licensing Department had received an objection from Environmental Health, and this was attached as Appendix 2 to the report. The applicant amended their application to remove live and recorded music and amend their operating hours following the objection from 10:00 hours to 17:00 hours.

The Licensing Department also received a representation from Warwickshire County Council Trading Standards and Warwickshire Police, however, following agreement of conditions, they subsequently withdrew their representations. A copy of all conditions agreed were attached as Appendix 3 to the report.

No representations had been received from:

- Fire Authority
- Enforcement Agency for Health and Safety
- The Licensing Authority
- Authority responsible for Planning
- National Health Service/Public Health

A plan showing the location of the premises was attached as Appendix 4 to the report along with the plan submitted by the applicant showing the internal layout. Photographs of the premises were attached as Appendix 5.

The Chairman invited the applicant to introduce the application. Mr Fender explained that the application was for a new premises licence. Mr Mold was the director of ROCKTHEATIC Limited, and he was also the proposed designated premises supervisor.

Mr Mold explained his background; he was a very experienced licensee, having run licensed premises since 2008. He had run four such premises, one of which was a nightclub which stayed open until 4am. He was currently the owner of a bar called Atic in Banbury which opened until 3am in the morning. The current application was for a comedy club, and the opening hours were less than premises he had previously managed. He believed he had spotted a gap in entertainment venues in Leamington Spa for this sort of comedy club entertainment. Whilst there were clubs that did have comedians occasionally, there were no pure comedy clubs open three or four times a week in Leamington. Weekends would be a combination of touring shows from comedians around the UK to mixed bills like a normal comedy club. During the week, local comedians and newer comedians would feature.

Mr Mold did not wish to annoy local people and wished to work with people as he had done in the past. He had never had any issues of note in the past.

Mr Fender explained that 1 Moss Street was actually the address for a railway arch which was situated between two railway lines. He referred the Panel to page 13 of the report which showed two photographs. The planned entrance to the comedy club would be situated where Bobbins Embroidery was currently sited. He then explained the layout, shown on page 12 of the report. Customers would enter and exit from the club via the main doorway marked 'main entrance' which was leading off Moss Street. Main entertainment in the club would be in the main room, with the stage for performers located at one end and the bar serving area at the other end. The stage was facing away from the Moss Street side of the premises meaning that any audio speakers would be aimed towards the bar serving area. The door leading from the main room, led into Neilston Street, and would not be used as an entrance for the club; it would serve predominantly as a fire exit and would also be used to access the outside proposed smoking area.

At pre-application stage, advice had been sought from the Police and from Environmental Health. Whilst the Police had responded, no advice had been

forthcoming from Environmental Health which meant the application was submitted without this.

Originally, longer opening hours were the intention but were reduced subsequent to receiving a representation from Environmental Health in the belief that the amended times would make the application acceptable. Mr Fender stressed that no other authority or person had made representation in respect of the application. During the consultation period, discussions had taken place with the Police and Trading Standards and further conditions had been agreed as a result. These conditions were set out on page 9, Appendix 3 to the report.

When the applicant received the representation from Environmental Health, the applicant felt that the concerns could be addressed and reduced the hours applied for as a direct result. A meeting arranged with Environmental Health did not take place because of illness and other reasons. The Panel Hearing was the first opportunity to address other concerns from Environmental Health.

Mr Fender noted that the representation from Environmental Health made it clear that the officer had visited the premises without notifying the applicant.

The representation from Environmental Health stated that the front door to the premises was close to the windows of the student accommodation at Moss House and therefore would cause disturbance to the Moss House residents from noise of the people smoking outside and from people entering and exiting the club late at night. Mr Fender informed the Panel that the application had been properly publicised and there had been no representations from any residents at Moss House.

Mr Fender then described how any disturbance would be mitigated:

- Licensable activity would only take place in the main room.
- The main room could only be accessed by going through three sets of doors, meaning that the potential for noise breakout was considerably reduced.
- Using internal lobby doors was a proven method of containing noise.
- The only entertainment that would take place was performers talking; comedy acts.
- There would be no music entertainment.
- The applicant was prepared to propose the additional measure of keeping doors closed whenever regulated entertainment was in progress, with the exception of allowing people to enter and exit the premises.
- The structure of the premises would help noise dampening because they were in a railway arch which necessitated a thick brick structure to support trains.
- Atic was not unique in people coming and going close to residential properties and the noise tended to be more of an issue when people left premises.
- Staff would reinforce the need to be quiet and notices would ask people to leave quietly.
- Tickets to enter the premises would also reinforce the message for respecting local residents.

Mr Fender referred to the representation made by Environmental Health and the statement about the access to the rear of the premises approached via an industrial estate along Neilston Street and up a narrow canyon between two elevated railway lines. The concern was the problem this would be to businesses

operating in the canyon. Mr Fender reiterated that, in fact, the entrance to the club would be through the entrance in Moss Street. Environmental Health had claimed that the rear of the premises was unsuitable as a smoking area, but the applicant refuted this and maintained that it was suitable because clientele would not be walking around whilst smoking; they would smoke a cigarette and then re-enter the club. The time applied for to start licensable activity had been moved to 5pm which meant that people smoking would not impact the businesses which probably would not be trading by this time. The applicant would also agree to keep the area clean and tidy at all times during licensable activity hours and to clean any litter at closure.

Environmental Health had also stated that the location of the premises was unsuitable; the applicant disagreed, and this was not a valid reason to refuse the licence because suitability of location was not relevant to the licensing objectives.

The applicant had addressed all the licensing objectives in his application including the representations from Environmental Health.

The Chairman invited the Panel to ask questions and in response the applicant and his representative explained that:

- They were not sure of the thickness of the brick in the archway. This area would lead into the lobby area of the club.
- It was only intended for licensable activities to take place in the main room where the stage and bar were located. They were happy for the lobby area to be removed from the licensed area applied for so that no alcohol sales could take place in the lobby.
- Alcohol would be stored in the bar area behind the bar, kept under lock and key.
- The door behind the bar was where the meter cupboard was located and there was no storage space there.
- Industrial units were at the back of the building where the bar was located.
- The inclusion of Performance of Dance on the Operating Schedule was an error, and this could be removed. There would be no live music or performance of dance.
- Security at the premises would include SIA trained staff, CCTV, and locks.
- Door supervisors would be employed on occasions that the DPS or management deemed necessary following a risk assessment. These door staff would be SIA registered. Incident logs would be maintained, and copies of the risk assessments would be kept on file with the licensing documents.

The Chairman invited the Environmental Health Team Leader to make the Department's representation, but she was only able to reference the report that her colleague had submitted (Appendix 2 to the report) and she read it out.

In response to questions from the Panel, the Environmental Health Team Leader explained that:

- The noise nuisance to businesses located in the "canyon" referred to in Appendix 2 may well have been addressed by the subsequent reduction in hours but the main concern was the congregation of smokers outside the club because they would not be silent, they would be drinking, and the "canyon" effect would cause a noise nuisance. The reduction in the times

- were at most a side issue, the noise would still be an issue by virtue of the location and the proximity to residential accommodation.
- She could not answer on the timeline in respect of the representation made by Environmental Health and if the reduction of hours had been accounted for. She suggested that the applicant would be in a better position to comment.
 - Her colleague was unable to examine the structure when he made his site visit. The applicant had to be sure of the sound insulation provided in the archway.
 - She did not conduct a site visit so could not answer the question about lighting in the area designated for smoking. (The applicant confirmed that there was lighting because the area was covered by CCTV which required lighting.)

The Licensing Enforcement Officer explained what the Fire Service did to check safety and confirmed that as part of their assessment, they might stipulate maximum occupancy. If the Fire Service felt the premises did not meet standards, they had powers to halt operation until these issues were addressed. The Fire Service had not made representation expressing any concerns in relation to Atic. If the Council received any notification from the Fire Service, the applicant would also receive a copy.

The Chairman asked if anyone wished to say anything further and then asked the applicant to give a short closing speech.

Mr Fender reiterated that there had not been any representation from the residents in Moss Street. Whilst there might be concerns about noise from the smoking area, the area was below a railway line where trains ran several times a day; the noise from these would outweigh any noise from two or three people smoking. Mr Mold had vast experience in operating premises with entertainment until the early hours of the morning and there had been no issues with these. The entertainment proposed at Atic was a lighter type of entertainment, where there would be comedy acts and therefore would attract a different clientele. The risk of contravening the licensing objectives was minimal, especially in light of conditions and the times agreed.

At 10.53am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Principal Committee Services Officer to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the premises licence be **granted** subject to the conditions set out in Appendix 3 to the report and some additional conditions. Performance of dance (Indoors only) was removed from the Operating Schedule detailed in Appendix 1 to the report.

At a public hearing on 12th July 2022 Warwick District Council's Licensing Panel considered an application made under the Licensing Act 2003 by ROCKTHEATIC Limited ("the Applicant") in respect of premises at Unit 1, Moss Street, Royal Leamington Spa, CV31 2DA. The application was for the use of the premises for the licensable activities as set out in paragraphs 3.4, 3.5 and Appendix 1 of the Licensing Officer's report ("the Report").

Objection was received from Warwick District Council Environmental Health, attached as Appendix 2 of the Report. Following the objection, the Applicant amended their application to remove live and recorded music and amend their operating hours following the objection from 10:00hours to 17:00hours.

Representations from Warwickshire County Council Trading Standards and Warwickshire Police were withdrawn following the Applicant's agreement to conditions as detailed at Appendix 4 of the Report.

No representations were received from the Fire Authority, The Licensing Authority, the Enforcement Agency for Health and Safety, the Authority Responsible for Planning, the National Health Service/Public Health or local residents.

The Applicant, Mr Mold, attended the hearing together with his representative, Mr Fender. Mr Mold would be the Designated Premises Supervisor.

Mr Fender explained that customers would enter and exit the premises via the doorway marked 'main entrance' on the plan at Appendix 4 of the Report and would have to go through two further doors to reach the main room. He also explained that the stage in the main room is facing away from the Moss Street side of the premises and that any speakers will be aimed towards the back of the room, in the direction of the bar. Mr Fender explained that there is another doorway in the premises that leads onto Nielston St, which was predominantly a fire exit, and would lead to the proposed smoking area.

Mr Fender drew the Panel's attention to Appendix 1 of the Report, which provided full details of the licensing activities requested. Mr Fender pointed out that longer times had initially been applied for, but that these had been amended following the objections from Environmental Health in the belief that amended times would be more acceptable. The measures proposed as part of the application were set out on pages 5 and 6 of the Report and Mr Fender suggested that these could be conditions attached to the licence. Mr Fender pointed out that, during the consultation period, Warwickshire Police and Warwickshire County Council Trading Standards agreed further conditions with the Applicant, some of which reflected the conditions proposed as part of original application. As regards the Environmental Health objection, the Applicant believed measures could be put in place to address the concerns raised and had reduced the hours requested to address those concerns. Further discussions with Environmental Health had not been possible due to sickness and absence.

In response to the concerns of Environmental Health, Mr Fender clarified that the licensable activities will only be

carried out in the main room, which is accessed via three doors, thus reducing the potential for noise breakout. Mr Fender added that, as the music entertainment element has also been removed from the application, the only entertainment will be from performers who are talking, further reducing the risk of nuisance from noise breakout. To further assist, the Applicant was prepared to keep the doors closed whilst entertainment was in progress.

Mr Fender also referred to the structure of the building in containing noise breakout. As the premises is located in a brick-built rail arch, Mr Fender suggested that this would provide excellent sound insulation. In respect of the acknowledged issue of noise when customers are leaving premises, Mr Fender said that the Applicant would make sure that staff enforce the request to leave the premises without causing a nuisance to local residents. This message would also be included on customer tickets.

In respect of the proposed smoking area, Mr Fender refuted the Environmental Health objection that the area outside the rear exit of the premises is not suitable to be used as smoking area. Mr Fender said that customers will not be walking along the road but will be stood in area to smoke and will then return inside premises. By adjusting times requested in the licence, the expectation was also that the businesses adjacent to the proposed smoking area would not be trading at the time customers wanted to smoke there. Mr Fender also said that the smoking area would be cleaned of litter at the end of trading.

In response to questions from the Panel about the sale of alcohol in the lobby area and the licensable activities taking place in the premises, the Applicant offered to remove the lobby area from the area covered by the licensable activities and confirmed that dance could be removed as a licensable activity, as the premises would be operating purely as a comedy club. The Panel also had questions about security of the bar area and the use of door staff. The Applicant confirmed that alcohol would be kept under lock and key behind the bar area and Mr Fender said that door supervisors would be employed on occasions when they were deemed necessary, based on individual risk assessments for each event, taking into account the type of event and anticipated numbers of people attending. Any such door supervisors would be SIA registered. As regards lighting to the rear of the premises, Mr Fender pointed out that this would be necessary to ensure that the CCTV met the required standard and would be provided.

Paulette Samuels, representing Environmental Health, explained that there were several potential sources of nuisance, due to the proximity of the front door of the premises to the Moss House student accommodation and the 'canyon' effect in Moss Street. There was concern that

residents were likely to be affected by noise from smokers around the front door (as the premises has no outside area of its own), noise from opening of the door, noise of persons going to and from the premises at night and the noise of people walking to and from the premises at the back. To the rear of the premises, there is no pavement, and the area is used as a workspace by the occupiers of other units. Environmental Health therefore considered that there was likely to be conflict between adjacent businesses and customer access through the rear door of the premises. Environmental Health also had concerns about sound insulation within the premises themselves, and the potential for noise transmission if this were inadequate. Environmental Health were of the view that there were no conditions that could address these issues.

In making their decision the Panel considered all of the information provided in advance of, and at, the hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel considered the potential impact on the licensing objectives and in particular public nuisance. The Panel noted that the Applicant had reduced the requested hours, removed the performance of dance from the licensable activities, would be ensuring that the smoking area was lit for the purposes of CCTV and was willing to enforce the request to customers to leave the premises in such a way as not to cause a nuisance to local residents. The Panel also noted that there was no response from Environmental Health on these points, either before or during the hearing.

The Panel therefore determined to grant the application for a premises licence at Atic, Unit 1, Moss Street, Royal Leamington Spa, CV31 2DA as set out below:

Sale of Alcohol for Consumption On and Off the Premises

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Plays (Indoors only)

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Between the hours of 08:00 and 23:00, when plays are taking place to an audience of less than 500 people all licensing conditions applicable to the control of plays on this licence are deemed not to be in operation.

Films (Indoors only)

Sunday to Wednesday from 17:00 to 23:30

Thursday to Saturday from 17:00 to 01:00

Late night refreshment (Indoors only)
Sunday to Wednesday from 23:00 to 23:30
Thursday to Saturday from 23:00 to 01:00

As part of the decision to grant the application, the Panel determined that the following conditions should be applied to the premises licence to prevent public nuisance, ensure public safety and protect children from harm:

- 1. The conditions set out in the operating schedule at Appendix 1 of the Report, amended as indicated.**
- 2. The conditions set out at Appendix 3 of the Report.**
- 3. Notices shall be erected at each entrance/exit requesting customers to leave the premises quietly and to respect the needs of the local residents and action will be taken by staff to enforce this request, where necessary.**
- 4. Any litter arising from the use of the outside of the premises for smoking by customers of the premises shall be removed and safely disposed of at the end of each day.**

(The meeting ended at 11.43am)

CHAIRMAN
17 October 2022

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Wednesday 10 August 2022, at 10.10am.

Present: Councillors Barton, C Gifford and Wright.

Also Present: Patricia Tuckwell (Civic & Committee Services Manager), Ross Chambers (Council's Solicitor), Amanda Allinson (Licensing Enforcement Officer), Peter Lawson (Senior Environmental Health Officer), Rachael Russell (Licensing Team Leader, observing only) and Stacey Walsham (Environmental Protection Technical Officer, observing only).

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. Application for a Premises Licence under the Licensing Act 2003 for That Gin and Cocktail Place, 40 Clarendon Street, Royal Leamington Spa, CV32 4PG

The Panel considered a report from Health and Community Protection which sought a decision on whether the application for a premises licence at That Gin and Cocktail Place, 40 Clarendon Street, Leamington Spa, CV32 4PG should be granted and, if so, whether the licence should be subject to any additional conditions.

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

- Mr Duncan Craig, representing the applicant;
- Mr Steve Brazel, the applicant's business associate;
- Ms Kerry Cox, the barrister's associate, observing only;
- Mr Peter Lawson, attending the hearing as Senior Environmental Health Officer; and
- Mrs Doreen Ward, who lived next door to the property.

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

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it. When you Know You Know Limited applied for a premises licence at 40 Clarendon Street, Leamington Spa on 6 July 2022. The application was for a gin and cocktail bar.

The licensable hours applied for by When you Know You Know Limited and an operating schedule, which had been submitted by the applicant and would form part of any licence issued, was attached as Appendix 1 to the report.

The Licensing Department received three objections from local residents, attached as Appendices 2, 3 and 9 to the report. The Licensing Department also received a representation from Environmental Health attached as Appendix 4 to the report.

Representations were received from Trading Standards and Warwickshire Police. The applicant had agreed to the conditions suggested and the objections were subsequently withdrawn, as detailed in Appendices 5 and 6 to the report.

No representations had been received from the Fire Authority; The Licensing Authority; the Enforcement Agency for Health and Safety; the Authority Responsible for Planning; or the National Health Service/Public Health.

A plan showing the location of the premises was attached as Appendix 7, along with the plan submitted by the applicant showing the internal layout.

Before the meeting started, the applicant's representative circulated a list of opening hours for other licensed premises in Leamington Spa town centre and a proposed Dispersals Policy and Noise Management Plan.

The Chairman invited the applicant to introduce the application.

Mr Craig reminded Members that the Panel hearing was initially scheduled for 26 July 2022, but that meeting was adjourned at the request of Environmental Health. Unfortunately, the applicant, Mr Withers, was not able to attend the rescheduled meeting due to him being on holiday abroad.

Having been operating in the area for over ten years, this was the applicant's first appearance to a Licensing hearing. Being a close friend of Mr Withers, Mr Craig had visited the application site himself several times, and therefore was able to speak with confidence and knowledge of the site.

Mr Craig emphasised that the applicant was aware of Mrs Ward living next door, and he agreed to several conditions aimed to minimise impact on residents. However, whilst the premises were in a residential area, this was located in the town centre, which did mean having more facilities on one's doorstep.

Mr Craig described the premises as a gin and cocktail bar, with no live music or entertainment. The intention was to provide some platters of cold foods, late night refreshments and tea and coffee after 11pm. There was not going to be any extraction to the premises and in essence, the application was for selling of alcohol from midday to midnight, seven days a week. The applicant also managed similar premises in Warwick, licenced until midnight, and Stratford-on-Avon, licenced until 1am. Based on the experience of the other two premises, in terms of nuisance, this was not a high impact premises. The idea was to offer a very relaxed and friendly environment, for an older, more affluent client base, hence the higher price point.

Mr Craig confirmed the CCTV and training conditions recommended by Warwickshire Police would replace the equivalent conditions in the operating schedule.

Mr Craig explained to Members that due to the Senior Environmental Health Officer having been on annual leave, there was a lot of communication at the last minute. He thought the officer's concerns were reasonable and it was a balancing act for Members. The applicant had spoken to the next-door neighbours, had no intention to disturb them and wanted to work with the residents to minimise any potential impact on them. At the same time, those who lived in a city centre location had the benefit of amenities on their doorstep, which on occasion might mean a small level of disturbance, but did not intend to suggest that they should be unreasonably disturbed.

Mr Craig advised Members that additional conditions were agreed the day before the meeting with Environmental Health, as below:

- *No noise emanating from within the premises will be audible in any noise sensitive premises in the vicinity.*
- *There will be no smokers outside the front of the premises after 23:00.*
- *There will be an internal lobby at the front entrance to prevent noise escaping from the premises.*
- *The frontage to the premises will be constructed to prevent any noise escaping from the premises.*
- *No refuse will be collected from the premises between 22:00 and 08:00.*
- *There will be no admission or readmission to the premises after 23.00.*
- *No open vessels to be taken from inside the premises to the external area to the front of the building any time.*

With regards to the first bullet point above, Mr Craig felt that in this instance, it was a very achievable condition. In relation to the second bullet point, conversations with Environmental Health had gone even further just before the meeting, and it was agreed between the applicant and Environmental Health that all external areas would be cleared by 23:00. This was in appreciation that after 23:00, people's lives were more susceptible to noise intrusion.

In relation to the third bullet point, the applicant had agreed to introduce a lobby as an additional layer of protection from any noise breaking out, and indeed the frontage as a whole was constructed to prevent noise from escaping.

The condition about refuse collection had been omitted from the initial list in error. Mr Craig clarified that the external area at the rear was part of the premises, so that people could go outside at the back with a drink, but not at the front, in line with the last condition above.

Mr Craig emphasised to Members that the applicant had agreed far-reaching conditions because it did really need a midnight licence, and 23:00 would not be sufficient. Clients would start leaving around 22:00 and go elsewhere, and Mr Craig felt the business might not be viable in that instance.

With regards to Miss Hayton's objection, Mr Craig had distributed a list with other local venues and their closing times in advance of the meeting. He felt that the application was consistent with those hours and, in some instances, were significantly less. He then proceeded to address some of the specific issues raised in the other objections: the application site was not in the cumulative impact area; no open vessels would be taken outside of the premises at the front, therefore there should not be the issue of broken glass and litter. He felt that the concerns about disorderly behaviour and noise were resolved by the far-reaching conditions agreed by the applicant, as well as by the nature of the business model itself.

Mr Craig felt that the applicant had listened to the issues raised, agreed even more conditions, sent across the Dispersal document as well as the noise management. His client had taken on board the comments from Environmental Health and residents, was committed to having a good relationship with the neighbours, and asked that the application should be granted.

The Chairman invited Mr Brazel, the applicant's business associate dealing with the operations, to make his representation. Mr Brazel advised Members that the conditions had been thought through with the residents' interests in mind. There was going to be seated rather than bar service, where staff members would approach the table and take orders via a tablet device, which in itself would help manage the noise. The other two sites had been operational for over three years and there had been no complaints or issues with the responsible authorities. The site in Leamington Spa would be identical to the other two sites, as suggested by the name. He had been a licensee for over 15 years, had the relevant experience and aimed to provide a high quality venue with drinks and refreshments to be enjoyed by customers.

Mr Brazel emphasised that should the licence be granted, there was always the opportunity for many different authorities to get involved in the process if complaints were made or the venue was not run in a suitable manner. In terms of pricing, the standard price for a drink was around £9, and the reason for that was to attract someone who wanted a good quality drink, rather than wanting to consume a lot of alcohol and become intoxicated.

When prompted by the Chairman, Mrs Ward advised that she had struggled to hear. In answer to questions from Mrs Ward, the applicants advised that:

- The music was going to be at the same level as at the hairdressers or in a lift. It was only going to be background music, so that two people sat at a table could easily have a conversation and hear each other without needing to raise their voice. The applicant was happy to discuss potential additional measures to minimise noise.
- There was not going to be any cooked food provided. As with any business, there would be some waste, but not an overwhelming amount. This would be managed in a responsible way, and it would not be collected between 10pm and 8am.

There were no questions from Environmental Health to the applicants.

In response to questions from the Panel, Mr Craig and Mr Brazel advised that:

- there would be no smoking after 11pm, and security might need to be contracted to manage that if needed;
- the bar would be facing the door so that it could be more easily visible;
- the busiest times would be 7pm-9pm; by 11pm, it would get less busy and staff members would become more available to stand by the door;
- with regards to spiking, only 2-3% of cases took place when smoking, but the safest way for customers was to finish their drink and then go outside to have a cigarette;
- a lobby would be constructed, and it was the licence holder's responsibility to comply with all the conditions of their licence. As a result, conditions had to be part of the business model;
- background music was considered incidental music and as a result, it did not require a licence;
- subject to fire safety regulations and a risk assessment, the area at the back would either be closed off or managed appropriately and cleared by 11pm;
- it was not anticipated that there would ever more than 60 people at the premises at any given time;
- there was no reason not to have CCTV in the area at the rear of the property;
- any air conditioning unit would not be audible to neighbouring properties;
- the intention was for customers to consume alcohol in the area marked red on the map, which was over two floors. The bar might be moved, so a minor variation application might be required at a later date to reconfigure the space. There would not be a servery anywhere other than the ground floor;
- the boundary wall was the entirety of the right side boundary. Specific details on what works would be done to the party wall could not be given at this stage, but it might be a layer of sound proofing. However, any works required were subject to making the project feasible; and
- whilst at the other two venues the service was table only, this was not agreed as a condition to allow the business more flexibility.

In answer to a question from the Panel, the Senior Environmental Health officer advised Members that a certain number of decibels was not used to measure nuisance, rather, nuisance was a matter of fact.

The Chairman invited Mrs Ward to make her representation.

Mrs Ward was thankful for the opportunity to address the Panel. She described the situation at the premises, where parking was a big issue for residents, and any additional vehicles would create even more problems. Another concern for her was around noise generated by customers entering and leaving the premises, which was an issue especially later in the evenings. Customers would gather outside to smoke and create litter. In addition, this would bring a lack of privacy and impact on her peaceful enjoyment of her property when curtains and windows would be open.

Mrs Ward also raised the issue of food waste. The passage was very narrow and it was already being used by another business, which made the vehicle access

already very difficult. Should the application be granted, this issue would be exacerbated. She also queried if planning permission had been sought.

When the Chairman offered the opportunity, no questions were asked of Mrs Ward.

The Chairman invited Mr Lawson, the Senior Environmental Health Officer, to make his representation.

Mr Lawson advised Members that the planning and licensing applications were two different, independent matters, and that the applicant did not need planning consent before applying for a licence.

Environmental Health had made a representation on the issue of noise nuisance from the party walls, shop window, opening of the door, smoking outside and leaving and entering late at night. The application was for the sale of alcohol until midnight, but the suggestion from the Senior Environmental Health Officer had been that 11pm would be a more suitable closing time. Since then, further conditions had been suggested by the applicant on 9 August, seeking to address these issues. Further to that submission, there were some other negotiations held just before the meeting, with more conditions having been agreed as above.

The Senior Environmental Health officer felt that what was now being offered substantially addressed the concerns. If the applicant was willing to accept those conditions and Members were minded to grant the application subject to all the conditions discussed, the Senior Environmental Health officer would withdraw the objection to operate until midnight. Some concerns would still remain, but they would be addressed through the planning process.

Members were informed that the two amendments were: at the first bullet point to add that "and all clearing of the rear area by 11pm"; and at the last condition, to clarify that the rear outside area was part of the premises.

In answer to a question from Councillor Gifford, Mr Craig confirmed that no changes were proposed to the opening hours, hence why the far-reaching conditions had been agreed.

At 11.41am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Civic & Committee Services Manager 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 the application be **granted**.

At a public hearing on 10 August 2022 Warwick District Council's Licensing Panel considered an application made under the Licensing Act 2003 made by Mr Earl Withers of When You Know You Know Limited ("the Applicant") in respect of premises at That Gin and Cocktail Place, 40 Clarendon Street, Leamington Spa. The application seeks a licence for the provision of late night refreshment between 23:00 and 00:00, 7 days per week. The application also

seeks the sale or supply of alcohol between 12:00 and 00:00, 7 days per week (licensable activities extended by 1 hour on Bank Holidays and from the end of the permitted hours New Year's Eve to the start of the permitted hours New Year's Day).

An objection was received from Warwick District Council's Environmental Health Team in their capacity as a Responsible Authority.

Three objections were received from local residents Mrs Fiona Hayton, Mrs Doreen Ward and a person who wished to remain anonymous.

Trading Standards and Warwickshire Police withdrew their objections after the Applicant agreed to include their requested conditions in the operating schedule.

On 9 August 2022, following discussions with the environmental health officer, the Applicant proposed further conditions intended to deal with concerns about noise from the premises. The Applicant also submitted a list of opening hours for other licensed premises in Leamington Spa town centre and a proposed Dispersals Policy and Noise Management Plan.

At the hearing verbal representations were made by the following persons:-

- Mr Steven Brazel - the Applicant's business partner
- Mr Duncan Craig, of counsel, the Applicant's representative
- Mr Peter Lawson - Environmental Health Officer for Warwick District Council
- Mrs Doreen Ward – local resident who lives next door to the premises

The licensing officer, Amanda Allinson, introduced the report to the Panel.

Applicant's representations

Mr Craig said that he has visited the site so speaks with some confidence and knowledge. He accepts that the premises, whilst being in the town centre, has residential properties around it including next door. He says the Applicant has agreed far reaching conditions to address public nuisance, in particular.

Mr Craig said no regulated entertainment is proposed. There would only be background music. Late night refreshment would probably just be hot tea and coffee. Foodwise, they are only intending to do cold plates. He said they have an older, affluent client base. The price point is high. It is a relaxed and friendly environment with waiter service.

Mr Craig confirmed the CCTV and training conditions recommended by Warwickshire Police will replace the equivalent conditions in the operating schedule.

Mr Craig accepted that the environmental health officer's concerns are not disproportionate. It is a residential area and there needs to be a balancing exercise between the benefits of vibrant town centres from well-run premises against the effects on local residents. There should be no unreasonable intrusion. The Applicant is not seeking to upset anyone or disturb people's lives. He has spoken to the neighbours and understands he needs to work with the local community. The Applicant is committed to carrying out works to the premises to ensure there is no disturbance to neighbouring properties. People who live in town centres should expect more intrusion, but not to unreasonable levels.

Mr Craig said far reaching conditions were proposed yesterday. No noise will be audible in any residential properties. Mr Craig said this was an achievable condition. Some work may be required to the party wall to achieve this. All external areas will be cleared from 23:00. There will be an internal lobby at the front which provides a layer of protection from any noise breakout. The frontage will be constructed to prevent noise breakout.

Mr Craig said that closing at 11PM does not work as a business model and would be unviable. This is why they have proposed stringent, enforceable conditions.

Mr Brazel addressed the Panel. He said his background is in premises security. He said it will be restaurant style service. People will be seated, and they don't tend to serve people at the bar, which helps to prevent unreasonable behaviour. The numbers in the premises will be limited by the tables. They have two other sites in Warwick and Stratford upon Avon that have been operational for 3 years with no complaints. Nobody wants to go through a licensing review. He said the entry level price for a typical alcoholic drink is around £9, which discourages a clientele attracted by cheap drinks.

Mrs Ward asked how turning the music down will work? Mr Craig said that music will not be audible in Mrs Ward's property. It will be background music only i.e., people won't need to raise their voices to be heard. The Applicant will also consider works to the party wall.

Mrs Ward asked how the Applicant will dispose of food waste. Mr Craig said there won't be cooked food, just cold plates. Environmental health will have oversight of waste disposal. There won't be many bottles of beer. Waste will be managed in a responsible way.

Cllr Barton asked how smoking out the front will be managed and what will be done about drink spiking while people leave their drinks to smoke outside. In relation to the first point, Mr Craig said the Applicant could put security on the door, but he doesn't think that is necessary. Last entry being at 11PM is a way of dealing with the problem. It will have to be managed by staff. In relation to the second point, Mr Brazel said people will be encouraged to leave their drinks with a friend and they could be encouraged to smoke after finishing their drink or they could put their drinks on a shelf in the lobby area. In relation to smokers, Mr Brazel said he estimates only 2 to 3% of their clientele are smokers. Mr Craig said it is a licence holder's responsibility to comply with the conditions on the licence and the Applicant will have to ensure there are enough staff to achieve compliance.

Cllr Barton asked about background music and Mr Craig explained that background music is not regulated entertainment and it is a matter of fact and degree as to what constitutes background or incidental music. Mr Lawson confirmed that what constitutes a nuisance is a matter of fact and it is not simply down to decibel levels.

Cllr Barton asked about the use of the rear outside area. Mr Craig said that this area will be vacated at 11PM and closed subject to fire safety requirements. Mr Craig does not anticipate there will ever be more than 60 people in the premises because that is the default position for premises with one fire escape. The rear area will either be closed off or managed depending on the fire risk assessment.

Cllr Barton asked whether the rear area would be covered by CCTV and Mr Craig said yes it would be.

Cllr Barton asked about air conditioning and mentioned that external condensers are noisy. Mr Craig said that no noise emanating from the premises will be audible inside properties.

Cllr Gifford asked how they envisage using the premises and how many rooms will have a bar or be where alcohol is consumed. Mr Craig said that the licensable areas are the areas marked red on the plan, which is over two floors. The bar may be moved, so a minor variation application may be required to reconfigure the space. There won't be a servery anywhere other than the ground floor.

Cllr Barton asked for confirmation on where the party wall is, which was confirmed by Mr Craig as the entirety of the right side boundary. Cllr Barton asked what works to the party wall are envisaged. Mr Craig said he can't give specifics at this stage. It may be a layer of sound proofing.

Such works may make the proposal unfeasible. Whatever is required is subject to it being feasible.

Cllr Gifford asked whether the table service is subject to a condition and noted that such a condition is often applied to premises in Leamington Spa. Mr Brazel said they choose to do table service only in their Warwick premises as a responsible operator, but it is not a condition because sometimes people come to the bar e.g., to get water.

Local resident's representations

Mrs Ward addressed the Panel. Her property adjoins the premises. She said that parking spaces were at a premium in the area. She is also concerned about noise pollution from people entering and leaving late in the evening and people gathering outside to smoke. This will result in a loss of privacy, particularly in summer when windows are open. She queries whether planning permission has been sought.

Environmental Health representations

Mr Lawson, environmental health officer, addressed the Panel. He confirmed that it is not necessary to obtain planning permission first. Some matters need to be dealt with through the planning process rather than the licensing process.

He said he saw the potential for noise nuisance through the party wall, noise breakout through the shop window, outside smokers and customers leaving the premises late at night. Originally, he recommended the premises close at 11PM, every night of the week. The Applicant has now offered up conditions which substantially addresses his concerns after 11PM. If those conditions are imposed, he would remove his objection to midnight closure.

Cllr Gifford asked if the additional conditions proposed this morning could be clarified. These were confirmed as: all external areas to be cleared by 11PM and no open vessels are to leave the premises.

Decision

In making their decision the Panel considered all the information provided in advance of, and at, the hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel note that the premises share a party wall with a residential property and, notwithstanding the additional conditions proposed the day before and on the day of the hearing, remain very concerned about the potential for noise nuisance to the occupiers of the neighbouring property late at night. This could arise from noise breakout

through the party wall or from people noise outside. After 23:00 is a sensitive period when residents of adjacent properties may be attempting to go to sleep or are sleeping. The Panel's expectation is that the Applicant will carry out sound insulation works to the party wall.

The Panel noted that some licensed premises in the town centre remain open until midnight or later, but the Panel are not aware that these premises share a party wall with residential properties.

The Panel consider that a reasonable and proportionate outcome which promotes the licensing objectives is to restrict the hours for the sale of alcohol to 23:00 Sunday to Wednesday and to allow a termination hour of midnight for the sale of alcohol, as applied for, on Thursdays to Saturdays, when it is more reasonable to expect some level of disturbance at that hour in a town centre location.

The Panel therefore determined to grant the premises licence subject to the following conditions which are considered appropriate for the promotion of the licensing objectives:

- **Such conditions as are consistent with the operating schedule accompanying the application (as amended by the conditions agreed between the Applicant and Trading Standards and Warwickshire Police).**
- **The condition that the sale and supply of alcohol shall end at 23:00 Sunday to Wednesday and 00:00 Thursday to Saturday.**
- **The hours the premises are open to the public shall end at 23:30 Sunday to Wednesday and 00:30 Thursday to Saturday.**
- **Late night refreshment is excluded from the scope of the licence Sunday to Wednesday (except Bank Holidays and New Year's Eve/New Year's Day) and ends at 00:00 Thursday to Saturday.**
- **For the avoidance of doubt on Bank Holidays, licensable activities will be extended by 1 hour and from the end of the permitted hours on New Year's Eve to the start of the permitted hours on New Year's Day.**
- **No noise emanating from within the premises will be audible in any noise sensitive premises in the vicinity.**
- **There will be no smokers outside the front of the premises after 23:00**
- **There will be an internal lobby at the front entrance to prevent noise escaping from the premises**

- **The frontage to the premises will be constructed to prevent any noise escaping from the premises**
- **No refuse will be collected from the premises between 22:00 and 08:00**
- **There will be no admission or readmission to the premises after 23.00**
- **No open vessels to leave the premises at any time.**
- **All external areas will be cleared by 23:00.**
- **A condition requiring table service only.**

The Applicant or any person who has made representations may appeal against the decision of the Panel to the Magistrate's Court within 21 days of issue of formal notification of the decision.

(The meeting ended at 11.41am)

CHAIRMAN
17 October 2022