

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held on Thursday 9 January 2020, at the Town Hall, Royal Leamington Spa at 2pm.

Present: Councillors C Gifford, Luckhurst and Redford

Also Present: Mr Howarth (Council's Solicitor), Mrs Tuckwell (Civic & Committee Services Manager), Mr Edwards (Committee Services Officer, observing), Miss Daud (Licensing Enforcement Officer)

1. **Apologies and Substitutes**

Councillor Gifford substituted for Councillor Mangat.

2. **Appointment of Chairman**

Resolved that Councillor Gifford 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 Ronnie's of Warwick, 4-6 Jury Street, Warwick, CV34 4EW**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence for Ronnie's of Warwick, 4-6 Jury Street, Warwick, CV34 4EW.

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

- Ms Oatley, Solicitor from Wright Hassall representing the applicant;
- Mr Baker, Director of the Ronnie's of Warwick;
- Ms McIntyre, General Manager for Ronnie's of Warwick;
- Mr Pearson, local business owner next door to the premises, objecting;
- Mrs Mills, local resident, objecting; and
- Mrs Pike, local resident, objecting.

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

Mr Pearson, one of the objectors registered to speak, raised concerns that not all interests had been declared and stated that Warwick District Council owned the freehold of the premises. Therefore, he felt that all Councillors on the Panel were predetermined. The business under the previous business owner had gone into liquidation, and therefore Mr Pearson felt that Warwick District Council had a financial interest in the matter.

In response to Mr Pearson's concerns, the Council's Solicitor clarified that the applicants had taken out a lease on the premises for 16 years and any obligation had been taken by the lease holder. Furthermore, the Panel would only consider

the four Licensing Objectives, which were: The Prevention of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and the Prevention of Children from Harm. The Council's Solicitor reminded all present that Members were there to act in an objective fashion and they would declare any interest should they feel this was the case. It was for Members to determine if they had an interest and if they were predetermined, they would remove themselves from the debate.

Mr Pearson sought clarification on the first page of the report, which stated "Final Decision? Yes". He was under the impression that this meant that the Licensing Officer was recommending for the licence to be granted and found this to be unfair. The Civic and Committee Services Manager explained that the report template used was according to Warwick District Council standards. The section mentioned by Mr Pearson referred to the fact that a final decision was to be taken at the time of the meeting. Furthermore, the role of the Licensing Officer was to produce an objective, impartial report which advised of the options available to the Panel and of all representations received.

The Council's Solicitor advised that when publishing the application all relevant parties were invited to make a representation. Trading Standards had agreed a set of conditions with the applicant. No representations had been received from the responsible authorities as stated in the report. The Council's Solicitor informed Mr Pearson that if he wished to take his concerns further, he could make a complaint to the Council, seek a judicial review the matter or appeal the decision of the Panel.

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 Ronnie's of Warwick, 4-6 Jury Street, Warwick, CV34 4EW, 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 Ronnie's of Warwick, 4-6 Jury Street, Warwick, CV34 4EW on 12 November 2019.

Representations had been received in relation to this application for the consideration of the Panel in the determination of the application.

The licensable hours and activity applied for by the applicant were shown in the table below. Since submitting the application, the applicant had amended their application so that the provision of all regulated entertainment at the premises would take place indoors only. The licensable activities applied for were:

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| Licensable activity | |
| Plays (Indoors only) | Monday to Saturday from 11:00 to 23:00 Sunday from 11:00 to 21:00 |
| Films (Indoors only) | Monday to Saturday from 11:00 to 23:00 Sunday from 11:00 to 21:00 |
| Live Music (Indoors only) | Monday to Saturday from 11:00 to 23:00 Sunday from 11:00 to 21:00 |
| Recorded Music (Indoors only) | Monday to Saturday from 11:00 to 23:00 Sunday from 11:00 to 21:00 |
| Performances of Dance (Indoors only) | Monday to Sunday from 11:00 to 23:00 |

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| Anything of a similar description to that falling within Live Music, Recorded Music and Performances of Dance (Indoors only) | Monday to Saturday from 11:00 to 23:00 Sunday from 11:00 to 21:00 |
| The Provision of Late Night Refreshment (Indoors only) | Friday and Saturday from 23:00 to 00:00 |
| Supply of Alcohol – (On the premises only) | Monday to Wednesday from 11:00 to 23:00 Thursday from 11:00 to 23:30 Friday and Saturday from 11:00 to 00:00 Sunday from 11:00 to 22:30 |
| Opening Hours | Monday to Thursday from 11:00 to 23:30 Friday and Saturday from 11:00 to 00:30 Sunday from 11:00 to 23:00 |

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 applicant had agreed conditions with Trading Standards which were attached as Appendix 2 to the report.

The Licensing Department initially received 15 representations from residents. However, since the amendments shown in the table above, there were currently 13 representations. These were attached as Appendices 3 to 15 to the report.

No representations had been received from:

- Warwickshire Police
- Environmental Health
- Fire Authority
- Enforcement Agency for Health and Safety
- The Licensing Authority
- Authority responsible for Planning
- Authority responsible for the Protection of Children
- National Health Service/Public Health

There had been a premises licence issued under Licensing Act 2003 in place at 6 Jury Street, since 2006. In 2014, the previous licence holder, Café Catalan Ltd applied for a new licence for 4 – 6 Jury Street which was granted in March 2014. However, Café Catalan Ltd went into liquidation in September 2019 and therefore the premises licence lapsed.

A plan of the premises was attached as Appendix 16 to the report. A map of the area was attached as Appendix 17 to the report and a photograph of the premises was made available at the panel.

A copy of the statement of licensing policy was attached as Appendix 18 to the report.

The Licensing Enforcement Officer emphasised that the application had been amended so the provision of entertainment was now indoors only. As a result, two objections had been withdrawn and there were 13 representations left.

The Council's Solicitor advised that under the Live Music Act 2012, live music was not considered regulated entertainment from 8am to 11pm if it was unamplified. If the music was amplified and there were no more than 500 people present, it would not need to be regulated. Therefore, the Panel could not impose any conditions regarding this matter because any such conditions could not be enforced. To help clarify this statement, a copy of the Live Music Act 2012 was circulated to all parties present. The Council's Solicitor advised that this matter would only become an issue if there were subsequent complaints made towards the premises. If complaints were made, then the terms of the licence could be reviewed and conditions could then be imposed by the Licensing Authority.

When given the opportunity to address the Panel, the applicant's solicitor stated that prior to Christmas, the premises had operated a number of temporary events notices and that no complaints had been received. Although there had previously been problems with the prior operator of the premises, this would be a completely different type of premises, aiming to attract a more mature clientele, offering a mixture of 1970's and 1980's music and had plans to introduce cocktails and craft beers. Ms McIntyre, the General Manager, had held Personal Licence for several years and had previous experience of running a premises. The applicant's solicitor also advised the Panel that no objections had been received from the responsible authorities. She expressed that the applicants did not want to disturb the local residents and that they were surprised at how strong the feelings of the local residents were. The applicant had amended the application as set out in section 3.2 of the report, which meant that live music would only be played inside the premises. Ms Oatley informed the Panel that after the applicants had spoken to many of the local residents in order to advise them of this amendment, two objections were withdrawn. She also stated that the applicants had stopped any access to and from the back door of the premises which led onto Castle Street, which had previously been the source of noise disruption, and therefore all access would only be through the front door on Jury Street.

The proposed changes to the application were:

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| Live Music(Indoors) | Friday from 18:00 to 23:00 Saturday from 11:00 to 23:00 Sunday 11:00 to 18:00 |
| Opening Hours | Monday to Wednesday from 11:00 to 23:30 Thursday from 11:00 to 24:00 Friday and Saturday from 11:00 to 00:30 Sunday from 11:00 to 23:00 |

The applicants stated that they did not intend to have large bands present frequently, rather, that they would be booking acoustic guitarists and low noise level music. Any other music in addition to this would be background music only. Mrs Oatley advised Members that the applicant was willing to adopt conditions in relation to Prevention of Public Nuisance.

With the Chairman's permission, the applicant's solicitor circulated a copy of amended proposals on behalf of the applicant. On page 3 of the report, the hours requested for live music were: Monday to Saturday 11:00 to 23:00 and Sunday 11:00 to 21:00.

The applicant now wished to propose reducing the hours for live music to: Fridays 18:00 to 23:00; Saturdays 11:00 to 23:00; and Sundays 11:00 to 18:00.

The proposals paper also advised that on page 3 of the report, there was a slight inconsistency with the hours the premises would be open. With the Panel's agreement, should the application be granted, the applicant wished to amend the hours the premises would be open to the public on a Thursday from 11:00 to 23:30 to **11:00 to 24:00**. The sale of alcohol on a Thursday would be 11:00 to 23:30 and a closing time of 24:00 would allow for the half an hour drinking up time, as would be the case for the other days of the week. The applicant was willing to adopt the following Warwick District Council's model conditions, as set out in page 75 of the report, regarding the Prevention of Public Nuisance: Conditions 1-5, 7, 10, 11, 12, 13, 14, 22, 23, 24, 28, 29, 30, 31, 34, 40, 43.

The applicant's solicitor stated that the remaining conditions in the amended proposals were not applicable to the premises or would need to be discussed and agreed.

In answer to questions from Members of the Panel and objectors, Mrs Oatley, Ms McIntyre and Mr Baker advised that:

- The conservatory area of the premises would be included as an "outdoors area" and would therefore not be used for live music. In addition to this, the objections received were past infringements to do with the previous proprietors, rather than the new operation. Furthermore, by offering the conditions of removing the use of the outside area for live music and reducing the operating hours of the premises, the applicant felt that they had addressed these objections.
- The new operation did not wish to be in the shadow of the old proprietors, and all concerns were appreciated and understood. In addition to this, the applicants understood that the conservatory area had previously been the source of problems. They could address these problems by ensuring all doors and windows would be closed, and that customers would not be allowed to take glassware outside.
- In spite of the premises being in a residential area, this was a town centre location. However, the new operation did not want to upset local residents and wished to do everything they could to contain any noise.
- They were committed to doing everything they could in order to ensure customers had a good experience and invited the objectors to visit the bar to see how it had changed. In addition to this, Mr Baker, the Director of the company, stated that a large amount of work had gone into changing the interior of the building and that seeing the interior would reassure objectors in respect of some of the concerns the objectors had.
- The outside area as shown in the floor plan would not be used in the event of live music, in order to prevent noise. In addition, they would close all windows and doors to the outside area by 11pm and no glassware would be taken into the outside area. The front entrance was a public highway and consequently, management could only do so much if customers congregated outside.
- There was a large window at the bar that overlooked the garden and therefore staff could see what was going on outside.
- The premises only had three small speakers and regular sound checks would be carried out, therefore the applicants did not feel that a noise limiter was necessary.

- The entertainment would include music, films, shows and dance. These events would be taking place inside rather than outside.
- The premises could fit a maximum of 200 people, but this was unlikely to happen. During a dance club, Ms McIntyre expected somewhere in the region of 20 people.
- Although the application seemed to imply that entertainment would be provided on a daily basis, this was not the case.
- A programme of entertainment would be produced and given to local residents with information regarding future events.
- In the event of a customer being noisy, the staff would ask the person to leave.
- At 11pm, all customers would be asked to leave the garden and the staff would do all they could to contain the noise.
- There was no plan to have door supervisors because the property was not big enough to warrant door supervisors. The property only had one access door and there had not been large queues of people waiting to enter the premises, therefore the applicant felt that door supervisors would not be necessary.
- Ms McIntyre was responsible for keeping an eye on customers smoking outside the entrance and Mr Baker lived above the property and would be there to help if needed.
- Staff had been made aware of the concerns the neighbours had and they had been trained to monitor the movement of people in and out of the premises.
- Other licensed premises in Warwick town centre were no different in terms of generating noise when customers left the premises.

The Council's Solicitor advised Members that entertainment such as dance events would be under the same provisions as music.

Councillor Redford expressed concern about the customers congregating outside the entrance. She raised a point about the narrow size of the pavement outside the premises, and was concerned that the public would have to walk through a large crowd of people who may also be smoking. Wherever there was a group of people having a drink, it could become very noisy.

When given an opportunity to raise his concerns, Mr Pearson explained that many years ago, the premises used to be a tea room, selling sandwiches and hot drinks, and that the difficulties began when the business changed in 2006, and then in 2014. The main issues Mr Pearson experienced were during business hours when as a result of loud background music coming from the premises, he had struggled to conduct client meetings for his business. Mr Pearson did appreciate the amendments to the application but was still concerned that the applicant had not adopted condition 32 of the Prevention of Public Nuisance guidelines, by installing a noise limiter. Mr Pearson suggested that a more appropriate venue should be chosen for the type of entertainment the applicants were suggesting, and that the building needed to be assessed to see if the proposed use was feasible.

When asked a question about how big the capacity of the premises could be, the Council's Solicitor explained that in order to comply with the licence, if granted, this could not exceed 500 people. It was therefore in the interests of the applicants not to exceed this limit as it would become prosecutable. In addition to this, Mr Baker explained that it would be unlikely for the premises to hold 500 people and that the customers would have to "stand on shoulders" in order to fit

that amount of people inside the premises. Mr Baker also advised that there were no plans to have live music played on the premises during office hours, and the only music being played during this time would be background music only.

When asked for clarification as to what was considered "indoors" and "outdoors" with regards to live music, Ms McIntyre explained that the extension and the mezzanine areas would be considered as "outdoors" and there would not be any music played in these areas. Although Mrs Pike explained that this was reassuring to hear, further clarification was sought regarding outside bands hiring out the venue and potentially using their own equipment which could be louder than the current equipment on the premises. Ms McIntyre explained that in any such event, the band would be playing inside with the doors closed, and that the noise would be closely monitored.

Mrs Pike raised a concern with regards to the amendment to the Thursday opening hours, on the basis that she felt the weekend hours would subsequently start a day earlier. As a result, she suggested that the proposed hours should remain the same as stated in the initial application. In addition to this, Mrs Pike explained concerns regarding the noise levels and the consequences of smoking, which Mrs Pike felt would disturb many of the local residents.

Ms Mills was invited to speak and stated she had nothing to add to the concerns that had been raised by the objectors. She explained that she did want to support local businesses and wanted to see the town centre thrive, but that the previous incumbents had pushed all boundaries and had been disastrous. It had been very difficult for Ms Mills to put children to sleep as a result of Catalan, and the noise had made a significant impact on her life as well as her partner's, whose late night shifts had been affected by the noise coming from the premises. She explained that local residents felt unsure what to do in the event of large groups of people congregating outside the premises late at night.

In response, Mr Baker explained that the new operation wished to invite local residents to visit in to the premises to explain their concerns, and that the business wished to work with neighbours in order to address any issues. He explained that the new operation did not want to inherit the bad reputation of the previous operation. In response, Ms Mills explained that the previous incumbents of the premises had offered similar assurances in the past and had been a good neighbour for a long period of time. Mr Baker stated that the applicants had taken out a lease of 16 years, therefore their venture was a long term business plan. He explained that the last thing the applicants wanted was to return in front of a Licensing Panel.

Councillor Redford put forward a suggestion to the applicants that the premises produce a programme of events to the neighbours informing them what the upcoming entertainment was. Mr Baker stated that a programme of events had been passed to the initial objectors to the application and would accept doing this in the future. Mrs Pike offered her support to this idea and cited a previous example of this approach taken by the previous operation, which gave residents time to plan a weekend away during instances of a live band.

At 3.34pm, the Chairman asked all parties other than the Panel, the Council's Solicitor, the Civic and Committee Services Manager and the Committee Services Officer to leave the room, in order to enable the Panel to deliberate in private and reach its decision.

Resolved that the application for a new licence be granted, subject to the conditions below. The Panel have considered the report and the representations from the applicant and from the objectors. The Panel note that there are no objections from any of the responsible authorities and that conditions have been agreed with Trading Standards.

The Panel heard from the applicant that the Premises will be a high-end cocktail bar and that the applicant was looking to attract customers over 35. The Panel heard that, whilst live music events will take place, that these will not take place in any of the outside areas and would take place inside, towards the front of the building. The Panel also heard that the type of events that would be held would be events such as '70s - '80s nights, jazz nights, dance classes and plays and film performances. The Panel heard from the applicant that there will be no entry or exit via the rear door to the premises and that the only access would be via the front entrance onto Jury Street.

The Panel have been provided with a sheet showing proposals by the applicant in respect of the hours for live music on Friday, Saturday and Sunday, and also the opening hours on Thursday nights. The applicants also advised that they are willing to adopt WDC's model conditions 1-5, 7, 10, 11, 12, 13 and 14, 22, 23, 24, 28, 29 and 30, and 31, 34, 40 and 43.

The Panel heard from the objectors regarding the problems experienced by residents and neighbouring businesses in relation to loud music and noise during the previous licence holder's tenure.

The Panel have also received advice from its Legal Advisor regarding the effect of the amendments to the Licensing Act, which were made by the Live Music Act 2012. The Panel have been advised that it would not be appropriate to impose any conditions which relate to loud music and recorded music where, in the case of live music, it is unamplified, and in relation to live music and recorded music with an audience of 500 people or less. The Panel have been advised that, by virtue of the aforesaid Act, such conditions would have no effect.

Whilst the Panel are aware of the concerns of residents and neighbouring businesses, and given the limitations resulting from the Live Music Act, it is this Panel's view that there is insufficient evidence that the grant of this licence would impact upon the licensing objectives. Further, it is this Panel's view that there is insufficient evidence at this stage to support the imposition of any additional conditions other than those already agreed by the applicant.

The Panel note that the applicant has offered to keep open the lines of communication with residents and to provide residents with information regarding future events. The Panel would encourage this.

The Panel would also like to make residents aware that whilst it is the view of this Panel that it is appropriate to grant this licence based upon the evidence before it today, in the event that residents experience disturbance or problems in the future as a result of noise from the premises, that the Local Authority has powers under the Environmental Protection Act 1990 to take action against the premises where appropriate. The Licensing Authority has also the power to call for a review of the licence, which could result in the licence being suspended, revoked or additional appropriate conditions being imposed.

The Panel therefore resolve to grant the licence in accordance with the report and the applicant's operating schedule, the conditions agreed with Trading Standards and WDC's Model Conditions which have been agreed with the applicant as detailed earlier in this decision. The licence will be granted in accordance with the revised hours set out in the proposal provided by the applicant, with the exception of the proposal to extend the opening hours to 24:00 hours on a Thursday. It is this Panel's view that it would not be appropriate to extend the opening hours to 24:00 hours in this instance as these have not been publicised and consulted upon. It is open to the applicant to submit an application to amend the hours.

Finally, with regard to the model conditions accepted by the applicant, Condition 4 shall state that "The beer garden / outside area is not to be used / occupied after 23:00 hours daily".

Following the meeting of the Panel on the 9th January 2020 it was noted by officers that the times had been omitted from a number of the model conditions which have been imposed. Officers consulted the Panel members who resolved to amend their decision to provide for the following times to be inserted into the model conditions which were agreed by the applicant and imposed by the Panel:

- Outside areas and activity must cease and be cleared at 23:00 hours.
- Drinks shall not be permitted to be consumed in the outside area after 23:00 hours.
- Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as the front of the premises, 6 Jury Street.
- All external doors and windows shall be kept closed after 23:00 hours, or at any time when regulated entertainment is being provided, except for the immediate access and egress of persons or in the event of an emergency.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20:00 hours and 08:00 hours on the following day.

- No deliveries to the premises shall take place between 20:00 hours and 07:30 hours on the following day.

At 4.26pm, all parties were invited back into the room and the Chairman invited the Council's Solicitor to read out the Panel's decision.

(The meeting ended at 4:32pm)

CHAIRMAN
26 February 2020