



LICENSING AND GAMBLING SUB COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON
THURSDAY, 5TH APRIL 2018 AT 10.00 A.M.

PRESENT:

Councillor D.W.R. Preece - Chair

Councillors:

Mrs D. Price, L.G. Whittle

Together with:

L. Morgan (Licensing Manager), K. Hopkins (Senior Licensing Administrator), P. Smith (Licensing Administrator), T. Rawson (Solicitor), R. Barrett (Committee Services Officer)

Representing Pollution Control

A. Brown (Environmental Health Officer)

Representing Trading Standards

T. Keohane (Senior Trading Standards Officer)

Representing the Applicant

Mrs C. Brewer (Applicant), Ms N. Jordan (Hugh James Solicitors)

Representing Other Persons

Councillor N. Dix (Local Ward Member)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

2. DECLARATIONS OF INTEREST

Councillor Mrs Dianne Price sought clarification on whether she was required to declare an interest in that she knows the applicant (Mrs Brewer) in her capacity as a local ward member. Following discussion with the Legal Advisor to the Sub Committee, it was determined that due to the nature of the association, there was no need for Councillor Price to declare a personal or prejudicial interest in the application.

3. APPLICATION TO VARY A PREMISES LICENCE IN RESPECT OF BREWERS LODGE, GORDON ROAD, BLACKWOOD

The Chair opened the meeting and introductions were made.

The Legal Advisor to the Sub Committee outlined the procedure for the meeting and reported that Members had previously familiarised themselves with the report of the Licensing Officer, the premises application and supporting documentation, together with the written representations of Responsible Authorities, and from local residents and elected representatives (as defined as Other Persons in accordance with the Licensing Act 2003) who were objecting to the application.

Mrs Kathryn Hopkins (Senior Licensing Administrator) presented the report and outlined the application submitted by Brewers Lodge, Gordon Road, Blackwood, to vary a premises licence in order to amend the layout of the ground floor plan following recent structural conditions in order to comply with statutory provisions, remove existing embedded conditions, and permit the following licensable activities:-

Supply of Alcohol

- Monday to Sunday inclusive 11.00 to 00.00
- Non Standard timings for resident guests between 00.00 to 23.59 on any day

Live Music and Recorded Music

- Monday to Sunday inclusive 11.00 to 00.00

Members were asked to note an exemption within the Licensing Act 2003 permitting amplified live and recorded music at licensed premises for audiences less than 500 between 08.00 and 23.00. It was also noted that the current licensable hours for the premises cease at 23.00. The Sub Committee were advised that a number of steps had been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and these were set out in the report.

The Sub Committee were referred to the representations received in relation to the application from Responsible Authorities (Trading Standards, Environmental Health and the Licensing Authority). During the consultation period, representations were received from a local resident. In addition, a local ward member from Blackwood (Councillor Nigel Dix) also raised his concerns and made representations on behalf of the local resident as his constituent. Copies of the representations were attached to the report that was circulated with the agenda. It was noted that Mr Christopher Morgan, who had made a representation on behalf of the Licensing Authority, was unable to attend the meeting, and that Councillor Dix was in attendance to speak on behalf of local residents.

The report summarised the applicant response to the proposed conditions offered by the Responsible Authorities. It was noted that the applicant had agreed to the proposed conditions offered by Trading Standards and the majority of the conditions proposed by Environment Health, and was willing to impose a time limit for entertainment in outside areas as proposed by the Licensing Authority. No response had been received for the suggested amendments proposed by Environment Health regarding the use of the beer garden and designated smoking area after 11.00pm.

Members were referred to a location plan contained in the report which set out the intended licensable area for the premises, and were asked to note the contents of a letter tabled at the meeting on behalf of the applicant's solicitor, which detailed a number of proposed additional conditions for the premises. Attention was also drawn to the local policy considerations and national guidance as set out in the report and to the way in which the Sub Committee would deal with the application. It was explained that the Sub Committee must have regard to all the representations made and to the evidence heard, and take such steps as is considered necessary for the promotion of the licensing objectives.

All parties present were afforded the opportunity to ask questions and representations were then invited from Responsible Authorities.

Mr Tim Keohane (Senior Trading Standards Officer) explained that the representation from Trading Standards was restricted to the Protection of Children from Harm Licensing Objective. He confirmed that the applicant was agreeable to suggested additional conditions regarding staff training to improve awareness of proxy sales.

There were no questions received and representations were then invited from Environmental Health (Pollution Control).

Miss Abbie Brown (Environmental Health Officer) explained that her representation highlighted concerns in that the proposed additional hour for the supply of alcohol and regulated entertainment could lead to patrons congregating in the beer garden and smoking area late at night, and could create noise nuisance for nearby residents. Environmental Health therefore proposed that use of the beer garden not be permitted after 11.00pm and that the smoking area be restricted to a maximum of 10 persons at any one time after 11.00pm. It was noted that the applicant was agreeable to three other suggested conditions relating to the management of noise arising from regulated entertainment.

All parties present were afforded the opportunity to ask questions and Councillor Dix queried how the proposed noise reduction measures could be enforced. Miss Brown explained that the local authority has powers to investigate complaints under the Environmental Protection Act. Ms Nicola Jordan (legal representative for the applicant) confirmed that Mrs Brewer's staff would undertake regular patrols to monitor noise levels in accordance with the proposed conditions and that staff already control/regulate noise so as not to cause disturbance to residential guests.

The Sub Committee also noted the representation from Mr Christopher Morgan (Licensing Enforcement Officer for the Authority), which outlined a historic noise complaint for the premises in August 2013 under the previous owner, and suggested that a time limit be placed on music in the outside areas so as to uphold the Prevention of Public Nuisance Licensing Objective.

Representations were then invited from Other Persons and Councillor Nigel Dix (local ward member for Blackwood) addressed the Sub Committee on behalf of local residents.

Councillor Dix explained that he had been approached by a number of residents in Gordon Close who live near the premises, and that there was apprehension surrounding the proposed variation to the licence and the potential for problems such as noise nuisance. Councillor Dix explained that some noise is generated when patrons leave the premises around 11.00pm, but that local residents generally accept and expect that this will cease by 12.00 midnight. However, residents feared that the extra hour applied for could result in this noise carrying on until 1.00am. He also referenced problems surrounding broken drinking glasses and other littering in the vicinity of the premises. Councillor Dix also referenced the lack of noise complaints made since 2013 and suggested that this could be due to complacency from local residents in reporting instances of noise nuisance.

In response to a query from the Sub Committee, Mrs Brewer stated that she had not received any noise complaints from local residents and that she would listen to the complaints if she was approached. A Member queried whether the licence could be granted for a specific length of time or revisited if the new licence times cause issues, and all parties were reminded of the mechanism in place for any of the Responsible Authorities or any other person to apply for a review of the premises at any time.

The Chair sought clarification on the position in respect of Sunday opening hours and the Licensing Manager explained that the old provisions were superseded by the Licensing Act

2003 and there is now no restriction on Sunday opening times. He also explained that the Live Music Act 2013 deregulated the playing of live and recorded music and that all premises can now host music from 8.00 am to 11.00 pm without restriction.

The Legal Advisor to the Sub Committee sought clarification on whether there was any evidence of 'complaint fatigue' by local residents. Councillor Dix confirmed that he had been approached by local residents regarding their concerns and that there had been a number of occasions where the Council's refuse and cleansing team had been deployed to clear up broken glass on Gordon Road near the local cricket club. Mr Keohane confirmed that any complaints received would have been recorded and that no recent complaints had been made regarding the premises. Ms Jordan reminded Members that there were other licensed premises in the vicinity of Gordon Road, including the cricket club and a convenience store, and therefore not all the litter could be attributed to Brewers Lodge.

Representations were then invited from the applicant, Mrs Catherine Brewer.

Ms Nicola Jordan (Hugh James Solicitors) spoke on behalf of her client and summarised the three parts to the premises variation application. She explained that there was no issue with the variation to the ground floor plan or the removal of the embedded conditions and that it was only the extension to the licensable hours that had received objections. Ms Jordan summarised the nature of her client's business (which incorporates hotel lodgings in addition to the licensed premises) and explained that she would expect the hotel guests to complain if there were any noise issues. She emphasised that many of the objections were pre-emptive in nature and that the last recorded incident in 2013 was an historic matter involving previous owners. Ms Jordan also explained that her client runs the premises in a responsible manner in order to promote the Licensing Objectives.

In response to a query from the Sub Committee regarding the availability of alcohol for hotel guests, Mrs Brewer confirmed that although there is provision to do so at any time, the premises do not normally offer extended bar hours for hotel guests unless there is a specific request relating to a function taking place.

The Sub Committee discussed whether noise could emanate from the premises by way of doors opening and closing. Ms Jordan confirmed that this should be minimal in that a "wind down period" would be in operation from 11.00pm onwards if the extra hour was approved. She added that all windows are kept closed and are monitored by staff when carrying out patrols, and that the extension to the premises is at the front of Gordon Road, facing away from nearby houses, and does not contain any windows that could be opened. Additionally, the premises has invested in soundproofing measures and the main entrances have porches with two separate doors so as to minimise noise escaping from the building.

Discussion took place regarding the use of the beer garden and designated smoking area, and Miss Brown reiterated the view of Environmental Health in that the beer garden should be closed after 11.00pm and that use of the smoking area should be restricted from 11.00pm. She explained that due to the removal of restrictions surrounding regulated entertainment, conditions are not enforceable on the use of this area until after 11.00pm. Ms Jordan confirmed that her client was seeking use of the beer garden until midnight. She added that the designated smoking area is in an enclosed space due to the height of the building, and that the hotel guests require 24-hour access to this area.

All parties were then afforded the opportunity to sum up before the Licensing and Gambling Sub Committee retired to make its decision.

The Senior Licensing Administrator referred the Sub Committee to the information contained in the report and the additional conditions contained in the solicitor's letter.

Ms Jordan reiterated the need to avoid presumption and pre-emption of issues that might arise and reminded those present of the provision available to seek a review of the premises

at any time. She was of the view that the application and conditions agreed by Mrs Brewer were sufficient to support the Licensing Objectives.

Miss Brown asked the Sub Committee to consider the conditions proposed by Environmental Health in respect of use of the beer garden and smoking area, as a proactive measure in order to uphold the Licensing Objectives.

The Legal Advisor informed all parties present that the Sub Committee would retire to consider the representations made at the meeting and they would be informed in writing of the decision in the next 5 days.

The Sub Committee retired at 10.48 a.m. to make its decision.

Following consideration of the application and having regard to the Licensing Officer's report and all the representations made, the Licensing and Gambling Sub Committee unanimously RESOLVED that the premises licence in respect of Brewers Lodge, Gordon Road, Blackwood, be varied as follows:-

- (i) the increase to the hours premises are open/supply of alcohol/live and recorded music from 11.00 to 00.00 be granted;
- (ii) additional conditions as agreed between Trading Standards and the applicant be included (SA07) and (SA01);
- (iii) conditions 1 to 3 as proposed by the applicant in her solicitors letter of 29th March 2018 be included without variation;
- (iv) conditions 4 and 5 as proposed by the applicant in her solicitors letter of 29th March 2018 be included but varied with "12am" being replaced with "11pm";
- (v) condition 6 as proposed by the applicant in her solicitors letter of 29th March 2018 be included without variation;
- (vi) conditions proposed within the application under Section M as summarised in 1 to 10 of paragraph 1.3.1 of the Licensing Officer's report be included within the varied licence conditions;
- (vii) the layout change be granted;
- (viii) the embedded conditions be removed from the licence.

In making their decision, the Sub Committee considered the Licensing Act 2003, revised Home Office Guidance and Caerphilly Council's Licensing Policy.

The Sub Committee accepted that there was potential for public nuisance from excessive noise from patrons continuing to use the beer garden after 11.00 pm until midnight. The Sub Committee accepted the concerns raised by Environmental Health in this regard and gave weight to placing a prohibition on the garden use after 11.00 pm as being a reasonable step to prevent or limit any noise nuisance that is likely to arise from groups of people consuming alcohol late at night in an outdoor space in proximity to residential areas. The same reasons were reached in having 11.00 pm as the time for capacity restrictions within the smoking area to commence. The Sub Committee reached the view that the additional hour sought to sell alcohol would not have a disproportionate impact on noise levels to local residents.

The Sub Committee accepted that the applicant has not had a history of complaints but also accepted there to be some level of concern over noise raised by at least one local resident. All remaining concerns held by the Sub Committee were addressed by previously agreed proposed conditions save for the variations above.

The decision notice advised any person aggrieved by the decision of their right to appeal to the local Magistrates Court within 21 days from the date of written notification of the decision.

The Chair declared the meeting closed at 11.12 a.m.

CHAIR