

MINUTES of a **MEETING** of the **LICENCING SUB COMMITTEE** held on 26 April 2024 at 1.30 pm

**Present
Councillors**

A Cuddy, J M Downes and L G J Kennedy

**Apology
Councillor**

C Adcock

Officer(s):

Deborah Sharpley (Solicitor), Harriet Said (Team Leader (Commercial), Public Health), Thomas Keating (Specialist Lead (Licensing) Officer), Philip White (Specialist Licensing Assistant), Sandra Hutchings (Specialist Support Officer) and Angie Howell (Democratic Services Officer)

4 APOLOGIES

Apologies were received from Cllr C Adcock with Cllr A Cuddy substituting for him.

5 ELECTION OF CHAIRMAN

Cllr A Cuddy was elected Chairman of the Sub Committee.

6 DETERMINATION OF A PREMISES LICENCE VARIATION APPLICATION FOR GENERAL SIR REDVERS BULLER, 37 HIGH STREET, CREDITON, DEVON. EX15 3JP

An application had been submitted to vary the premises licence for General Sir Redvers Buller, 37 High Street, Crediton, Devon, EX17 3JP.

The Chairman introduced the Members of the Sub-Committee and officers present and explained the process for the Hearing.

Cllr J Downes declared that he had visited General Sir Redvers Buller in the past but not since the change of ownership.

The Licensing Sub-Committee agreed that the meeting should be heard in public session and that there would be no time limit for speakers.

The Licensing Specialist Lead outlined the contents of the report as follows:-

- The applicant had withdrawn sections of the application by removing all forms of regulated entertainment – plays, live music, recorded music, performance of dance and anything similar.
- The application was now limited to removing the following condition from the license:-
The premises shall operate in accordance with the document “J D Wetherspoon PLC Overview of Operations”, which would only be changed or amended after consultation and with the agreement of the Licensing Authority.
- The Licensing Team notified other parties of the proposed changes to the application and asked if they would be willing to withdraw their representations. Eight parties withdrew and five did not so therefore Licensing Officers believed it was necessary to continue with the Hearing process.
- As a result of the amendments to the Licensing Act 2003, a range of activities no longer required a licence across England and Wales. Information was given about the circumstances in which live and recorded music did not need a licence.
- The Section 182 Guidance confirmed where a beer garden did not form part of the relevant licensed premises and was not included in the plans attached to a premises licence or club premises certificate, it was likely that it would be a workplace.
- The Licensing Officer explained that the beer garden did not form part of the “licensed area” and was therefore not licensed. As a result, the workplace exemption may be applied to the beer garden.
- For the protection of residents anyone could apply for a review of the licence if there were appropriate grounds to do so.
- Options for the Sub-Committee were to:-
 - (i) Grant the application as applied for;
 - (ii) Modify the conditions of the licence;
 - (iii) Reject the whole or part of the application.
- The applicant could not attend the Sub-Committee today but had replied to an email to clarify the conditions within the Application. This had been shared with the Sub-Committee prior to the Hearing.

The following questions/statements were raised:-

- Esme Cooper, a local resident informed the Sub-Committee:-
 - (i) That she lived alongside the pub and any noise or activity held within the beer garden could be heard by her at all times.
 - (ii) When Wetherspoons owned the pub they had a “no music” policy so she was never disturbed by loud or background music.
 - (iii) There were families close by with autistic children and elderly neighbours all of whom would be affected.
 - (iv) The Temporary Event Notice which was submitted over the Easter Bank Holiday affected local residents due to the noise by the loud music.
 - (v) That Wetherspoons were always amenable and ready to help however the new owners had not communicated with any of the nearby residents.

- (vi) That in her opinion conflicting reports from the Licensing Team had caused confusion whether residents were still permitted to attend and ask questions at the Hearing today as some had felt pressured to not attend or ask questions.

The Chairman explained that the Sub-Committee would only be looking at the one condition and that the noise issues could not be considered today. However, if in the future residents wished to complain, they could do this by putting in a formal complaint to Mid Devon District Council (MDDC) which would be investigated by Public Health and also suggested that Ward Members were contacted. He also apologised for any confusion caused with regard to whether residents could attend and ask questions at the Hearing.

The Team Leader (Commercial) explained that there had been no intention to put pressure on members of the public but the Licensing Team had only tried to relay the impact of the changes to the application. However this would be investigated and changes would be made to ensure that this would not happen again in the future.

The Licensing Team would also publish on the MDDC Website the generic steps to take if members of the public wished to complain about noise and the safeguards that were in place for local residents with regards to non-licensable activities that could now take place at licensed premises.

Members of the Sub-Committee then retired to reach a decision in private accompanied by the Council's representatives from Legal and Democratic Services.

The Sub-Committee returned and the Chairman made the following statement:-

The Sub-Committee took into account the relevant legislation, the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy, the report of the Licensing Officer, the amended application and the relevant representations submitted, together with the presentations of those present at the hearing.

In particular, the Sub-Committee noted the following:-

- The Responsible Authorities eg the Fire Service, Environmental Health etc had made no representations.
- The short notice amendment of the application so that the only variation to be considered was the removal of the condition relating to the JD Wetherspoon PLC Overview of Operations.
- The applicant had offered conditions within the application.
- That concerns that had been raised about possible noise nuisance in the representations received.
- The confusion that appeared to have been caused to the objectors in relation to the amended application and the withdrawal or not of other representations.
- The four licensing objectives in relation to application to remove the one condition.

RESOLVED that:-

The application for the variation of the licence as applied for be granted.

Reason for the Decision:-

The Sub-Committee was of the opinion that there was no overriding licensing objective which supported the refusal of the application to remove the condition.

Further, the Sub-Committee felt that issues raised by the objectors were not directly relevant to the variation of this one condition. The Sub-Committee was nonetheless sympathetic to the concerns about noise nuisance and advised the Hearing of the role of the Council, and the Licensing Sub-Committee, in dealing with such concerns.

The Legal Representative then outlined the rights of appeal to the Magistrates Court and stated that formal notification would be sent in writing to all parties.

(The meeting ended at 3.05 pm)

CHAIRMAN