

Licensing Sub- Committee

Monday, 24 October 2016

MINUTES

Present:

Councillor Pat Witherspoon (Chair), Anita Clayton and Jennifer Wheeler

Also Present:

Ms Theresa Freeth, Applicant, Ms S. Clover, Licensing Barrister, Kings Chambers, Birmingham, Applicant's Representative, Ms L. Turner, staff member, The Old Rectory Hotel, Councillor Juliet Brunner, Ward Member, Matchborough, Ms Judith Bainbridge, Ms Andrea Bennett and Mr B. Williams, local residents

Officers:

Clare Flanagan, Timothy Bishop (observing) and Sayful Alom

Democratic Services Officer:

Pauline Ross

1. CHAIR'S WELCOME

The Chair opened the Hearing and introduced the Members of the Sub-Committee and Officers present. At the request of the Chair the applicant and applicant's representative gave a brief introduction.

2. APOLOGIES

No apologies for absence were received.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. APPLICATION FOR A VARIATION TO A PREMISES LICENCE - THE OLD RECTORY HOTEL, IPSLEY LANE, REDDITCH, WORCESTERSHIRE, B98 0AP

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Chair

Prior to the Hearing commencing, the Chair explained that it had been brought to her attention that, those residents who had submitted representations had brought to the Hearing a large placard, which detailed residential properties around the application site and annotated with additional information.

In accordance with The Licensing Act 2003 (Hearings) Regulations, the Chair asked the applicant if she would consent to the additional information being presented.

In response, Ms. S. Clover, the applicant's representative stated that the applicant did not consent to this new information being included as no advanced warning had been given and in order to consent, the applicant would have to have had the chance to check the information on the placard.

The Council's Legal Advisor responded to those who had submitted representations, and reiterated that in accordance with The Licensing Act 2003 (Hearings) Regulations, any new information to be considered by the Sub-Committee could only be considered with the consent of all parties.

Accordingly, the Chair requested that the placard be removed from the Hearing.

The Sub-Committee was asked to consider a variation application for a Premises Licence in respect of The Old Rectory Hotel, Ipsley Lane, Redditch, Worcestershire, B98 0AP. The variation application having been submitted in order to:

Amend the hours for licensable activities as follows:

- Live Music Everyday 11:00 - 00:00 Both Indoors and Outdoors
- Recorded Music Everyday 11:00 – 00:00 Indoors Only
- Sale of Alcohol for consumption on the premise –
Monday to Saturday 10:00 – 00:00
Sunday 10:00 – 23:30
All licensable activities extended on New Year's Eve/New Year's Day until 02:00

To vary conditions on the existing licence by the removal of the following:

Annex 2 Conditions –

- Grounds are patrolled by staff during functions
- CCTV cameras installed
- No third party catering allowed e.g. pig roasts

- Maximum number of guests restricted to 120 (varied to 150 guests)
- No amplified music played outside
- Discos controlled as supplied exclusively by hotel
- Risks and responsibilities are discussed with guests who bring children to functions

To vary conditions on the existing licence by varying the following:

Annex 3 Condition –

- Regulated Entertainment shall not be provided on more than 3 days in any one week and shall not be provided more than 2 Sundays in any calendar month

Variation as follows:

Annex 3 Condition –

- Regulated Entertainment shall not be provided on more than 4 days in any one week and shall not be provided more than 3 Sundays in any calendar month

The application was subject to a hearing in light of 35 representations being received from local residents. The representations related primarily to Public Nuisance and Public Safety:-

- Noise emanating from the premises due to loud music/ live music.
- An increase in the volume of traffic.
- Additional traffic and parking of vehicles in local streets, due to limited parking at the premises.
- Public Safety in relation to the parking of additional vehicles from people using the premises, due to the lack of public footpaths on Ipsley Lane.
- Lack of public transport.
- The general impact upon the quality of life of residents due to loud music as a result of the additional earlier hours being sought during the day.
- The protection of children from harm with access to a lake near to the premises, poor lighting and no footpaths on Ipsley Lane.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) introduced the report and in doing so informed the Sub-Committee that 35 representations had been received. The Technical Officer (Licensing), WRS drew Members' attention to the condition from West Mercia Police as detailed at Appendix 3 to the report and agreed by the applicant.

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Members were further informed that no representations had been received from any of the Responsible Authorities.

Ms Sarah Clover, Licensing Barrister, Kings Chambers, Birmingham, introduced herself and the applicant Ms Theresa Freeth and Ms Turner.

Ms Clover then spoke in support of the application and in doing so, stated that both ladies attending the Hearing today wanted to run a successful business, a business which they had only recently taken over. The business would be primarily for wedding functions and to conduct marriage ceremonies. It was not for late night discos, the hours requested by Ms Freeth were to extend the hours during the daytime, no extension to the closing hours was included within the variation application submitted.

Ms Clover informed the Sub-Committee that Ms Freeth had applied for additional hours during the day, so that organised events such as wedding parties and wedding brunches could be held at the premises. With regard to live music this was to enable organised events, such as weddings, to have live music as an intermittent accompaniment, such as a flutist or harpist, it would not be continuous music. Entrance to these events would be limited to a maximum of 150 people. Ms Clover asked Members to note that fire regulations at the premises allowed for a maximum capacity of 196 people.

Ms Clover continued and responded to the concerns raised by residents in their representations with regard to an increase in noise, should the additional hours be granted. Ms Clover reiterated that no complaints in respect of loud noise emanating from the premises had been received during the last ten years. If there had been any issues with regard to loud noise emanating from the premises, the Environmental Health services would have made a representation; and Members had already been advised by the Technical Officer (Licensing), WRS, that no representations had been received from any of the Responsible Authorities.

Ms Clover drew Members' attention to Appendix 4 to the report, the condition as suggested by West Mercia Police, which Ms Freeth had agreed to. Her clients aim was to ensure that she met the licensing objectives. Ms Freeth wanted the hotel to be both successful and an asset to the area.

Ms Clover referred to the conditions as detailed on page 23 in the report, Annex 3, conditions 1 and 2, as detailed. These two conditions were there to ensure that there was no noise emanating

from the premises. The inclusion of these two conditions should address the concerns raised by residents with regard to any potential noise nuisance.

Ms Clover further informed the Sub-Committee that the premises licence was granted in 2007 by the Council's Licensing Sub-Committee. She was revisiting the conditions imposed on the premises licence at that time, as the conditions imposed were not clearly worded in respect of licensing functions or the licensing objectives.

With regard to the removal of the existing condition on the premises licence; the requirement for CCTV cameras to be installed. Relevant agencies and the police had been consulted with and the advice given was that if a condition was not achieving one of the licensing objectives there was no need for the condition to be on the premises licence.

Ms Clover further addressed residents' concerns in respect of the limited noise suppression from the conservatory at the premises. Ms Clover informed the Sub-Committee that the existing conservatory was to be demolished as planning permission had been granted to erect an orangery. The new purpose built orangery would be air conditioned so should address any concerns from residents with regard to noise nuisance from the new building as a result of open windows.

Ms Clover reiterated that no complaints with regard to the premises had been received by any of the Responsible Authorities from residents over the last ten years or so. Looking at the representations received, it would appear that some of the circular letters issued had raised fear in the community.

Ms Clover then referred to the representations from residents and their concerns regards parking, as highlighted in a number of representations.

Ms Clover reminded the Sub-Committee that parking issues were not relevant to the licensing objectives and she would ask Members to disregard any concerns raised by residents with regard to parking issues.

Ms Clover stated that the variation application was to make minor changes to the existing licence and the removal of some of the conditions imposed in 2007 that were not relevant in order to meet the licensing objectives.

Ms Clover then responded to questions from Members of the Sub-Committee and those residents nominated to speak, and in doing so, explained that the additional hours sought were during the daytime, no additional hours were being sought for the tail end of the day; and as stated earlier there had been no issues or concerns raised about noise levels or people leaving the premises at night during the last ten years.

At the invitation of the Chairman, Ms J. Bainbridge, resident of Ipsley Lane, addressed the Sub-Committee. Ms Bainbridge informed the Sub-Committee that a resident's committee meeting was held on 20th October 2016 to discuss the issues experienced by nearby residents, as residential properties bordered the land on two sides of the premises. Ms Bainbridge referred to the conditions imposed in 2007 and that the licence had worked well. In 2016 the hotel had changed hands and residents had received a letter from the new owners regards some 'tweaks' they wanted to make to the existing premises licence. Residents felt that the variation application was hardly to make a few 'tweaks'.

There had been no steps taken to address issues around soundproofing at the premises. The noise could destroy the quietness of the area with loud music being played for up to twelve hours a day, seven day a week. The Freeth's did not live at the premises so would not be subject to the noise. The new owners could run discos at the premises if they chose to. Residents questioned why a one off licence for wedding events could not be applied for; there was no need for a blanket licence for the premises.

In summary residents were objecting to the additional hours applied for on the variation application, the extension to the number of days for regulated entertainment to take place and the increase in the number of guests from 120 to 150. Parking was already an issue and additional guests would lead to additional vehicles being parked on the lanes around the premises.

At the invitation of the Chairman, Mr B. Williams, resident of Icknield Street, Ipsley, addressed the Sub-Committee. Mr Williams informed the Sub-Committee that his property was ten metres from the rooms used at the hotel for events. The situation could get worse with an increase in hours and the number of guests attending events. The residential houses were very close to the hotel, with 120 residents having to live with the effects of loud noise. He would therefore ask the Sub-Committee to keep to the conditions as imposed in 2007. The new owners could erect tents / marquees in the grounds and could have discos at the premises.

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Mr Williams responded to questions from the Sub-Committee with regard to his concerns about noise. Mr Williams informed the Sub-Committee that he had only recently moved into the area, in May of this year. He had moved to what he thought would be a quiet residential area, he felt that the current licence kept the noise at an acceptable level, he had made no complaints but he understood that other residents had made complaints to the hotel.

At the invitation of the Chairman, Ms A. Bennett, resident of Field Farm Lane, Ipsley, addressed the Sub-Committee. Ms Bennett stated that she was concerned that emergency vehicles would have problems accessing properties due to cars parked on Ipsley Lane. An increase in the number of guests at the hotel would increase the number of parked vehicles around the hotel and that parking was a significant concern, with limited visibility at night and no footpaths on some of the lanes.

Ms Bennet continued and highlighted that nothing had changed since 2007 so there was no reason to make changes to the current premises licence. It would have a detrimental impact on residents and to local businesses run from residents' homes. Her concern was that although music could be played solely for infrequent activities or as low key background music, there would be no restrictions on music being played if a blanket licence was granted. Ms Bennet stated that there had been no reason to complain over the years as the infringements were few due to the conditions imposed in 2007; but complaints had been made to the Council and to the hotel.

In response to questions from Members and the concerns raised by residents regarding access to a lake on the premises and the protection of children from harm. Ms Bainbridge responded and clarified that the monk's pond bordered the hotel and some of the residential properties and belonged to the residents of Wolverton Close.

At the invitation of the Chairman, Councillor J. Brunner, Ward Member for Matchborough addressed the Sub-Committee. Councillor Brunner explained that local residents, who had submitted representations, had voiced their concerns to her and had requested that she speak on their behalf at the Hearing.

Councillor Brunner highlighted that noise from the hotel affected a great number of Ipsley residents. The licence as granted in 2007 was not appealed by residents as they were relieved that conditions were imposed on the licence to avoid any further issues from the hotel since there had previously been a number of incidents,

described as a 'living hell' by residents, from noise, fireworks and antisocial behaviour from the premises. Residents had therefore welcomed the decision of the Sub-Committee in 2007 to impose certain conditions to address the concerns raised by local residents.

Councillor Brunner continued and further informed the Sub-Committee that residents had complained to the hotel regarding parking issues as a result of guests parking across resident's driveways. If the variation to the licence was granted there could be the potential for fighting, overcrowding, further parking issues and as stated earlier restricted access for emergency vehicles. The prevention of public nuisance was important, since there was the potential for an increase in noise nuisance, litter, odour and vermin around the premises. Residents wished the new owners well, there was no malicious intent in them making objections to the application, but having experienced previous problems from the premises, resident's lives would be blighted. She would therefore ask the Sub-Committee to look at the evidence and refuse the variation application so that residents could enjoy their properties.

Ms Clover asked Councillor Brunner to clarify if residents had complained to her directly, as stated, due to a "Living Hell" and as a result of those complaints had she called the premises licence in for review?

In response Councillor Brunner explained that she had directed residents to inform Environmental Health and Licensing with regard to any concerns or complaints about the premises, she had not called the licence in for review.

All parties then had the opportunity to sum up their cases.

The Technical Officer (Licensing), WRS referred to the Licensing Act 2003, the Council's Statement of Licensing Policy and to consider the four licensing objectives.

In summing up Ms Bainbridge stated that residents objected to the variation application.

In summing up, Ms Clover asked to raise a couple of points with regard to the comments made by residents. In respect of public nuisance and odour, which was a new complaint, external caterers would not create any more odour than on site caterers. Residents have highlighted that they 'would be' affected by the variation application and she would emphasise, the fact remained that residents 'had not been' affected to date. The variation application was to make subtle changes. There were few infringements in

respect of the current licence. There was no evidence to suggest that increasing the number of days for events would cause any concerns to residents. Councillor Brunner had not felt the complaints from residents were sufficient to call the licence in for review. Environmental Health had been consulted with and did not raise any representations to the variation application and had taken no action regards any complaints received over the last ten years.

Ms Clover continued and stated that to refuse the variation application based on the amount of evidence presented today would amount to speculation. There was no evidence to suggest that issues would arise due to the earlier hours applied for. There were no legitimate reasons to complain based on fear and not reality. Amplified music being played for twelve hours a day was not realistic. Ms Clover would reiterate that if incidents did occur, residents could call the licence in for review. In her opinion things had spiralled out of control with accusations being made against the applicants. Her client had written to residents explaining how the business would progress. Members must make their decision based on reality and the evidence presented.

Final submissions having been made, the Chair announced that having taken into account the evidence received and the oral representations made during the course of the Hearing; the Hearing would be closed for the Sub-Committee to consider all of the information and to make their decision in private. The Sub-Committee's decision would be sent to the applicant and all parties who made representations within five working days.

Having had regard to:-

- The provisions of the Licensing Act 2003
- The Statutory Guidance issued under Section 182 of the Act
- The Council's Statement of Licensing Policy
- The Report presented by the Licensing Officer
- The relevant written and oral representations submitted by local residents in objection to the application
- The application and oral representations made at the Hearing by the Applicant's legal representative.

the Sub-Committee RESOLVED that the application for a variation to a Premises Licence relating to The Old Rectory Hotel, Ipsley Lane, Redditch, Worcestershire, B98 0AP, be granted, in accordance with the variation application, subject to the standard mandatory conditions.

The Sub-Committee noted that the Applicant had liaised with West Mercia Police and had reached agreement on a condition that met with the approval of West Mercia Police. The Sub-Committee gave weight to the fact that there were no representations from any of the Responsible Authorities.

The Sub-Committee noted that, apart from a two hour extension of hours for licensable activities on New Year's Eve, which residents did not object to, the only extension of time for the supply of alcohol was for two hours before noon on a Sunday. The Sub-Committee also noted that the proposed extension of time for the provision of live and recorded music was during the day, which is now exempt from the need for a licence under the Live Music Act 2012.

The other variation sought related to the number of days per week / Sundays per month for the provision of regulated entertainment; an increase in the maximum number of guests for any event from 120 to 150, and the removal of a number of licence conditions dating from 2007.

The Sub-Committee has taken into account the written application and the oral representations made on behalf of the Applicant.

The Sub-Committee also considered the written and oral representations received from local residents and the Ward Member for Matchborough with regard to their concerns in respect of the risk of public nuisance and public safety should the variation be granted, and other issues relating to:

- The physical characteristics of the premises
- Increased traffic and parking of vehicles in local streets
- Lack of public transport
- The general impact upon the quality of life of residents from loud music emanating from the premises
- Impact on property prices in the area
- The protection of children from harm from increased traffic
- Maintaining conditions on the current licence dating from 2007

The Sub-Committee considered that the representations by the objectors related to concerns about the future use of the premises rather than evidence based on any previous difficulties or complaints regarding the use of the premises.

The Sub-Committee considered that the procedures put in place by the Applicant and the conditions attached to the Licence should ensure that the premises would operate without complaint or cause for concern and that the proposed variation would not be likely to lead to any greater problems than could currently exist.

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With regard to the conditions imposed in 2007, the Sub-Committee took legal advice on the current law and the general principles governing conditions, as set out in the s182 Guidance and were satisfied that their removal was appropriate.

Regarding the increase in the maximum number of guests for any event to 150, the Sub-Committee noted that from the Fire Risk Assessment perspective, this number was 196.

The following legal advice was given:-

- The Licensing Objectives must be the paramount consideration;
- The Sub-Committee may only have regard to representations which promote the four licensing objectives; and evidence relevant to those objectives;
- The Sub-Committee must consider only those matters directly relevant to the premises and must disregard references that fall outside of the Licensing Act;
- In imposing conditions the Sub-Committee must ensure that they are appropriate for the promotion of the licensing objectives.

The Sub-Committee wished to remind all parties that should there be any problems in the future that they should be reported to Worcestershire Regulatory Services and if evidence were available that undermined the licensing objectives then the licence may be brought back before the Sub-Committee for review.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision is received by the Applicant.

The Meeting commenced at 6.04 pm
and closed at 7.38 pm