

Licensing Sub-Committee – 30 July 2009

Minutes of the meeting of the **Licensing Sub-Committee** held on **30 July 2009** when there were present:-

Cllr T G Cutmore
Cllr K A Gibbs

Cllr A J Humphries

OFFICERS PRESENT

N Khan	- Solicitor
R Peacey	- Commercial Regulation Manager
P Nellies	- Licensing Officer
S Worthington	- Committee Administrator
M Power	- Committee Administrator

93 APPOINTMENT OF CHAIRMAN

Cllr T G Cutmore was appointed Chairman of the Sub-Committee.

94 PROCEDURE FOR LICENSING HEARING

The Sub-Committee noted the procedure to be followed during the hearing.

95 LICENSING APPLICATION

The Sub-Committee considered an application for a premises licence made under section 17 of the Licensing Act 2003. The application related to a premises known as The White Hart Inn, 274 Main Road, Hawkwell, SS5 4JT. Members had before them the report of the Head of Environmental Services setting out the details of the application and the representations received from various interested parties.

The Licensing Officer emphasised that the deadline for submitting representations relating to the application was 10 July 2009; all those who had submitted representations within that deadline were eligible to speak at this hearing. Representations had been received after the deadline; interested parties who had submitted representations after the deadline would not be eligible to speak at the hearing. It was, however, emphasised that those written representations would still be taken into account. Particular reference was drawn to a procedural issue that had been raised by one of the interested parties, who had submitted a representation outside the deadline.

It was recognised that all notices displayed at premises relating to the licensing application should display details of the Council's website address; this had not been done. It was, however, stressed that this was an issue that did not fall to the Sub-Committee to determine; its role was to determine the specific licensing application in the context of the four licensing objectives. It was further noted that, despite the absence of the Council's website address on the notices, a large volume of representations had, nevertheless, been

received. This oversight had not been prejudicial to this application, or indeed to any application made to the Authority since 2005.

The Licensing Officer drew attention to some amendments that had subsequently been made to the report of the Head of Environmental Services, as follows:-

- Page 4.2, paragraph 3.1: Provision of regulated entertainment (indoors only) consisting of films and indoor sporting events – times should be amended to 0900 to 0030 hours Monday to Thursday; 0900 to 0130 hours Friday to Saturday and 1200 to 0030 hours Sunday.
- Page 4.3, paragraph 3.2 – this relates to all licensable activities.
- Page 4.4 – paragraph 5.5 should be deleted.

It was further noted that 3 additional representations had been received with respect to the application, two in objection and one in support. Copies of these were circulated to the Sub-Committee and to the applicant.

The applicants provided the Sub-Committee and interested parties with supplementary documentation in support of their application. They confirmed that the application was for a premises licence providing for the sale of alcohol, the provision of regulated entertainment indoors and outdoors, provision of facilities for music, for dance and similar, for recorded background music and provision of late night refreshment.

The applicants had taken over the public house approximately 18 months ago after it had been on the market for some time. Unfortunately there had subsequently been an economic downturn. In an economic climate in which many public houses were being forced to close down daily, the applicants were endeavouring to secure the future of the White Hart Inn, given the fact that one of the conditions of the lease of the building was that the 200-year-old-public house be maintained. The applicants emphasised that less people were going to pubs for a drink and it was therefore necessary to attempt to provide a wider range of facilities in order to keep the White Hart Inn open for business.

The applicants emphasised that they were sensitive to the fact that the White Hart Inn was a community pub situated in a highly residential area. The applicants considered that the White Hart Inn was part of the community. The applicants had no plans to offer regular live music in the garden of the premises and had, indeed, discussed their plans with some of the residents who had made objections to the licensing application, confirming the intention to limit this activity to four times a year for a maximum of two and a half hours per event, with any such activity ending by 7.30 pm. This equated to a maximum of ten hours per annum.

The applicants invited some of the local residents who had objected to the

application to a meeting at which they had explained that they were willing to limit any outside music. They had also outlined their plans to hold a family barbeque in the pub garden on the afternoon of 19 July, which would end at 7.30 pm. No-one had expressed any objections to these plans at the time.

The applicants expressed disappointment with a letter from the “White Hart Residents Group” that had been circulated to residents in the vicinity, perceiving it to have misrepresented them. The applicants considered that it was inaccurate to suggest that they had not considered the impact of the licence on the locality and to infer that the pub was responsible for previous anti-social behaviour on the nearby green and for car parking in the road. The applicants stressed that the pub car park was used regularly by patients and customers of the dentist and hairdresser’s, as well as those people using the play space opposite.

The applicants considered that the application was a reasonable one, which aimed to provide entertainment for the enjoyment of local residents; although there were clearly objectors to the application, there were many residents and neighbours who supported the proposals. Charity quiz nights held at the premises were well supported and the applicants were working hard to increase trade for lunches and to determine what residents wanted from their local pub. In addition, the applicants had invested a lot of money in order to keep this old building an attractive part of the local community.

In response to questions, the following was noted:-

- On 4 July 2009 the event ended at 10.00 pm.
- On 19 July 2009 music was played from approximately 1640 to 1920 hours; this was not loud. The event was a pleasant, family barbeque.
- The applicants were willing to limit any outside music to 4 times per annum, for a maximum of two and a half hours, ending at 7.30 pm and to give resident prior notice of any such events.
- A 50th birthday celebration had been held on 4 July 2009; this had gone on for too long and lessons had been learned from this event.
- The Police were not called to the premises on 19 July 2009.
- On 19 July 2009 the applicants did receive an invitation to go to a resident’s house to hear the noise for themselves.
- The applicants had ordered a decibel meter and were waiting for this to arrive; it was currently difficult to gauge sound level, although it was emphasised that on 19 July 2009 children were standing in front of the music speakers, as such the music could not have been too loud.
- The premises did receive telephone calls from residents complaining about the noise on 19 July 2009 and did turn the volume down; the Police also telephoned but were satisfied when informed that the event would end at 7.30 pm.
- Staff were fully trained in noise management; a training record book and complaints book were held at the premises. All staff were personal licence holders.

- The premises does not employ door supervisors; there are no future plans to hold regular events at the premises and staff are trained in handling any isolated incidents, thus no door supervision was currently needed.
- It would be difficult to control noise outside; but the decibel meter should help alleviate any noise-related issues.
- It would be possible to hold entertainment events inside the premises, although it would be too cramped for bands.
- There was no air conditioning inside the premises and no double-doors; however the applicants would be willing to keep all windows and doors closed during any events.

A local resident living in close vicinity to the premises spoke in support of the application. He had attended the meeting organised by the applicants for those residents objecting to the proposals because he had been concerned that there would be regular events held in the pub garden. He was now satisfied that this was not the case. He confirmed that he had attended the barbeque held on 19 July 2009, which had been a well-run, family event. He considered that reports of noise associated with this event were exaggerated. It had been held at the same time as a British Legion Flag Day event on the green; both activities had been, in his view, good community events.

Representations had been made by 1 Responsible Authority, Rochford District Council's Environmental Protection Unit, on the grounds of public nuisance.

Mr Blake, on behalf of the Environmental Protection Unit, confirmed that any external entertainment activities, particularly amplified music, would affect the amenity of residents living in the vicinity. He further indicated that the Unit had received complaints relating to noise following external events held at the premises on 4 July 2009 and 19 July 2009.

In the event of a premises licence being granted, the Environmental Protection Unit recommended that there should be no provision of regulated entertainment, provision of facilities for entertainment or any public address system relating to the external areas of the premises and that, furthermore, all windows and doors should be kept closed during any live performances and amplified recorded music inside the premises.

In response to questions, Mr Blake confirmed that it was difficult to control noise outside; there were no measure that could be taken to prevent any amplified sounds being heard in the vicinity. He further advised that a site visit had been made to the premises, although no noise levels had been taken.

Several written representations had been made against the application by various interested parties in respect of the prevention of public nuisance licensing objective. A spokesperson had been appointed to speak on their behalf and she distributed further documentary evidence to the Sub-Committee and to the applicants, including a signed petition in objection to the

application, which included 126 signatures.

The spokesperson indicated that noise emanating from the premises on 4 July 2009 and 19 July 2009 was so loud that she was forced to move inside her property and to close all the windows. She telephoned the Police, as did other residents, and the Environmental Protection Unit to complain about the noise. The pub is situated in a densely populated area, has a small garden and limited car parking. The noise from customers attending and leaving outside events at the White Hart Inn does give cause to disturbance to residents. 35 households responded to a leaflet that the spokesperson had distributed and approximately 52 complaints were subsequently made about the application, none of which were anonymous. During the events held at the premises on 4 and 19 July 2009 it was impossible to hear the television, even with increased volume.

The spokesperson indicated that she did not object to live music inside the White Hart Inn, provided this was properly monitored by staff; the residents' objections were to the staging of events outside the building.

In response to questions, the following responses from the spokesperson were noted:-

- When complaints were made to the Police, the Police issued 3 separate incident numbers, as the events were subject to temporary event notices.
- Residents' objections related solely to live music played outside the White Hart Inn. It was difficult to control music outdoors; the speakers tended to drive the sound down towards Hockley Meade and further along White Hart Lane.
- There have not been any other events held at the White Hart Inn other than those on 4 and 19 July 2009 that caused problems for residents.
- Residents would be prepared to take the advice of the Environmental Protection Unit that events held inside the premises should be permitted, provided that windows and doors were kept closed during any such events and that this was properly managed by staff.
- Residents would not be happy with 4 events per annum to be held outside the premises, given the unacceptable way that staff dealt with those events held on 4 and 19 July 2009.

Another local resident who lived near to the premises with his wife and 3-year-old daughter emphasised that, initially, he had been afraid that the applicants intended to hold regular live music events in the pub garden. He had chosen to live in a highly residential area and felt that he and his family should be able to enjoy their garden without disturbance. During the two events held in the pub garden in July 2009 his daughter had not been able to sleep until the music was turned off. In response to a question relating to private parties held in gardens, the resident confirmed that these did occur occasionally and he did not object to such events, provided that they did not happen on a regular basis.

A further resident spoke in support of the residents' spokesperson and claimed that there were inaccuracies in District Council data relating to properties situated in the vicinity of the White Hart Inn. He gave details of properties situated within 10 metres of the pub, and further afield. Officers advised that the licensing application had been advertised in the Yellow Advertiser, a publication that was posted through the letter boxes of all properties in the vicinity of the premises.

The spokesperson reiterated that live music outside was what gave rise to objections from the residents. The residents did not wish to harm the pub's business, but wished the applicants every success with the business. It was, however, impossible to hold any outside entertainment without causing disturbance to residents. The residents were only concerned with preserving their quality of life.

In conclusion the applicants emphasised that, in their opinion, the representations that had been made were unfair. The applicants wanted to run a family pub that would provide a real community facility and only wanted to hold a maximum of 4 entertainment events outside per annum. Any events that are held in the garden are family-oriented and past events have been enjoyed by many other residents.

The Sub-Committee retired from the Chamber with the Legal Officer and Committee Administrators to consider the decision, returning for its announcement.

Having given careful consideration to the application and all representations made, Members fully appreciated the potential for significant noise nuisance caused by outside entertainment events and thus felt that the application should be granted, with the exclusion of any regulated entertainment taking place outside. It was, however, emphasised that barbeques and any other non-licensable activities will still be permitted to take place outside.

Resolved

That the application for a premises licence be granted, with the exclusion of all regulated entertainment taking place outside and the provision of facilities for music, for dance and for similar activities outside. Regulated entertainment taking place inside the premises shall be permitted, as applied for, subject to the following condition:-

- All windows and doors to be kept closed when regulated entertainment is taking place except for the entry and exit of customers. (HES)

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The meeting commenced at 10.15 am and closed at 2.00 pm.

Chairman

Date

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