

## **Licensing Sub-Committee – 29 September 2015**

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Minutes of the meeting of the **Licensing Sub-Committee** held on **29 September 2015** when there were present:-

Cllr M Hoy  
Cllr Mrs J E McPherson

Cllr Mrs C A Weston

### **OFFICERS PRESENT**

C Todman	- Trainee Solicitor
J Fowler	- Licensing Officer
M Howlett	- Principal Environmental Health Officer
S Worthington	- Committee Administrator
S Greener	- Essex Police

### **15 APPOINTMENT OF CHAIRMAN**

Cllr Mrs C A Weston was appointed Chairman of the Sub-Committee.

### **16 PROCEDURE FOR LICENSING HEARING**

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

### **17 LICENSING APPLICATION – LICENSING ACT 2003**

#### **Exhibition Inn, 241 High Street, Great Wakering**

The Sub-Committee considered an application for the variation of a premises licence made under section 34 of the Licensing Act 2003 with respect to a premises known as Exhibition Inn, 241 High Street, Great Wakering. Members had before them the report of the Assistant Director, Legal Services setting out the details of the application and the representations received from Environmental Health and various interested parties.

The applicant, in support of his application for the variation of a premises licence, emphasised that he had been a proprietor for 31 years. In 2013 when many pubs were struggling to stay open, he had the idea of opening a small cocktail bar; he had believed that the premises licence covered use of this bar.

The applicant advised that he was in receipt of a petition with 100 signatures all supporting the application to vary the premises licence, with a further five letters from residents similarly supporting the application. He stressed that the current condition on the licence restricting use of the external garden area to 2300 hours pre-dated legislation that banned smoking inside licensed premises.

The following responses from the applicant to questions raised were noted:-

- The premises now had a device for measuring noise levels in the bar and staff had been trained to use this. Noise rarely goes above 65 dbh. Noise from 12.00 am onwards in the garden area was already low level, but the premises would agree to cease outside use at 11.00 pm, if deemed necessary.
- The debris currently stored in the car park will be cleared away.
- Sound proofing has been done on the outside and will be done inside once the necessary permissions have been obtained. Would work with Environmental Health on the details and installation of suitable sound proofing.
- The back gate will be locked at 11.00 pm daily and noise levels will be monitored every 45 minutes and a log kept.
- The garden is in effect the current smoking area.
- There is a noise meter at the premises; all live music ends at 11.00 pm and noise is monitored. It would, however, be possible to cut out recorded music in the bar, if deemed necessary. The cocktail bar is a small one, around 12ft by 16ft, accommodating around 10 people, plus two to three members of staff; there will be no live music, discos or karaoke in this bar.
- Customers are not permitted to take glasses outside at any time and signs are clearly displayed at the premises reminding customers of this. Staff check outside the premises each morning.
- There is no legal obligation for CCTV to be provided outside the premises other than by the front door. In addition, the car park is part of the local highway.
- Background music would be at a level that was lower than speech levels.
- The Exhibition Inn is a small, country pub, which is family/community oriented. The proprietor lives on site and has observed people walking up the road with glasses from other pubs.
- It would be expensive for the premises to hire security guards and inappropriate for a small, country pub.

The Environmental Health officer, in presenting the Environmental Health representation to the application, confirmed that, given the applicant's willingness to agree to a condition restricting the use of the external area for consumption of drinks to 11.00 pm, Environmental Health had no objection to the application.

Interested parties emphasised that the premises was situated in a compact, residential area. The licensed premises have the longest operating hours in Great Wakering. The out building, a single storey structure, on the boundary of the premises, opened as a cocktail bar from April to July and operated until 0200 hours. It is in close proximity to the residential properties of interested parties, 8ft away from one, and, given inadequate or no sound proofing, was not acceptable in use as a bar, given that noise did emanate from the garden area..

They further emphasised that the windows and doors of the premises were open beyond 11.00 pm when music was playing. In addition, the sale of alcohol in the garden area of the premises was contrary to the current licence conditions. In addition, the garden area was not cleared by 2300 hours, also in breach of the licence conditions.

Interested parties stated that there had been an increase in anti-social behaviour in the High Street and this had been raised with the licence holder. There was significant noise disturbance for residents on a regular basis, which was hard to sleep through, with shouting and screaming and the noise of customers leaving exiting to the lane via the garden gate. It was claimed that on 28 August the noise only ceased at 0140 hours in the garden area. It was disappointing that the gate from the garden to the lane had not been secured each evening at 2300 hours, in breach of the licence conditions. Interested parties considered that the use of the new bar was likely to lead to an increase in anti-social behaviour and to an increased take up by a younger clientele. Interested parties believed that defining a designated smoking area away from residential boundaries could go some way to improving the situation, and that restriction of outside use of the premises to 2300 hours was essential.

It was also emphasised that the premises had limited storage and that the car park was currently being used to store gas fires and barbeques, etc. Customers were, it was claimed, often parking in the lane, rather than the car park.

The Police officer advised, in response to a reference from interested parties, to social network promotional footage from the premises of a drinking game, that the footage involved the licensee, and no patrons; as such the Police considered that no Police action was required.

Interested parties concluded by stating that there were currently breaches of the current licence conditions and they were concerned that the proposed variation of the licence would not improve the situation. Residents were concerned that any proposed conditions would not be adhered to.

The following responses from interested parties to questions were noted:-

- Efforts were clearly made by the applicant's son to install sound proofing to try to alleviate noise-related issues, but this sound proofing appeared to have been removed. The noise issues related to the increased use of the licensed premises garden, given its close proximity to residential properties. Interested parties were regularly kept awake until 0230 hours.
- Glasses were not witnessed outside other licensed premises in the High Street, only outside the Exhibition Inn. In addition, the photos submitted at pages 6.23 – 6.25 of the appendices clearly show glasses and cigarette stubs outside the Exhibition Inn.

In conclusion, the applicant emphasised his experience as a licensee over some 31 years. He also advised that the Facebook footage that had been referred to by interested parties during the course of the hearing, took place when he had bought a football team he sponsored a winners' celebratory drink.

He stressed that the Exhibition Inn was very much a family-run pub, with his wife and children also involved in it. Most of the pub's clients were also neighbours. He confirmed that concerns that had been raised would all be addressed.

He emphasised that he takes his responsibilities seriously and complies with the conditions of the licence. In particular, Challenge 25 is adhered to, with proof of age required and a refusals log kept at all times. All staff had received Challenge 25 training and all training records are available for inspection. An incidents log is kept and is also available for inspection. The Police conditions are also adhered to.

He further stated that he was not happy with the photographs showing broken glass and cigarette butts outside the premises; the cigarette unit was regularly smashed off the wall, and was repaired each time. When the culprits are discovered they are banned from the premises.

He stressed that sound levels are monitored and these are set to a maximum of 80 dbh, but monitoring shows that this rarely goes above 65dbh. Appropriate sound proofing would be installed, however. He will ensure that the premises keeps in touch with residents so that channels of communication are open.

He confirmed his willingness to fit external tables and chairs with parasols to further deflect sound and confirmed that the side gate to the lane would be secured at 2300 hours daily, so that customers would have to leave the premises via the front.

He advised that anti-social behaviour referred to during the hearing was associated with the sports field and not the Exhibition Inn. Staff at the premises reported any illegal activities to the Police.

He emphasised the importance of the premises playing a part on the community and cited examples of sponsorship of football teams and charity events, parties and celebrations for local people being held at the premises. The premises had raised large sums for charities over the years and it did not want neighbours to be unhappy with the premises. He would do everything possible to address the concerns that had been raised.

The interested parties confirmed that they were heartened by the closing statement of the applicant and looked forward to seeing their concerns actively addressed. They looked forward to seeing a designated smoking area more appropriately sited within the garden with all external licensable activities ceasing at 2300 hours in future. They perceived this to be a real opportunity to move forward to ensure that the situation improved for all.

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

The Sub-Committee had given careful consideration to the officer's report and all the evidence presented at the hearing, including concerns raised by interested parties and determined that many of the issues raised by interested parties related to the use of the outside areas of the premises, as well as the proposed out building. It noted the willingness of the applicant to comply with the conditions requested by the Police and the Environmental Protection Unit. The Sub-Committee therefore considered it appropriate to approve the variation to the premises licence, subject to the Police and the Environmental Protection Unit conditions detailed in appendices E and D of the officer's report.

It also deemed it appropriate to impose a further condition relating to sound proofing of the out building and to specifically define a designated smoking area within the external area of the premises, to be clearly indicated on a plan of the premises to be attached to the premises licence. A clearly defined smoking area would help promote the licensing objective of the prevention of public nuisance by ensuring that the use of the outside areas after 2300 hours daily is restricted to the designated smoking area, away from neighbouring residences.

The Sub-Committee commended the commitments stated by the applicant in relation to the clearance of debris from the car parking area and his willingness to keep the external areas clear from glass and litter.

It was emphasised that, in the event of there being any serious problems as a result of the grant of the variation to the premises licence, there is a power of review available to interested parties and responsible Authorities. This could lead to further conditions being imposed or the licence being revoked.

### Resolved

That the variation of the premises licence be granted, subject to the following conditions:-

1. The use of the outside area for consumption of drinks, including soft drinks and alcohol, shall be restricted to opening time until 2300 hours daily and therefore the use of the outside area after 2300 hours shall be restricted to the designated smoking area only.
2. The use of the out building for supply of drinks, both soft drinks and alcohol, and low level recorded music shall cease at 2300 hours daily.
3. To provide and maintain signs in prominent positions within the rear external areas reminding customers to have consideration for local residents to prevent causing a noise disturbance.
4. To provide and maintain signs in prominent positions advising customers that no drinks are to be taken into the outside area after 2300 hours.
5. The licensee or their representative to carry out regular monitoring (at least every 30-40 minutes) of this area to make sure that the above restrictions regarding use of the outside area are adhered to, and to monitor noise levels. A log of these checks is to be maintained and kept for at least six months for checks by the Local Authority, or Police, or any other Responsible Authority. The log will include records of any problems experienced and the steps taken to resolve them.
6. Side gate to remain closed from 2300 hours daily.
7. The out building is to be sound proofed, in accordance with the recommendations of Rochford District Council's Environmental Protection Unit. The out building shall not be used until the sound proofing has been installed.
8. The plan of the premises to be attached to the premises licence, includes a hatched area, which is the designated area within the outside area. (ADLS)

The meeting commenced at 10.00 am and closed at 1.15 pm.

Chairman .....

Date .....

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