

Licensing Sub-Committee – 18 April 2016

Minutes of the meeting of the **Licensing Sub-Committee** held on **18 April 2016** when there were present:-

Cllr B T Hazlewood
Cllr M Hoy

Cllr D Merrick

OFFICERS PRESENT

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

22 APPOINTMENT OF CHAIRMAN

Cllr D Merrick was appointed Chairman of the Sub-Committee.

23 PROCEDURE FOR LICENSING HEARING

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

24 LICENSING APPLICATION – LICENSING ACT 2003

The Paul Pry, 14 High Road, Rayleigh, SS6 7AA

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 the Paul Pry, 14 High Road, Rayleigh. 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, the Planning Authority and various interested parties.

It was noted that the applicants had submitted amendments to their application to all parties on 15 April 2016.

The Environmental Health officer, in presenting the Environmental Health representation to the application, emphasised that the conditions applied to the existing premises licence in 2005 were robust and accordingly there had not been any complaints made to Environmental Health since then in respect of the premises. He confirmed that the applicants' submitted amendments to the application would address some of the Environmental Protection Unit's concerns relating to noise and public nuisance. He was, however, concerned there was minimal information available relating to a garden management plan and although reducing the hours of operation of the proposed garden bar to 9.00 pm was positive, the location of this was only 10 metres from the nearest residential boundary and this would still impact on residential

properties during the daytime and there would also be a need for lighting in the garden. He also emphasised that any regulated entertainment management plan would need to include details of noise limiter calibration.

The Planning Officer confirmed that the amendment to the closing hour of the proposed garden bar to 2100 hours was acceptable and that the Planning Authority had no further objection to the application.

The Police Officer confirmed that Essex Police had assessed the application and, given that there had been no crime and disorder incidents at the premises during the past twelve months, were satisfied that door staff were deployed at the premises on the basis of risk assessments. He emphasised that if there were to be any future problems at the premises there was a caveat that a Police Inspector could ask for door staff to be reinstated.

Mr Turburville, a local resident, emphasised that, increasingly, the Paul Pry had become an inconsiderate neighbour. He stated that there had been breaches of conditions on the current premises licence in recent years, particularly in respect of noise. He stressed that residents were forced to close his windows and were unable to enjoy their gardens as a result of noise emanating from the Paul Pry. It was, on occasions, difficult for residents to sleep, because of noise from the premises, and music from the premises was often louder than the volume of residents' televisions.

He also advised that the premises had removed trees/vegetation from the garden of the premises, without prior consultation with neighbours, which had resulted in neighbours being disturbed by chainsaws, etc, when these were cut down. The vegetation had created a visual and audio barrier between the premises and residential properties that was no longer there; patrons were now able to see into residents' upstairs windows and conservatories and noise from the premises was more audible. He also stated that children often played in the pub garden unsupervised and occasionally gained access to residents' gardens. He concluded by emphasising that residents had been very tolerant but that conditions imposed on the premises licence in 2005 had been breached.

Cllr J L Lawmon, speaking on behalf of residents, emphasised that the Paul Pry was a country style pub in a residential setting, which was on an incline with its garden sloping downwards. There was no protection afforded to residents by way of rear screening, which was further exacerbated by the removal of trees, etc from the premises garden. The premises garden had a children's play area that was close to residential gardens; the proposed garden bar would change the nature of the pub. The proposed location of the garden bar was too close to residential gardens. It would need to be set up and cleared away each day and lighting would also be needed. Families and children would be kept awake at night by noise from the pub garden, with revellers going in and out and the pub door continually being opened and closed. This would encourage additional customers to use the premises until

9.15 pm and it would be difficult to encourage them to leave the garden afterwards.

He queried, in respect of the proposed amendment to condition 15 of the premises licence, how perimeter checks at the nearest residential boundary could be regulated, as the perception of volume of noise was very subjective and the proposed amendment did not provide any detailed clarification. Similarly, he emphasised that the proposed amendment to condition 16 relating to door staff appeared problematic and that any plan was likely to be reactive. He concluded by stressing that the conditions imposed on the licence in 2005 were ones which worked and should not, therefore, be changed.

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

- The only trees still in place were in residential gardens, which afforded inadequate screening.
- Breaches of the current licence conditions had not been formally reported by residents.

The applicant's representative, in support of the application for the variation of a premises licence, emphasised that the applicants very much wanted to work with residents but that there had been very little dialogue with residents. On 16 March 2016 one of the residents telephoned the premises in respect of music being too loud and the Deputy Manager responded by turning the music down.

The representative confirmed that, in response to concerns expressed by the various parties, the applicants had withdrawn from the application the proposed extension to use of the garden to midnight. He further stressed that the applicants were not seeking to include any form of regulated entertainment or music in the garden. The applicants did not wish to change the nature of the pub, which was a family oriented premises situated on the edge of town, rather than in the town centre.

The representative also emphasised that the proposed amendment to condition 15 of the premises licence would result in a more robust condition than currently existed. He also reiterated that the Police had not made any representation in respect of the change in condition relating to door staff, as there were no crime and disorder issues in respect of the premises.

The representative commented that some representations that had been made to the application contained references to matters that were not pertinent to the promotion of the licensing objectives. He made particular reference in this context to the issue of car parking within representations and advised that the premises had introduced car parking charges to its car park in response to people parking their cars there and then going into the town

centre. Pub customers using the car park had their parking fee reimbursed and the car park was now used by customers rather than shoppers.

He advised that one of the trees was cut down at the request of one of the residents, who had requested it be cut back as it was blocking out lock to their property and others had been cut down in the interests of health and safety. The issue of children being able to access residents' gardens from the pub garden was being explored by the applicants, who would work with residents to try and resolve this issue.

He emphasised that the proposed garden bar would close promptly at 2100 hours when in operation. This would help ameliorate current issues relating to breakages and spills with customers taking drinks out into the garden and should decrease the constant opening and closing of the door into the pub from the garden and potential escape of sound. This would not increase the number of customers; in the summer customers would go into the garden, irrespective of whether there was a bar in operation there. The bar to be used would be a portable dispense bar, which would be on a wheeled trolley that could be taken out and brought back inside instantly. While this bar was in operation it would be staffed, which would mean that the garden area would be supervised by a trained member of staff. This would help to promote the licensing objectives. He further stressed that the application did not seek to increase the licensable area or to put in additional seating or tables.

The following responses from the applicants to Member questions were noted:-

- The noise limiter had not been changed or altered since 2005; the applicants were willing to work with the Environmental Protection Unit to update this.
- The applicants would be willing to agree to a condition excluding bouncy castles from the garden area.
- The garden bar would dispense beer, cider and wine only; all other drinks would be purchased inside the premises. It could be set up and taken down in seconds.
- Staff working in the proposed garden bar would receive full training from the company prior to working outside, including focused training on the application of the garden management plan.
- SIA responsibilities would not be taken on by the premises bar staff; the pub was able to operate well without employing door staff.

In conclusion, the interested parties reiterated that the application would result in more customers using the pub garden, which would increase disturbance to local residents; reducing door staff at the premises would not improve matters.

The applicants' representative concluded by emphasising that no concrete evidence had been provided relating to some of the issues within the representations made by interested parties. The applicants had not been made aware of any of these concerns prior to the scheduling of the hearing. He urged residents to speak to the premises manager about any future concerns.

He emphasised that the pub garden was already busy and popular and that the proposed garden bar would not change what was already happening on site; people talking in the garden did not constitute a public nuisance. The garden was a pleasant, family area, and the introduction of a garden bar would help promote the licensing objectives by providing additional staff supervision in the garden and minimising noise emanating from inside the premises. If the proposed location of the garden bar proved not to be suitable in future, given its portable nature it would be possible to re-site it easily.

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 also took into account the amendments submitted by the applicants on 15 April 2016 to the application and all the written and oral evidence presented at the hearing. The Sub-Committee was also mindful that the Police had not made any representation to the application and that there was no evidence of crime and disorder at the premises during the past 12 months.

The Sub-Committee considered it appropriate to grant the application for variation to the premises licence, subject to such conditions as are consistent with the operating schedule, modified to such extent as considered necessary for the promotion of the licensing objectives.

While noting the concerns of interested parties, the Sub-Committee emphasised that, should there be any problems at the premises in the future, residents or Responsible Authorities would have an opportunity to call for a review of the licence. The Sub-Committee noted the applicant's willingness to work with local residents and to listen to any concerns to ensure that the conditions continued to promote the licensing objectives.

Resolved

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

1. The addition to Annex 2 of the condition: "A portable bar can be erected in the garden where indicated on the plan between 1 April and 31 October inclusive. During this permitted time frame the bar shall only be operated on Fridays between midday and 2100 hours and on Saturdays, Sundays and Bank Holiday Mondays from opening until 2100. The bar will only serve draft beer, cider and wine during the

permitted hours and will cease operating at 2100 hours precisely. The portable bar shall not be used until such time as the garden management policy has been agreed in writing by the Environmental Protection Unit, Licensing Authority and the Police.”

The Committee decided to permit this variation due to the earlier closing hour, withdrawal of the Planning Authority’s objection, and subject to the requirement for a garden management policy.

2. The addition of a new condition to the premises licence requiring a garden management policy to be drawn up and agreed in writing by the Environmental Protection Unit, Licensing Authority and the Police, implemented thereafter and made available upon request by any of these Responsible Authorities.

The Committee welcomes the further control volunteered by the applicant as this will further promote the licensing objective of reducing public nuisance.

3. The amendment of condition 15 to read: “A regulated entertainment management plan to be drawn up and agreed in writing by the Environmental Protection Unit, Licensing Authority and the Police, implemented thereafter and made available upon request by any of the Responsible Authorities.

The Committee considers this will further promote the licensing objective of reducing public nuisance.

4. The addition of a new condition to the premises licence requiring a complaints log to be kept and used at the premises to record any complaints received from residents in the immediate vicinity of the premises. It shall be made available for inspection by the Licensing Authority, Environmental Protection Unit or the Police on request. The log will record details of the complaint, including time, date and name of person recording it and any action taken in relation to the complaint.

The Committee considers this will promote the licensing objectives.

5. The removal of condition 25 and amendment of condition 16 to read: “The DPS will risk assess the number and use of door staff or where the Police (inspector or above) has requested that door staff are used/where door staff are utilised at the premises, the DPS shall ensure that a proper record is kept to show full details of all door staff on duty.”

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The meeting commenced at 10.15 am and closed at 1.28 pm.

Chairman

Date

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