

SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 6 July 2018

**10.27 am - 1.07 pm in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND**

Responsible Officer: Shelley Davies
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Present

Councillors Peter Adams, Simon Jones and Paul Milner

1 Election of Chairman

RESOLVED:

That Councillor Simon Jones be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

2 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

3 Application for a Variation of a Premises Licence - The Wheatsheaf Inn, Lower Broad Street, Ludlow, SY3 1PQ

Consideration was given to an application for a Variation of a Premises Licence in respect of Wheatsheaf Inn, Lower Broad Street, Ludlow.

Mrs. Ruth Watson (Objector), Mr. Roger Curry (Objector), Mr. Ken Peacock (Landlord of Wheatsheaf Inn), Mr. Chris Grunert (Licence Holder's Representative - Marstons), Mr. Chris Nicholson (Marstons), Mr. Michael Jackson (Interested Party), Mr. Alexander Downes (Interested Party), Mr. Matthew Clark (Public Protection Officer – Professional (Environmental Health) Shropshire Council), Mr. Robert Bowland (Public Protection Officer – Specialist (Out of Hours) Shropshire Council); Ms. Deborah Hall (Public Protection Officer – Specialist (Out of Hours) Shropshire Council), Mr. Grant Tunnadine (Trading Standards – Shropshire Council), Mr. Jamie Tawn (Trading Standards – Shropshire Council), Sgt. Adrian Woolley (West Mercia Police) Ms. Louise Prince (Solicitor – Shropshire Council) and Ms. Jessica Moores (Public Protection Officer – Professional (Licensing) Shropshire Council) were in attendance.

Mr Grunert (the Licence Holder's representative) addressed the Sub-Committee to explain that the application sought to extend the Late Night Refreshment to the current terminal hours of the premises; to remove and replace a condition from the embedded restrictions attached under the Licensing Act 1963 regarding children; and amend condition 2 of the Prevention of Crime and Disorder conditions on the current licence, which prohibits alcoholic and other drinks to be removed from the premises

in open containers. He added that a number of additional conditions had been discussed with Mr Clark and Mr Tunnadine.

In response to questions from Mr Clark, Sgt. Woolley, the Solicitor and Members of the Sub-Committee the Licence Holder's Representative confirmed that:

- The premises was currently operating under Temporary Event Notices to allow alcoholic and other drinks to be removed from the premises in open containers;
- The condition to ensure that customers go inside the premises at 10pm had been drafted and was open for discussion;
- The incident referred to by Mrs Watson was a 'one-off' and he agreed that the behaviour was unacceptable;
- CCTV was proposed in the list of additional conditions previously referred to;
- The behaviour of the customers using the outside area was not inappropriate as described by the objectors;
- The outdoor furniture would be put out of commission when not in use but it was too heavy to be removed each day;
- He was not aware of the incidents listed by Mrs Watson; and
- Previously drinks had been served in the outdoor area which was a breach of the conditions of the premises licence and the reason the variation application had been submitted.

The Public Protection Officer - Professional (Licensing) addressed the Sub-Committee, confirming that the application had been accepted as a valid application and that during the statutory consultation period representations had been received from the Police, Environmental Health and Trading Standards. Additionally 18 representations had been received from 'other persons' – 6 of these were in objection to the application and 12 in support.

In response to questions from Sgt. Woolley and Members of the Sub-Committee the Public Protection Officer - Professional (Licensing) confirmed that:

- The proposed condition for a customer already in the outdoor area to return inside the premises at 10pm would be difficult to enforce from a licensing perspective; and
- In theory a customer would be able to purchase a drink in a sealed container open it themselves or purchase a drink from elsewhere and drink in the outdoor area.

Mr M. Clark (Environmental Health) addressed the Sub-Committee in relation to the application and stated that he was in agreement with the Public Protection Officer - Professional (Licensing) with regards to whether the condition discussed was enforceable and also noted that there was an ongoing complaint in relation to noise at the premises.

Mr. R. Bowland (Public Protection Officer – Specialist (Out of Hours) provided information in relation to monitoring at the premises that had taken place in regards to an ongoing complaint.

In response to questions from Members of the Sub-Committee and the Licence Holders Representative, Mr. R. Bowland confirmed that the monitoring had taken place between 9.30pm – 11pm and he had witnessed customers drinking in the outdoor area.

In response to questions from Members of the Sub-Committee and Licence Holders Representative Mr M. Clark confirmed that:

- The High Court Case referred to was an interesting case but dealt with a different issue to that being discussed at this hearing;
- He did not disagree with S182 guidance but pointed out the activity discussed was taking place on the highway and out of the red line of the premises and therefore such a condition would be difficult to enforce;
- The issue under discussion did not relate smoking and when customers leave a premises to smoke they tend to do just that; and
- He supports the proposed conditions if they are seen to be enforceable.

Sgt. A. Woolley (West Mercia Police) addressed the Sub-Committee in relation to the application stating that his main concern was that the wording of the condition to ask customers to return inside the premises at 10pm needed to be precise and state that the DPS and not the Police were responsible for enforcing the condition.

In response to questions from Members of the Sub-Committee Sgt. A. Woolley confirmed that he was Concerned that the outdoor area was not within the red line of the premises and therefore the DPS does not have any power to ask the customer to leave this area. This would then lead to the Police being called.

Mrs R. Watson (Objector) addressed the Sub-Committee in relation to the application. She outlined the disturbance that the Wheatsheaf caused her and noted that she had felt threatened by customers of the premises.

Mr R. Curry (Objector) addressed the Sub-Committee in relation to the application. He noted the impact of the premises in relation to his holiday let and stated that he considered CCTV in the street would be a good idea,

Mr G. Tunnadine (Trading Standards) addressed the Sub-Committee in relation to the application. He explained that Trading Standards had initially objected to the application in relation to safe guards to prevent underage sales but the applicant had agreed for conditions to be included on the premises licence in regards to this issue.

In response to a question from the Chairman Mr Tunnadine confirmed that the application would be required to renew the pavement permit next year and it would be at this stage when the permit would be reviewed, however he pointed out that this would be in relation to the use of the highway only and not include matters such as noise nuisance.

Mr. A. Downes (Interested Party) addressed the Sub-Committee in relation to the application. He reported that he had been a resident in Lower Broad Street for 15

years and the Wheatsheaf was a popular pub and most residents support the premises.

Mr. M. Jackson (Interested Party) addressed the Sub-Committee in relation to the application. He noted that he had lived in the area for 30 years and most residents were older people that would not tolerate any noise nuisance.

In response to a question from a Member of the Sub-Committee Mr Downes confirmed that drinks had been consumed in the outdoor area in the past but noted that it was a pleasant environment and he would not want this to be taken away.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub- Committee retired to consider the application, in private, at 12.22 p.m. and reconvened at 13.02 p.m. to announce their decision.

RESOLVED:

That the variation application for Wheatsheaf Inn, Lower Broad Street, Ludlow, Shropshire, SY8 1PQ be granted as follows:

1. Late Night Refreshment (Indoors)

Monday – Saturday: 23:00 – 00:00

Sunday: 23:00 – 23:30

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

2. That the following condition from the embedded restrictions attached to the existing premises licence under the Licensing Act 1963 regarding children be removed:

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

1) He is the child of the holder of the premises licence

2) He resides in the premises, but is not employed there

3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

4) The bar is in premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

3. That the above condition be replaced with the following in the Protection of Children from Harm section of Annex 2 of the premises licence:

Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless accompanied by an adult and either dining or attending a private function.

4. That condition 2 of the Prevention of Crime and Disorder conditions in Annex 2 of the current licence is removed and replaced with the following:

No open vessels shall be taken into the external area of the premises (as covered by the pavement permit issued for the premises) or alcohol be consumed by customers in any external area between the hours of 22.00 – 10.00 Sunday to Thursday and between 22.30 – 10.00 Fridays and Saturdays. Between the hours stated above no furniture found in external areas shall be used by customers. A polite notice shall be posted within the premises and at the exit of the premises advising customers that alcohol may only be consumed within the area covered by the pavement permit. The notice shall include a plan of the pavement café area. Relevant staff will ask members of public to return to the venue at the point of curfew.

5. In accordance with the operating schedule contained within the current premises licence, with the addition of the following conditions as agreed between the applicant and the Responsible Authorities:

- i. The premises will operate a proof of age scheme and will require photographic identification from any person who appears to be under the age of 21 years and signage to this effect is to be displayed within the premises.
- ii. All members of staff involved in the retail sale of alcohol shall be trained at least every 12 months on the age verification policy. Training records shall be retained at the Premises and shall be made available for inspection by the Police or any other authorised person on request.
- iii. A refusals book (or equivalent) shall be kept at the premises to record all instances where sale of alcohol is refused. Such records shall be retained at the Premises for at least 12 months, and shall be made available for inspection by the Police or any other authorised person on request.
- iv. CCTV to be in place at the premises and recording when the premises are providing licensable activities with images to be retained for a minimum period of 28 days except where such recording and/or retention cannot be achieved due to reasonable periods of maintenance or repair. CCTV shall cover the external seating area to the front of the premises. Subject to the requirements of data protection legislation, recordings shall be made available within a reasonable time upon request by the police or any other responsible authority.
- v. External doors and windows shall remain closed during periods of regulated entertainment except for the purposes of access, egress or in the event of an emergency.

Reasons

Having considered the application and the representations made by the applicant at the hearing, together with the evidence from the objectors and supporters that were present at the hearing, and the written representations of those objectors and supporters who were not present at the hearing, the Sub-Committee granted the application as applied for together with the additional conditions set out above.

The Sub-Committee did not consider there was sufficient evidence that the licensing objectives would be undermined if the variation application was granted. The Sub-Committee therefore granted the application as applied for.

The Sub-Committee considered the additional conditions as agreed between the applicant and the Responsible Authorities and were satisfied that these were appropriate to promote the licencing objectives.

In relation to point 4 above, having heard the evidence of the Responsible Authorities and objectors to the application setting out the nuisance that had been experienced in the past by those residents who lived close to the Premises, the Sub-Committee had some concerns over the applicant's use of the outside area and their level and ability of control of that area. They were however reassured by the representations made by residents in support of the application and the assertions made by the applicant that they understood their client base and were confident that the level of control afforded to the that area by the proposed condition was sufficient to ensure that the licencing objective to prevent public nuisance would not be undermined.

The Sub-Committee had considered all of the documents submitted prior to the hearing and the representations made by the parties at the hearing. The Sub-Committee also took into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council's Licensing Policy.

The parties were advised that the licence could be called in for review should there be any issues with the premises following the granting of the application.

The parties were advised that the decision would be confirmed in writing within 7 days of the date of the hearing and that every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.