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Agenda Annex

Shared Legal Services

Basingstoke and Deane Borough Council

Hart District Council

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DECISION NOTICE
OF THE LICENSING SUB COMMITTEE
AT
Hart District Council
on 13 November 2023

23/00672/LAPRE: APPLICATION FOR VARIATION TO THE PREMISES LICENCE
FOR THE WYVERN PUB 75 ALDERSHOT ROAD CHURCH CROOKHAM

The Licensing Sub Committee has carefully considered all the evidence and listened to the representations from the Applicant and Applicant's Representatives. The Sub Committee has also considered the written representations from the Environmental Health Officer and the local residents and listened to further representations at this hearing. The Sub Committee has decided having regard to all the circumstances to refuse this variation application.

The Sub Committee considered that the licensing objectives of "the prevention of public nuisance" is engaged, and it also considered the Council's Licensing Policy and the national guidance issued under section 182 of the Licensing Act 2003.

Representations

The Sub Committee heard from the Applicant (through his Representative), in his submission he presented further concessions in addition to the conditions previously offered. These are.

- Live music, all days from 10:00 – 23:00, reduced by 1 hour.
- Recorded music, all days 10:00 – 00:00, reduced by 1 hour.
- No amplified loud noise or music to take place outside the main building after 23:00hrs was added as a condition.

- No new patrons entry after midnight.

The Applicant also accepted to add two conditions from the conditions proposed by the Environmental Health team as provided within their written representation, these are,

- That signs shall be placed prominently at the premises asking patrons to respect local residents and leave the area quietly, especially for the premises car park area.
- That sufficient and adequate signage shall be placed in appropriate locations in the rear pub garden area to ask patrons to respect local residents.

The Applicant submitted that some of the other conditions proposed by the Environmental Health team were already incorporated in their dispersal policy, these are.

- That any patrons continuing to cause any disturbance or disorder shall be asked to leave the premises.
- That the premises licence holder or nominated person shall carry out observations in the vicinity of the noise sensitive properties surrounding the premises, on at least daily basis whilst regulated entertainment is taking place to establish whether there is any noise breakout from the premises:
 - i. Where the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity, then the volume of music shall be reduced to a level that does not cause disturbance.
 - ii. A record of such observations shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location, and duration of the observation, the level of noise breakout and any action taken to reduce noise breakout.

- iii. Such records shall be made available at all times upon request to a police officer or an officer of the local authority.

Furthermore, the Applicant explained that the outdoor areas management plan should be a flexible document that would be continuously reviewed and amended as required from time to time. The outside areas management plan would provide for a dedicated supervisor to manage the outside areas especially during busy evenings, the display of signs in prominent positions outside to make patrons aware of the rule and consequences of late night noise and to be respectful to the neighbours

The Sub Committee heard from the Environmental Health Team, they submitted that irrespective of the further concessions made by the Applicant, which is noted as positive step, there are still concerns on the grant of the application to vary the current premises license.

They noted that recorded music is still additional 1 hour every day and 7 days a week, while opening times would increase on Sunday to Wednesday by 30minutes on these days, and from Thursday to Saturday by 1hr on these days.

They acknowledged the proposed condition to require the Wyvern Pub to have an outside areas management plan would not address the concerns raised by them of the wellbeing of the area residents, rather it would best serve if there were enforceable conditions to address the licensing objective of the prevention of public nuisance.

The Sub Committee considered written representations from local residents and oral representation from one of the residents. The resident confirmed that the last reported incident to the Environmental Health Team was in 2016, however there have been more recent incidents of noise and disturbance which goes into early hours of the morning that were not reported. The resident raised concerns with the further concession made by the

Applicant, most especially, the live music will finish early but the recorded music would continue till midnight.

The resident reported that the effect of the noise and disturbance on their quality of life would be extended into the early hours of the morning and that the suggested staggered dispersal of patrons would mean that the noise and disturbance would persist longer into the early hours.

REASONS

In reaching its decision the Sub Committee considered the licensing objective of the prevention of public nuisance as it relates to the residential area and environmental health, it also considered the provisions of the council's statement of Licensing Policy.

1. Residential Area

The Sub Committee considered the Wyvern Pub to be located in a residential area, with a number of adjacent dwellings to the premises. There were twenty-two local residents who objected to the application, and they raised many issues relating to the current license.

- the noise generated from what could be a considerable number of people on the premises and the difficulty of trying to manage access and people leaving, i.e., raised voices, door slamming and vehicle noise.

There is no evidence that the current noise level at closing time would not simply be moved on to later time. The Sub Committee agrees that the impact of extended hours would be more noticeable due to ambient noise reducing later in the evening. This is already impacting working families and children and would be exacerbated.

The Sub Committee took into account the proposal for the licence holder or nominated person to carry out observations in the vicinity of the noise sensitive properties surrounding the premises to establish whether there is any noise breakout from the premises. The Sub Committee concluded that such findings would be subjective, and the residents may disagree with the level of noise that may be acceptable to the licence holder or nominated person.

2. Environmental Health Team

- The Environmental Health team submitted a strongly worded objection to this application. Their report stated that *“Exiting and entering patrons later in the night-time will inevitably have an adverse impact on nearby residents. I would consider that residents could be easily disturbed just by groups of patrons holding normal conversations, especially smokers in the rear pub garden area. This would be exacerbated by the consumption of alcohol when it is usual for patrons to become more vociferous and exuberant. With regards to live and recorded music, whilst it may be possible to keep windows closed, I would question how practicable this would be in the warmer summer months and how the pub staff could effectively monitor and enforce this. In relation to the exiting and entering of the premises, this could give rise to inevitable noise egress which would likely give rise to complaints due to the later terminal hours for these activities across the seven nights per week, and especially during the warmer months.”*
- The Environmental Health team listened to the representations from the Applicant’s Representatives and their proposed revised conditions, including the outside areas management plan and the dispersal policy. However, the Environmental Health Teams concerns remained the same. The Sub Committee agrees and accepts the submission of the Environmental Health Team and that the Applicant has not provided an enforceable outside areas management plan and dispersal policy.

- The Sub Committee agrees with the Environmental Health team that the existing conditions are reasonable and proportionate. They accepted the issues raised about the suggested staggered dispersal of customers and concluded that there was no guarantee this would be successful.
- The Sub Committee accepted the findings of the Environmental Health team that the management plan to control and monitor noise levels would not be adequate. That the existing conditions are reasonable, whereas the suggested management plan will not be precise and enforceable, contrary to the licence conditions general principles.

The Sub Committee in their deliberation considered whether there is any potential for compromise between the wishes of the Wvyern Pub and the concerns of residents for this application, but this was not possible.

The Sub Committee acknowledged that Mr Bobby Betts is an excellent community minded DPS, however, the variation of premises license application, if granted will undermined the licensing objective of the prevention of public nuisance.

Having considered all the representations and suggestions for revised conditions, the Sub Committee concluded that the application for a full variation of the premises licence including extended hours of operation would have a negative impact on local residents.

The Sub Committee also gave considerable weight to the council's licensing policy to balance the needs of local residents and sustainable business as stated at paragraph 5.8 in the Harts District Council statement of Licensing Policy "Licensing Authorities aims to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable



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for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment”.

You have 21 days from the date of receipt of the decision notice to appeal this decision.

C S Forster
16/11/2023 12:19:19

Chair: Councillor Steve Forster

16/11/2023

Date: _____