

LICENSING ACT SUB COMMITTEE

Friday, 29 November 2024

Present:

Councillors B Hall
C McDonald
K Murphy

7 **APPOINTMENT OF CHAIR**

Resolved – That Councillor B Hall be appointed Chair for this meeting.

8 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Licensing Act Sub-Committee were asked to declare any disclosable pecuniary and non-pecuniary interests in connection with any application on the agenda.

No such declarations were made.

9 **APPLICATION TO VARY A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - TAP, FERRY ROAD, EASTHAM CH62 OAU**

The Director of Law and Corporate Services reported upon an application that had been received from Marston's Plc to vary a Premises Licence in respect of Tap, Ferry Road, Eastham, CH62 OAU.

The hours permitted under the current Premises Licence were set out within the report. The application to vary the Premises Licence was to increase the licensed area to include the outside area on the licence. The current plan and the proposed updated plan of the premises had been provided to Members. The application also included a request to remove certain conditions from the current Premises Licence as outlined within the report and to attach the following condition to the Premises Licence:

- The Licence Holder must record incidents, in and around the licensed premises. The report (written or digital) must be produced on demand to an Authorised Officer and must be kept for a period of 12 months from the last date of entry.

It was reported that following discussions with Trading Standards the applicant had agreed to have a further condition attached to the Premises Licence, as outlined within the report, should the application be granted.

In respect of the application six representations had been received from local residents and local businesses. The representations related to noise nuisance they had experienced from loud music coming from the outside area of the premises. Copies of the representations had been provided to Members.

The applicant attended the meeting together with a business partner and their legal representative. Five local residents who had made representations were also in attendance with their legal representative.

The Licensing Manager confirmed that all documentation had been sent and received.

The Licensing Manager outlined the report.

The applicant's legal representative addressed the Sub-Committee and advised that the application had been made to include the external area in the plan of the premises and to remove outdated conditions attached to the Premises Licence. Members of the Sub-Committee were informed that entertainment had taken place inside the premises for many years and that the premises had made use of a gazebo in the outside area. Members were further informed that whilst live and recorded music had been provided for many years at the premises, people had been attracted to visit the premises for many different reasons and that the premises was particularly busy during the summer season.

Members of the Sub-Committee were advised that the application was transparent in that it was acknowledged that by including the outside area in the plan of the premises this would permit live and recorded music to take place in this area.

The applicant's legal representative reported that the areas sought to be licensed were not new areas and had been historically extensively used by members of the public and that the application to vary the Premises Licence had been sought to facilitate the sale of alcohol from an additional point within the external area which they believed would improve supervision, mitigate congestion internally and avoid points of conflict arising from queues but that there would be no material change to the day to day operation of the premises.

Members of the Sub-Committee were advised that there had been no representations from any of the Responsible Authorities, in particular Environmental Health and the Licensing Authority. It was submitted that in part the basis of the representations that had been made was to protect economic interests of those making the representations. The details provided within the representations in respect of live music played during the summer

months was challenged. Members were advised that the provision of live music did not amount to 9 hours on any one day and it was submitted that on most occasions the music finished between 5.00 pm and 6.00 pm and would not have caused there to be any sleep disturbance to local residents. It was acknowledged that on the occasions when music was played during the Glastonferry Festival that this may have affected young children whose bed time would have been before this terminal hour and the level of noise transmitted from the music as reported by local residents was also challenged. The applicant advised that in accordance with their measurement of the music, the levels had not risen above 100 decibels. Members were further advised that the film screening events had been conducted in a manner which would not be capable of causing disruption and that the varied programme of events contributed to the local cultural offering and would not be limited to heavy metal music.

Members of the Sub-Committee were advised that the applicant had been in consultation with Environmental Health who had provided advice as to measures that could be put in place to address concerns relating to noise emanating from the premises. This included relocating speakers, consideration as to the type of speaker used, not permitting the use of traditional drum sets for any performances, the installation of hay bales behind the structure where live music would be performed and the use of acoustic dampening materials on the floor of the structure. It was submitted on behalf of the applicant that should the application be granted, they were content for it not to have effect until there was a noise management plan in place based on a noise risk assessment approved by Environmental Health. It was further submitted that the applicant would be content for a condition to be placed on the Premises Licence that any future programme of music events could not take place until the premises has measures in place to prevent public nuisance.

The applicant's legal representative set out the applicant's argument that there was no direct evidence that public nuisance had occurred distinguishing between what constitutes noise and what constitutes a public nuisance, however it was proposed that conditions could be imposed on the Premises Licence to prevent public nuisance should the application be granted. It was proposed that the provision of Live Music in the outside area could be limited to 19:00 hours with the provision of films externally until 22:30 hours daily.

The applicant's legal representative responded to questions from Members of the Sub-Committee, the legal advisor to the Sub-Committee and local residents.

The local residents and their legal representative informed Members of the Sub-Committee that the applicant had staged a number of live music events including amplified music without the necessary permission. Details were provided to the Sub-Committee of events that had taken place between 21

July and 21 September 2024. These included 17 live music events with 29 amplified music performances which had taken place in the outside area of the premises without the necessary authorisations being in place. It was highlighted to Members that an event took place on 21 September despite the premises being advised by the Licensing Authority that entertainment could not take place in the outside area. Members were made aware that performances took place on a structure that had been built in the outside area without the necessary planning permission. The local residents believed that these actions demonstrated a disregard to the law and to public safety.

The local residents in attendance advised Members of the Sub-Committee that they had been unable to sit in their gardens due to the nuisance caused to them from music being played in the beer garden of the premises. One of the residents who owned a café in the vicinity also reported that their customers had been affected by the noise and another resident who owned a business in the area and also lived at those premises that they had been unable to listen to their own television at the usual volume due to the noise from the applicant's live music events.

The legal representative of the local residents responded to questions from the legal advisor of the applicant.

In determining the application Members of the Licensing Act Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

Resolved –

- (1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**
- (2) That the application to vary a Premises Licence in respect of Tap, Ferry Road, Eastham, CH62 0AU, be granted in part as follows:**

The following conditions be removed from the Premises Licence:

- The maximum occupancy of the building (including staff and performers) must be restricted to 100 persons.**
- The minimum number of competent Safety Stewards to be on duty during the whole time that regulated entertainment is taking place must be as indicated below:**

Two Safety Stewards

The primary duty of Safety Stewards is to ensure that safe conditions are maintained in the premises and to achieve this they must:

- a) have received training and written instructions on basic fire prevention and action to be taken in the event of an emergency**
 - b) keep all gangways and exits clear at all times**
 - c) prevent standing on seats and furniture**
 - d) ensure the safe evacuation of the premises in the event of an emergency and be aware of any special requirements in these circumstances**
- Safety Stewards must be readily identifiable to the public by wearing a badge or other distinctive marking.**

A record of Safety Stewards on duty must be in a form prescribed by the Licensing Authority and must be kept for a period of 12 months from the date of last entry in the book.

- The Licence Holder must ensure that their premises are not in any way promoted by the use of illegal fly posting or unauthorised advertisements attached to street furniture.**

The Licence Holder must ensure that contracts with promoters for their premises or events to be held at their premises prohibit the use of fly posting and/or advertisements attached to street furniture.

The Licence Holder must explicitly warn promoters that if they do fly post or display any other unauthorised advertisements they will be pursued for the costs of removal that fall on the Licence Holder must and that no further work will be placed with them by the Licence Holder or any employee of the Licence Holder.

The Licence Holder must ensure that contracts with promoters include an indemnity to the Licence Holder for any costs associated with the removal of illegal fly posting or other unauthorised advertisements incurred by the Council.

The Licence Holder co-operate fully with the Council and assist with identifying and taking action against any suspected promotion of their premises by illegal fly posting and unauthorised advertisements.

- The Licence Holder must keep and maintain an Incident Report Book issued by the Licensing Authority. This book must be maintained in accordance with the notes of guidance on the inside cover of the book. This book is to record incidents in and around the licensed premises. The book must be produced on demand to an Authorised Officer and must be kept for a period of 12 months from the last date of entry.**

The following conditions be attached to the Premises Licence:

- A Challenge 25 age verification must be implemented at the premises. Prior to being permitted to sell alcohol staff must be trained in respect of the Challenge 25 Policy and the prevention of the sale of alcohol to persons under 18 years of age. Refresher training must also be provided to staff.**

Training records must be kept and made available for inspection by an Authorised Officer.

- **The Licence Holder must record incidents, in and around the licensed premises. The report (written or digital) must be produced on demand to an Authorised Officer and must be kept for a period of 12 months from the last date of entry.**

(3) The part of the application to amend the plan attached to the premises licence be refused.