

LICENSING & GAMBLING ACTS SUB COMMITTEE

Minutes of a meeting of the Licensing & Gambling Acts Sub Committee of the Bolsover District Council held in Committee Room 1, The Arc, Clowne on Thursday, 19th September 2024 at 10:00 hours.

PRESENT:-

Members:-

Councillors Amanda Davis, Emma Stevenson and Rita Turner.

Officers:- Louise Arnold (Legal Team Manager (Deputy Monitoring Officer)), Lindsey Delamore (Licensing and Enforcement Officer) and Matthew Kerry (Governance and Civic Officer).

LGASC16-24/25 ELECTION OF CHAIR FOR THE MEETING

Moved by Councillor Rita Turner and seconded by Councillor Amanda Davis
RESOLVED that Councillor Emma Stevenson be elected as Chair for the meeting.

Councillor Emma Stevenson in the Chair

LGASC17-24/25 APOLOGIES FOR ABSENCE

An apology for absence was received on behalf of Councillor Anne Clarke.

LGASC18-24/25 DECLARATIONS OF INTEREST

There were no declarations of interest made.

LGASC19-24/25 TO HEAR REPRESENTATIONS MADE UNDER THE LICENSING ACT 2003 AND DETERMINE WHETHER TO GRANT AN APPLICATION FOR A PREMISES LICENCE AT BENNIES KITCHEN, THE OLD SCHOOL, MILL STREET, CLOWNE, CHESTERFIELD, S43 4JN

In attendance for this item was the applicant, Mr. Peter Hopkinson, and his son, Mr. Peter Luke Hopkinson.

The Legal Officer informed that, with other interested parties not present, it remained with Members to decide whether to adjourn or proceed with the hearing. Members unanimously agreed to proceed with the hearing.

The Chair introduced the item and welcomed those present.

The Chair explained the procedure that would be followed and stated that the hearing was not a Court and as such strict Court rules did not apply. Any evidence given would not be given under oath, but the Chair reminded parties that providing untrue statements was a criminal offence under the Licensing Act 2003.

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With all those present confirming they had received the relevant documents, the Chair invited the Licensing Officer to present the report.

The Licensing Officer stated the Council was responsible for granting Personal Licences under the Licensing Act 2003 (the 'Act'). The Act set out 4 statutory objectives, each of equal importance, that had to be addressed by the Council when discharging its functions under the legislation. Those licensing objectives were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

In addition to the legislation, the Council had to have regard to the Revised Guidance issued under section 182 of the Act and to the Council's own Statement of Licensing Policy.

In May 2024, the Council had adopted a revised Licensing Act 2003 Policy (the 'Policy'). The report set out paragraphs 2.2 and 2.4, 2.5 and 4.2 of the Policy, which outlined the general principles of the Policy and the Act.

On 5th July 2024, an application for a Premises Licence for Bennies Kitchen, The Old School, Mill Street, Clowne, S43 4JN was received by the Council from Mr. Peter Hopkinson. A copy of the application was attached as Appendix 1 and the proposed plan as Appendix 2. The application had been processed in line with the legislation and all Responsible Authorities notified.

The hearing was informed the opening and closing times were incorrectly recorded in the report; the correct times were listed.

On 18th July 2024, Derbyshire Constabulary contacted the Applicant to suggest additional conditions be imposed upon the licence. On 21st July 2024, the Applicant agreed to all conditions suggested by Derbyshire Constabulary. A copy of the agreed conditions was attached as Appendix 3.

On 5th August 2024, a representation was received from Ms. Frances Heavey-Cook in relation to public nuisance and crime and disorder. A copy of Ms Heavey-Cook's representation was attached as Appendix 4.

During the consultation period, the Applicant entered into mediation with Ms. Frances Heavey-Cook to try and resolve the concerns listed in the representation letter. As part of this process, a letter was sent to Ms. Frances Heavey-Cook and a copy of this letter was attached as Appendix 5. At the time of writing the report, Ms. Frances Heavey-Cook's representation was unresolved.

On 7th August 2024, a representation was received from Mr. Simon Holmes and Mrs. Anita Holmes in relation to Public Nuisance. A copy of Mr. and Mrs. Holmes' representation was attached as Appendix 6. During the consultation period, the Applicant informed the Licensing Team he had entered into verbal mediation with Mr. and Mrs. Holmes.

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On 6th September, the Applicant emailed the Licensing Team agreeing several concessions to Mr. and Mrs. Holmes including: no music to be played outside the building at any time, with all music contained within the premises; the music would ordinarily be at background level, subject to any private hire events in the studio rooms; that ad hoc live music events would take place on a periodic basis (these would finish no later than 23:00 hours); and the premises stop serving alcohol at 23:00 hours (consistent with the license previously granted).

On 17th September, Mr. and Mrs. Holmes emailed the Licensing Team responding to the Applicant's concessions, stating they still had concerns including: licensing to finish at 23:00 hours did not mean the venue would close; private venues could remain open until 01:00 hours (while alcohol would stop being served at 23:00 hours, non-alcoholic drinks could still be served until 01:00 hours); and generally they felt the changes made were too vague and subject to interpretation.

With all Members and Officers happy to proceed and learn the subsequent changes made to the application to address the interested parties' concerns, and with no questions asked of the Licensing Officer, the Chair invited the Applicant and his representation to address the Sub Committee.

Mr. Peter Luke Hopkinson informed the Sub Committee that the application had been altered to help address interested parties' requests, and that the premises already served the local community, with the intent being to expand operations to make full use of the premises.

12 CCTV cameras would be installed with staff provided training to facilitate any/all footage requests from the police. Monthly meetings would also take place to identify future staff training requirements. The intent was for smooth operations of the premises and for the reporting of any/all instances to the police to be instantaneous.

Taxi/Hackney carriage providers would be notified of large events taking place, and allocated parking for passenger pick-up/drop-off, as well as disabled space parking for Blue Badge holders, would be present.

Railings would be installed outside the exit to ensure customers would not enter the road and a sufficient number of bathrooms would be provided.

Music would not be played outside the venue, and music played inside would be limited to background level (similar to a restaurant). For the provision of live music, groups would be expected to use the equipment provided to ensure volume was controlled by the premises, and all performances would end at 23:00 hours. Music classes currently used the site and tended to finish between 20:00-21:00 hours.

15-16 members of staff would be employed, expected to be from the local area, and would have catering backgrounds.

Mr. Peter Luke Hopkinson stated this was not a nightclub as interested parties may have feared; the intent was to establish a family restaurant. Alcohol would not be served after 23:00 hours, with a closing time no later than 00:00 midnight. The only exceptions would be for special occasions (New Year's Eve).

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International cuisine would be provided with the menu changing regularly; it was expected diner space would be limited and reservations would be the norm.

The purpose of the premises would be a mid-high class family restaurant; different from what interested parties may have thought.

To a question on alcohol being provided by customers during private events, Mr. Peter Luke Hopkinson stated only alcohol purchased onsite would be permitted.

To questions on the provision of the CCTV equipment and closing times, it was confirmed cameras would be fitted inside and outside the premises, with the closing times expected to be before 00:00 midnight. It was reiterated the sale of alcohol would end at 23:00 hours, and so too would the provision of live music. This would also apply for any private function.

The Chair sought clarity on the closing times. Mr. Peter Hopkinson insisted all closing times would be no later than 00:00 midnight.

Mr. Peter Luke Hopkinson provided a brief history of the premises and its current users (groups such as Jessica Steele's Superstars, music groups, cabaret, yoga, and burlesque). It was noted that this was with only 2 rooms of the premises being let; this licence would develop the full functional use of the premises.

To a question on security, Mr. Peter Hopkinson stated that with the premises closing early, there was no need for door staff. Mr. Peter Luke Hopkinson added the premises would be attracting a different demographic, so only if it was needed would door staff be hired. It was likely door staff would only be hired for live music events, which would be a maximum of once per month and such events would end before 23:00 hours.

To a final question on recorded music, Mr. Peter Luke Hopkinson informed there would be no speakers outside and those inside would be small in size – intended for background music only.

The Sub Committee proceeded and reviewed the subsequent changes made to the opening and closing hours of the premises:

- For the provision of live music, this would take place between 12:00-23:00 hours, 7 days a week;
- For the provision of recorded music, this would take place between 09:00-23:00 hours, 7 days a week;
- For anything similar to the above (and dance performances), this would take place between 12:00-23:00 hours, 7 days a week;
- For the supply of alcohol, this would take place between 09:00-23:00 hours, 7 days a week;
- For the hours the premises would be open to the public, this would take place between 09:00-00:00 midnight, 7 days a week (applications of special events – New Years Eve – could be made).

The Legal Officer explained that with no interested parties present, written representations would need to be taken into consideration. The Applicant was asked if he wished to address these concerns.

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Mr. Peter Luke Hopkinson believed the concern on noise pollution had been properly addressed, reiterating what had been raised earlier in the hearing: no outside music, with indoor music at background levels; the end of alcohol sales at 23:00 hours; the closing of the premises before 00:00 midnight; and the provision of Taxi/Hackney carriage parking. The premises would be family orientated and for community groups to make use of; it would not be a nightclub.

In their closing speeches, the Licensing Officer stated any licence granted needed to be suitable for that premises. Mr. Peter Luke Hopkinson reiterated what had been raised earlier in the hearing; this would be a family orientated premises with security a priority.

The hearing was adjourned at 10:48 hours. Mr. Peter Hopkinson, Mr. Peter Luke Hopkinson, and the Licensing Officer left the room for the Sub Committee to deliberate.

The hearing reconvened at 11:14 hours. Mr. Peter Hopkinson, Mr. Peter Luke Hopkinson, and the Licensing Officer returned to the meeting.

The Chair invited the Legal Officer to set out in summary the Sub Committee's decision.

The Legal Officer stated that Members had considered what the interested parties had submitted, the Applicant's efforts to address these concerns, and were satisfied that the Premises Licence be **GRANTED**.

The Sub Committee made the following findings of fact:

1. The Applicant had applied for a Premises Licence on 5th July 2024 and had complied with the various requirements under the Licensing Act 2003 ('the Act') in respect of notifying the responsible authorities and advertising etc;
2. Derbyshire Constabulary (Responsible Authority) proposed additional conditions to the licence, the Applicant subsequently accepted / adopted the additional conditions and on that basis Derbyshire Constabulary confirmed that they had no further objections to the licence being granted;
3. Two members of the public ('Interested Parties') raised objections to the application. The first Interested Party raised objections in relation to the prevention of crime and disorder, public safety and public nuisance. The second Interested Party raised objections in relation to public nuisance;
4. The Applicant attempted to engage with the Interested Parties and offered amendments to their application. The Interested Parties did not withdraw their objections so the matter was listed for a Sub Committee.
5. The Sub Committee was held on 30th August 2024. Information came to light that the Interested Parties had not received the requisite notice of the hearing in accordance with Regulation 6 of the Licensing Act 2003 (Hearing) Regulations 2005 ("the Regulations"). That Sub Committee was therefore adjourned to ensure the Interested Parties were not prejudiced as a result of that irregularity (Regulation 32);
6. The Interested Parties (and Applicant) were informed of the adjourned date for the Sub Committee in accordance with the requisite timescales under Regulation 6;

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7. At the adjourned Sub Committee today (19th September) the Interested Parties did not attend. The first Interested Party had confirmed they would not be attending, the second Interested Party had made no contact with the Licensing Authority;
8. In light of the Interested Parties not being present, Members of the Sub Committee determined in accordance with Regulation 20(2)(b) that the hearing should go ahead in their absence;
9. During the Sub Committee, the Applicant sought to introduce a copy of an open letter that had been provided to the Interested Parties and Parish, all parties to the Sub Committee (Regulation 18) agreed for the letter to being admitted;
10. During the Sub Committee, the Applicant confirmed the detail of their proposed amendments to the application, having taken into account the objections raised. The Applicant amended their application as follows:

APPLICATION PART	INDOORS/OUTDOORS	START	FINISH
E – Live Music	Indoors	12:00hrs	23:00hrs
F – Recorded Music	Indoors	09:00hrs	23:00hrs
H – Similar	Indoors	12:00hrs	23:00hrs
J – supply of alcohol	On the premises	09:00hrs	23:00hrs
L – opening hours	-	09:00hrs	00:00hrs

The Sub Committee's reasoning for their decision to grant the licence was:

1. Members considered the representations made by the Interested Parties (including supplemental representations), the Applicant's amendments to the application as well as attempts at engaging with the Interested Parties and the content of the open letter admitted at the Sub Committee;
2. In the absence of the Interested Parties, the Members considered each of the written objections (in so far as they related to the licensing conditions). Members noted that the relevant Responsible Authorities had not raised similar objections (save for the police who had withdrawn their objection by agreement from the Applicant accepting further conditions);
3. The Interested Parties' concerns (where relevant to the licensing objectives) had been addressed by the amendments to the application and conditions to be imposed on the licence as already agreed with Derbyshire Constabulary;
4. Members were satisfied that with the additional conditions agreed with Derbyshire Constabulary, and the amendments to the application confirmed at the Sub Committee, that the licence should be granted and that the granting of the licence as amended did not undermine the licensing objectives;
5. Members commended the Applicants for their efforts in trying to engage with the Interested Parties, taking on board the objections and amending their application to make Bennie's Kitchen a family friendly venue adding benefit to the community.

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The Sub Committee had considered all the evidence carefully including:

- The report of the Licensing Officer;
- The written representations made by the Interested Parties;
- The Licensing Act 2003, and the Licensing Act 2003 (Hearings) Regulations 2005;
- The conditions put forward by Derbyshire Constabulary and the Applicant's agreement to the same;
- The written information shared by the Applicant.

The Sub Committee also took into account the Council's Statement of Licensing Policy, the Human Rights Act 1998 and the licensing objectives, in particular:

- The prevention of crime and disorder;
- Public safety; and,
- The prevention of public nuisance.

Members wanted to commend the Applicant for efforts made to make these concessions.

The decision letter would be posted to the Applicant and the interested parties. There was a right of appeal against the decision to the Magistrates Court, exercisable within 21 days of receipt of the notification.

The meeting concluded at 11:17 hours.