

WEST DEVON LICENSING SUB- COMMITTEE



West Devon
Borough
Council

Minutes of a meeting of the **West Devon Licensing Sub-Committee** held on **Tuesday, 19th January, 2021** at **9.30 am** via **Teams**

Present: **Councillors:**

Chairman Cllr Pearce
Vice Chairman

Cllr Moyse

Cllr Yelland

In attendance:

Councillors:
Cllr J Moody

Officers:
Democratic Services Manager
Solicitor
Specialist – Licensing
Democratic Services Officers

1. **Appointment of Chairman**
*LSC1

RESOLVED

That Cllr Pearce be appointed Chairman for the duration of the Sub-Committee meeting.

2. **Application for a new Premises Licence at The Stannary Arms, 2 King Street, Tavistock. PL19 0DS**

LSC2

The Sub Committee considered a report that sought to determine an application for the granting of a new Premises Licence at the Stannary Arms, 2 King Street, Tavistock PL19 0DS in accordance with Section 18 of the Licensing Act 2003.

The Licensing Officer proceeded to present the application and the content of the report.

The applicant put forward his reasons for submitting the application and sought to allay the concerns that had been raised by the objectors. In particular, the applicant highlighted that:

- the concerns raised over need were not relevant to the Licensing Act 2003;
- he had held constructive discussions with the Police and additional conditions had now been incorporated into the application in order to comply with the 'Prevention of Crime and Disorder' objective;
- he did not accept the comments about the highway being a 'main road'. It was his view that the highway outside the application site should be considered to be a 'side street'; and
- as the Designated Premises Supervisor, he would be ensuring compliance with the conditions of any approved licence. In addition, it would not be his wish to play any excessively loud music within the premises.

Upon the conclusion of his address, the Sub-Committee proceeded to ask a number of questions. During which, reference was made to:

- confirmation that the applicants would be living on-site;
- the management of noise levels outside of the premises; and
- the size (and potential capacity) of the premises;

The objectors put forward their respective presentations and stated that:

- some functions may require Door Supervisors. In reply, the applicant confirmed that this would be determined on an event-by-event basis;
- the bedrooms of neighbouring residential properties were in very close proximity to the main function room;
- a Sub-Committee Site Inspection would have been particularly useful in this instance to enable Members to evaluate the application.

Once all parties were content that they had no further issues and/or questions to raise, the Sub-Committee adjourned at 11:14 am, in the presence of the Deputy Monitoring Officer, to consider the application.

Further to two subsequent reinstatements of the meeting when further questions were put to the applicant, the Chairman closed the meeting at 12:49 pm. The decision to be advised to the applicant and objectors who attended the meeting by telephone call later that day, with other objectors informed within five working days.

The Decision

The Sub-Committee decided to **GRANT** the Application but restricted the time for the provision of recorded music to 2300 hours other than on a Bank Holiday, when an additional hour would be acceptable, and until 0100 hours on Christmas Eve and New Year's Eve.

The Sub-Committee also varied some of the proposed conditions and these are detailed below:

Reasons for the Decision

1. The Sub-Committee considered the application in line with the four Licensing Objectives and consideration was also given to the Government Guidance issued under Section 182 of the 2003 Act, the submitted Operating Schedule and the Council's Statement of Licensing Policy.
2. The Sub-Committee considered the application form together with representations received in writing, the Licensing Officer's report, and the representations of the Applicant and third parties made at the Hearing.
3. The Sub-Committee heard in person from the Applicant Mr Beech, members of the public: Mr Taylor on behalf of residents at Wessex Court, Ms Sutton and Cllr Moody on behalf of resident Ms P Bates who wished the hours of operation to be restricted and that the effect of the application on residents was considered. The Sub-Committee had received 7 relevant representations and the Licensing Officer confirmed that none of the Responsible Authorities had objected to the application.
4. It was noted that the representations related to concerns regarding the prevention of public nuisance, prevention of crime and disorder, and public safety. No representations were received in relation to protection of children from harm and the Sub-Committee found no evidence that there was any risk to children.
5. Members of the public did not object to the use of the premises as a public house so long as it was well run but there was concern that its proximity to residential properties was likely to cause disturbance by the playing of amplified music late at night and customers entering and leaving the premises, patrons congregating to smoke outside the premises particularly outside a first floor fire escape, and risk of traffic related incidents given the narrowness of the pavement outside the premises.

Public Nuisance and the Prevention of Crime and Disorder.

6. The Sub-Committee considered carefully the representations that were made in relation to public nuisance and crime and disorder. It was accepted that the premises were in very close proximity to a number of residential properties including flats and there was a shared right of access at first floor as a means of escape. The Sub-Committee noted the concerns which were raised that the nature of the premises as a listed building made it difficult to dampen the sound of music and the vibration that could occur and residents had been disturbed by noise coming from the premises when it had previously been used, operating as the Tavy Club.
7. Members of the Sub-Committee were advised of the operating times permitted on a licence for the Tavy Club up until 11.20pm and the Queens Head / Wetherspoons from 0700 until 0030, seven days a week. It was noted that Wetherspoons did not have a licence for recorded music. The Members did note the provision of the Live Music Act 2012 which permits music until 2300 hours and that no objection had been received from the police or the Environmental Health Officer.
8. The Members considered the location of the function rooms on the premises plan as well as the location of the proposed outside smoking areas, access to those areas and to the roof space. It was noted in response to a question from Cllr Moody that the first floor function room did not include a bar and, if required, this would necessitate a change to the licence being sought.

Members also noted the proposed areas for deliveries to the premises and the location of waste receptacles.

9. Members heard that the applicants and their family would be living on the premises, the premises benefitted from air conditioning and that windows and doors would be kept closed during licensable activities, and that there were no windows in the function room. Mr Beech was to be the Designated Premises Supervisor and would be responsible for noise levels. Signs would also be erected advising that it was a residential area and for each function there will be a risk assessment and an appropriate number of door supervisors.
10. The Members concluded that the proximity of the premises to residential properties was a particular concern and this need to be considered in light of the fact that there was no objection from the Responsible Authorities, the conditions proposed and the fact that the applicant would be living on site.
11. Noise disturbance and particularly the interruption of sleep on a regular basis was a concern but could be addressed by restricting music to 2300 hours. However it was acknowledged that applications for an extension of hours on an occasional basis may be reasonable in particular on Bank Holidays, (up until midnight) Christmas Eve and New Year's Eve (until 0100 hours) when residents may expect public houses to be promoting special events.
12. Deliveries could also result in noise disturbance and this was raised on behalf of residents by Mr Taylor and recognised by the Applicant who suggested this could be restricted to normal office hours. The Sub-Committee considered that the conditions in relation to deliveries, collection of waste, and the disposal of bottles should all be restricted to ensure that they do not take place between the hours of 2100 and 0700 hours. This would address the concerns raised by Mr Taylor on behalf of residents in respect of deliveries and waste disposal.
13. The Sub-Committee noted that the applicant agreed to amend the proposed condition regarding the admission and re-admission of patrons so that the last admission was 2300 hours. The Sub-Committee considered that this was a proportionate response to the concerns that patrons may come from other establishments and congregate so as to cause a noise nuisance.
14. Possible noise nuisance from the smoking areas was considered in detail, particularly in relation to the first floor as it was found the ground floor did not overlook properties and was confined. It was noted that at first floor the access to the smoking area was through a fire exit and could enable access to a roof terrace and right of way which ran along neighbouring residential properties. The applicant agreed to conditions which would only permit access to the upper smoking area once an alarm was fitted and CCTV was in operation covering the first floor smoking area and further that use of this area would not be permitted after 2200 hours. A further condition would be imposed so that use of the roof area was not permitted other than in emergencies. In the absence of further representations from the Responsible Authorities in relation to the smoking areas these conditions were considered by the Licensing Sub-Committee to be fair and proportionate.
15. Subject to the amendments proposed by the Licensing Sub-Committee the conditions agreed between the Applicant and the police would adequately

address the concerns relating to the Prevention of Crime and Disorder and to the Prevention of Public Nuisance.

Public Safety

16. Representations from the public concerned the congregating of patrons on a narrow street and the safety of those who may leave the premises either under the influence of the alcohol or in large numbers which could result in a traffic accident.
17. The Licensing Sub-Committee agreed that the amount of traffic in the highway would be much lower during the late evening as opposed to day time hours. Conditions had been agreed with police in relation to door supervision, refusal to serve alcohol where necessary and no representations were received from the Responsible Authorities in respect of Public Safety.
18. The applicant had offered to amend the proposed condition regarding the admission and re-admission of patrons so that the last admission was 2300 hours and this was a proportionate response to the concerns raised regarding public safety.

Right of Appeal

The Applicant has a right of appeal to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Act against any decision:

- a) to impose conditions on the premises licence;
- b) to exclude from the scope of the licence any of the licensable activities to which the applications relates;
- c) to refuse to specify a person as the premises supervisor

Any person who made relevant representations in relation to the application has a right of appeal to the Magistrates' Court by virtue of Section 181 and Schedule 5 of the Act if they desire to contend:

- a) that the licence ought not to have been granted, or
- b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step in either b) or c) above.

In all cases an appeal is by Notice which must be made in writing to the Clerk of the Justices, South Devon Magistrates' Court, First Floor, Riviera House, Nicholson Road, Torquay, TQ2 7TT, within 21 days of receipt of this Notice.

On Appeal, the Magistrates' Court may:

- a) Dismiss the appeal; or,
- b) Substitute for the decision appealed against another decision which could have been made by the Licensing Authority; or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court and may make such order as to costs as it thinks fit.

The Council accepts service of documents at: Follaton House, Plymouth Road, Totnes, TQ9 5NE.

Schedule

Activity	Description	Time from	Time to
Supply of alcohol (consumption on and off the premises)	Monday to Saturday	12:00	00:00
	Sunday	12:00	23:00
	Non Standard Timings: An additional hour for every Bank Holiday, Christmas Eve, Boxing Day and New Year's Eve		
Recorded music (indoors)	Monday to Sunday	12:00	23:00
	Non Standard Timings: One additional hour on Bank Holiday. Two additional hours on Christmas Eve and New Year's Eve		
Late refreshment (indoors) night	Monday to Sunday	23:00	00:00
	Non Standard Timings: An additional hour for every Bank Holiday, Christmas Eve, Boxing Day and New Year's Eve		
Hours premises are open to the public	Monday to Saturday	08:00	00:30
	Sunday	08:00	23:30
	Non Standard Timings: An additional hour for every Bank Holiday, Christmas Eve, Boxing Day and New Year's Eve		

Recorded music – in order to prevent a public nuisance Members concluded that music should be restricted to 2300 hours. An additional hour would be acceptable on a Bank Holiday i.e. to midnight. An additional two hours would be permitted on Christmas Eve and New Year's Eve i.e. to 0100 hours.

Additional / Varied Conditions

Prevention of Public Nuisance

No deliveries will take place between 2100 and 0700 hours.

No collection including refuse and recyclable food waste shall take place between 2100 and 0700 hours.

Refuse, such as bottles, will be placed into receptacles outside the premises at a time that will minimise the disturbance to the nearby properties and, for the avoidance of doubt, not between 2100 and 0700 hours except in the case of an emergency.

There will be no lighting or public use of the first floor external area marked Outdoor Smoking area between the hours of 2200 and 0800 hours and use of the area shall not be permitted until such time CCTV is in operation monitoring the outside area and an alarm has been fitted to the fire exit door which will be in operation to ensure patrons do not access the outdoor area after 2200 hours.

Patrons will not be permitted to access the roof of the premises other than in an emergency.

Prevention of Crime and Disorder

There will be no admissions nor readmissions to the premises after 2300 Hours.

The Meeting concluded at 12.49 pm

Signed by:

Chairman
