

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE
HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY, 19 SEPTEMBER 2012**

Present: Cllrs B E Carson, P K Cuthbert and J W Squire
N Wopling, Licensing Officer
T Johnson, Solicitor
N Hylands, Environmental Health Officer (EHO)
K Trant, Member Services Manager

Mr Rob Young - Applicant
Mr Jim Pope – Regional Manager Enterprise plc (Owners)
Mr David Goulden – Neighbour
Mr Fraser Nute – Neighbour
Mr William Johnston - Neighbour

LSC.05/12 **APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr Squire be appointed Chairman for the duration of the meeting.

LSC.06/12 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting and the following was made:

Cllr Cuthbert declared a personal interest as Mr Fraser Nute had been a colleague of hers many years ago. Cllr Cuthbert remained in the meeting and took part in the debate.

LSC.07/12 **TO DETERMINE AN APPLICATION FOR A VARIATION OF A
PREMISES LICENCE- KINGSBRIDGE INN, 9 LEECHWELL STREET,
TOTNES**

Licensing Officer's Report

The Licensing Officer introduced the report and outlined the background to the application, as well as detailing the variations to the existing licence that had been requested. The Applicants had employed an acoustic consultant and his recommendation had been that the function room should be used for music. The Applicant had also agreed to a noise limiter being used. The Licensing Officer also pointed out that from October 2012, the Live Music Act came into force and there would not now be a requirement for a licence to be held for live music as it would not be classified as regulated entertainment.

Address by the Applicant

The Applicant advised that he and his brother had taken over the Kingsbridge Inn in January 2011 and had wanted to invite local musicians to perform in live music events.

Neighbours had been disturbed and discussions took place as there was a commitment to work with neighbours to minimise disturbance to them. The Applicant did not imagine that people living nearby would have an issue with what the premises was doing, as the pub had been there for a long time, however once the live events started there had been complaints.

The Applicant had agreed to stop the events and submit a new application. This has affected their income. The application was asking for music up until 12 midnight, and whilst the majority of the music would be acoustic, it was also the wish of the applicants to provide for every eventuality when people were booking so would seek permission for recorded music too, such as a disco. Customers did not tend to be young people, so the applicants did not expect there to be such an issue as there was in other parts of the town when people left pubs. Measures were in place and the pub would be properly supervised with qualified staff. In addition, the establishment was also a member of 'pubwatch'.

The Chairman asked why there were various instances when the original licence had been breached. In response, the Applicant stated that it had been to increase income. The music was amplified and they had not realised that there would be a problem. It was only later that they discovered that the party wall between the pub and one of the neighbouring properties had been a doorway that had been blocked up with nothing more than plasterboard. A request had gone in to have the wall properly blocked. Initial feedback from the planning department was that this should not be a problem.

A Member asked why there had not been complaints when events had been held in April. The Applicant responded that at this time the Function Room had been used as they had decided not to allow music in the bar.

Address by Mr Fraser Nute

Mr Nute began by explaining where he lived in relation to the pub, which was approximately 10 feet away from the wall of the Function Room. He added that he wished the applicants well, but that he did have real concerns. His main objection related to the noise generated by music in the function room, as on occasions, the disturbance was considerable. He was not convinced that there would be sufficient insulation or control of sound levels. No sound assessment had been made from his property. He had requested that sound levels be monitored.

In relation to the extension of opening hours, the applicant had resubmitted revised hours with concessions Sunday to Thursday but was still asking for midnight on Friday and Saturday. The application made comparisons with the Bay Horse Inn and the Bull Inn, one of which stopped earlier than midnight and the other had no live music.

In relation to the supply of alcohol, this was a residential area with narrow streets and street lighting turned off. The Applicants could not guarantee that people would move on after closing time and the Police no longer had the power to move people on. Whilst the usual customer base may not include young people, it did not mean that a wedding or similar function would not involve young people attending and there was no reason to think they would behave differently to other young people.

Mr Nute advised that his final concern related to public safety and whether 150 people could safely exit the Function Room in the case of a fire.

One Member asked for confirmation in relation to Fire Risk Assessments and was advised that Devon and Somerset Fire Authority were the enforcement agency and they would do a periodic check. The employers were responsible for undertaking the Fire Risk Assessment in the first place and this was then checked by the Fire Authority.

The Chairman asked the EHO why a noise assessment had not been done as requested by the neighbour. In response, the EHO stated that it was important to put noise testing into perspective. Noise testing was used to see if the levels of noise were feasible. With an adequate level of noise in the Function Room and walking around outside the noise was hardly discernible. The issue was about controlling the noise at source, unless you look to upgrade the structure of the building. The structure could be improved substantially and a full survey would identify weaknesses.

Address by Mr William Johnston

Mr Johnston began by explaining where he lived in relation to the pub. The noise he heard was from the front of the building, not the Function Room. Living on the side of a hill, the noise did tend to boom. Mr Johnston had a different point of view to Mr Nute, as he would like noise confined to the Function Room, however he agreed with his views in relation to the proposed opening hours.

Address by Mr Jim Pope

Mr Pope advised that his company were the owners of the pub and he was the regional manager responsible for this area. He was happy with what the applicants were doing at the pub; there had been noise issues initially but these had been dealt with. He would reinforce that roof works would be undertaken and due to be completed between October and December 2012. This would help to improve sound insulation. No further sound insulation work had been done but a discussion would be needed.

Repair and improvement work was down to the applicants as leaseholders.

Committee's Deliberations

There was then a discussion and clarification was sought on the representations of those in attendance. A Member questioned the work that would be done to the roof, and was advised that the whole roof would come off and be replaced. Mr Pope accepted that there would still be issues with some of the walls. He felt, however, that the noise limiter would help. The EHO confirmed that the limiter would be set to a level that did not intrude on the neighbours but added that they were not a cure all. For example it would work on one output sound but there would be a difficulty with bands if musicians had their own independent system.

One Member asked if signs had been placed near the doorways in the pub to remind customers to leave quietly. The applicant confirmed that this was the case.

The Sub Committee was then adjourned to enable the Committee to deliberate the application.

The Decision

The Sub Committee reconvened and the Chairman then proceeded to announce the decision as follows:

"We have considered the application for a variation to the premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that related to the promotion of the four licensing objectives.

Upon hearing all relevant representations, examining all the evidence submitted for all the relevant authorities and representors, it is our decision to grant the licence subject to the amendments and conditions as set out in the decision notice and schedule at Appendix A to the minutes. This information will be sent out to all interested parties".

Chairman

APPENDIX A

SCHEDULE

Activity	Description	Time from	Time to	Notes
A. Plays B. Films	Sunday to Thursday	1930	2300	Function room only
	Friday and Saturday	1930	2330	Function room only
E. Live music F. Recorded music I. Provision of facilities for making music J. Provision of facilities for dancing	Monday to Thursday	1930	2300	Function room only
	Friday	1900	2330	Function room only
	Saturday	1200 1900	1530 2330	Function room only
	Sunday	1200	1530	Function room only
	New Year's Eve	1930	0200	Function room only
L. Late night refreshment	Sunday to Thursday	2300	2330	
	Friday and Saturday	2300	0030	
	New Year's Eve	2300	0200	
M. Sale by retail of alcohol for consumption on and off the premises	Sunday to Thursday	1000	2300	
	Friday and Saturday	1000	0000	
	New Year's Eve	1000	0200	
O. Opening hours	Sunday to Thursday	1000	2330	
	Friday and Saturday	1000	0030	
	New Year's Eve	1000	0230	

Additional conditions

1. All amplified music must be played through a noise limiter. Levels must be set in conjunction with and verified by Environmental Health, before amplified music can be played.
Reason: This condition was offered by the Applicant in addition to those in their operating schedule, to address concerns put forward in representations. Environmental Health recommended controlling the noise level from music at source through a noise limiting device, to reduce disturbance caused to nearby residents from music playing in the premises.
2. All works identified in Table A of the report from Soundguard Acoustics Ltd (15 May 2012) (and shaded in green in the schedule to the report) must be completed before any amplified music can be played in the premises. These are summarised as follows:
 - a) Small voids and holes within the fabric of the building must be filled. All deep voids within the walls and behind beams must be filled with render and fully seal with acoustic mastic. All holes must be filled, however small.
Reason: To prevent noise breakout from music and customers, either externally or into other adjacent areas of the building.
 - b) Chairs and stools must be treated with rubber feet to reduce noise from scraping.
Reason: To prevent scraping being heard via structural transmission into other parts of the building and disturbing those living in the adjacent property.
 - c) Patrons must be managed when smoking and when leaving the premises generally. Patrons must be encouraged to leave quietly, all smoking areas must be managed, external drinking must be prevented, beer gardens must be closed at an appropriate hour and signs to remind patrons to leave quietly must be displayed.
Reason: To prevent noise from customers outside on the Sundeck and when leaving the premises from disturbing residents.
 - d) Lobbied areas must be used and doors closed. Doors and windows must be well-fitted with good reveals. Automatic door closers must be fitted and doors must have cushioned reveals or buffers to avoid 'slamming'. Hinges must be maintained to ensure they are not noisy. Doors and windows must be closed during live music performances and late at night to avoid noise breakout.
Reason: To reduce noise breakout from music within the premises and to prevent noise from doors opening and closing disturbing nearby residents.
 - e) A door must be fitted to the entrance of the function room to create an additional lobby area. Kitchen doors must be improved to fit tightly into their frames. Automatic door closers must be fitted.
Reason: To reduce noise breakout from music within the premises causing a disturbance to neighbours.
 - f) All amplified music must take place in the rear function room.

Reason: Both Environmental Health and the Acoustic Consultant assessed the bar area of the premises to be an unsuitable location for musical entertainment, due to the structure of the premises and lack of acoustic integrity between the premises and adjoining property. The function room is detached structurally from other residential properties and is therefore a more suitable location for amplified music.

These conditions were offered by the Applicant in addition to those in its operating schedule, to address concerns put forward in representations:

3. Smoking must only be permitted on the Sundeck (not outside the front of the premises).
Reason: To prevent customers standing outside the front of the premises and causing noise nuisance to residents.
4. Drinks must not be permitted on the Sundeck after 10 p.m..
Reason: To encourage customers to stay inside the premises and not to linger outside being noisy after 10 p.m.. Noise from people outside was a main concern of those who made a representation.
5. The DPS, Manager or senior member of staff must always be in attendance in the function room, to ensure that patrons leave the Sundeck and return to the internal body of the building after 10 p.m..
Reason: To ensure there is good supervision of customers and that customers are not drinking outside after 10 p.m. and causing a noise nuisance to neighbours.
6. At the end of the evening, the DPS or Manager must supervise the departure of patrons.
Reason: To ensure customers do not disturb residents as they leave the premises.
7. Potential customers who wish to hire the function room must be made aware of all premises licence conditions and requirements, as part of the booking procedure.
Reason: To ensure that their customers adhere to the conditions and do not cause a nuisance to neighbours either from music or people noise.