

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **28th February 2013**.

Present:

Cllr. Mrs Bell (Chairman);

Cllrs. Chilton, Shorter

Apology:

Cllr. Feacey

Also Present:

Cllr Smith

Licensing Officer, Licensing Support Officer, Legal Advisor, Senior Member Services & Scrutiny Support Officer

Mr Austen – Applicant

Ms Arts, Mrs Bray – Interested Parties.

348 Election of Chairman

Resolved:

That Councillor Mrs Bell be elected as Chairman for this Meeting of the Licensing Sub-Committee.

349 Barbers Arms, 169 Bridge Street, Wye, Kent, TN25 5DP – Application for a Premises Licence

The Chairman opened the meeting and welcomed all those present. She explained the procedure to be followed at the meeting and confirmed that Members had read the papers relating to the application.

The Licensing Officer then gave a brief summary of the report. The application was for a premises licence at the above address in premises previously used as a barber shop. The application proposed to permit on and off sales of alcohol and the playing of recorded music from 11:00 – 23:00 Monday to Saturday and 11:00 – 22.30 on Sundays with no seasonal variations or non-standard timings applied for. The application stated that the premises would be a micro bar selling real ale and wine. The Licensing Officer ran through the additional steps that the applicant intended to take in order to promote the four licensing objectives if the proposed application was granted and the conditions put forward by the Licensing Authority. He reminded the Sub-Committee that it was the responsibility of the Licensing Authority to prepare conditions that were consistent with the operating schedule. He stressed that while a

Licensing Authority had no discretion to add or modify a condition where there was no relevant representation, it may not issue a Licence with conditions that were illegal.

With regard to representations, the Licensing Officer advised that under Section 35(5) of the Licensing Act 2003, representations were relevant if they were about the likely effect of the grant of the licence on the promotion of the licensing objectives and were made by an interested party or responsible authority within the prescribed period, and were not withdrawn or, in the opinion of the Licensing Authority, frivolous or vexatious. He further advised that the prescribed period for the receipt of such representations in this case was during a period of 28 consecutive days starting on the day after the date on which the application was given to the Authority by the Applicant. In this case the application was given to the Authority on the 4th January 2013 and the last date for receipt of relevant representations was 1st February 2013. The Licensing Officer advised that two parties had made representations, both of whom lived in apartments above the premises. Copies of the letters were contained within the papers. No representations had been received from responsible authorities. The representations could be summarised as follows: - the fear of crime and disorder due to drunkenness; the worry that the proposal would lead to further noise and nuisance in the area due to music from the premises and increased levels of traffic in the area; and the fact that there were already a number of licensed premises in the location.

Mr Austen spoke in support of the application. He gave the Sub-Committee an outline of the sort of business he wanted to run at the Barbers Arms. It would be a Micro Pub based on the ethos of the successful enterprises that had been developed in Thanet and the surrounding areas in recent years. It would be a small drinking house specialising purely in real ales, but also selling one variety each of red, white and rose wine as well as one cider. He also hoped to be able to provide these drinks as 'off sales' for functions etc. He had chosen Wye as a location for this business due to its good public access arrangements and the interest shown in such a venture when he had assisted at the Wye Beer Festival last year. He regularly worked at such festivals and this had given him good experience. The philosophy of the Micro Pub was the rejection of what modern pub landlords were being forced to do, including having no TVs, no fruit machines, no loud music etc. The only music proposed was of a background nature from an iPod and this would only be in the evenings and played at a reasonable level. The hours he intended to open were 12:00 – 14:00 and 17:00 – 21:00 Tuesday to Thursday; 12:00 - 14:00 and 17:00 – 23:00 Fridays and Saturdays; and 12:00 – 15:00 on Sundays. He intended to close on Mondays. He had applied for the hours of 11:00 – 23:00 following advice from the Licensing Authority so he had flexibility on Bank Holidays and if somebody wanted to have an extra drink post 21:00 during the week for example he would not then be breaking the law. It was his intention though to keep to the above hours. Mr Austen said he did not think his premises would attract the more rowdy element and he was only supplying a niche market (no lager, alcopops etc) and the more popular ales were not very strong (3.5 - 4% alcohol). With regard to parking, the issue was similar to other pubs in the area. There was available parking nearby but he envisaged most of his trade coming by foot or train. He concluded by saying that he would ensure that the Barbers Arms conformed to the four licensing objectives and hoped to forge good links with other businesses in the village and the local community and be a good neighbour.

Mrs Bray, on behalf of Ms Arts then spoke. She said that Ms Arts lived in the flat directly above the premises and could hear any noise emanating from there through the floorboards. She knew that the bar would not be open all day but there was potential for noise throughout the day. There was also potential for noise from the outside seating area and from people going outside to smoke. There were three flats surrounding the premises and the access to those was via an alleyway along the side of the premises. It was a concern to Ms Arts that if she was coming home late at night she might have to negotiate groups of people, potentially drinking and smoking, in the dark on the pavement. She said she appreciated there were various ways to get to the premises, but most would come by car and it was already difficult to park in the area. This would only exacerbate the problem. Mrs Bray said that although she was sure the Landlord would do all he could, there was a concern that drinkers could become rowdy, unpleasant, unreasonable or difficult and that this could be something that would impact on Ms Arts' quality of life, as well as the potential value of her property should she wish to sell. This application appeared to be for something quite low key, but there was nothing to stop this changing in the future and could seemingly become a larger concern without further consultation. She concluded by saying that whilst they did not want to stand in the way of somebody starting a new business, this did have the potential to adversely impact Ms Arts' quality of life and gave her great concern.

The Chairman advised that the other person who made a representation, Mr Moore, had been unable to attend the meeting. His full comments were detailed in the papers and the Sub-Committee had received a further email from him. They had read and digested this. The submission was more in the form of a series of questions than a further representation and many of those questions would be asked during the course of the meeting.

In response to questions from Members Mr Austen clarified the following points: - the doors and access arrangements that would be in place; that he intended to check the level of noise generated by the iPod with residents; that his intention was to continue to seek the niche market of real ale drinkers and he had no intention of ever selling lager, spirits etc; that he had experience of dealing with people drinking at the beer festivals he ran and he would be monitoring people within the premises; and that he had no plans for an outside seating area as mentioned in the original application – this had been removed from the application. He said that in terms of staffing, it would be him plus one other individual to provide cover and processes would be in place to deliver necessary training. He would personally respond to any complaints or comments and he had been advised by the Council's Planning department that the premises was not listed.

During discussion the Licensing Officer clarified that whilst the Parish Council was not a statutory consultee to the Licensing application, Wye with Hinxhill Parish Council had been informed of the application and he knew that there had been discussions with them over the planning aspects. He said he also knew that the Applicant had met with them personally. In response to a question he advised that additional lighting could be added as a Condition to the granting of a licence under the Crime and Disorder objective.

The Licensing Officer then summed up the nature of the application and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that it may grant the licence with no modifications, grant the licence with modifications to the conditions, or reject whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That the premises licence be granted and on and off sales of alcohol and the playing of recorded music be permitted from: -

11:00 – 23:00 Monday to Saturday

11:00 – 22.30 Sunday

Subject to the following Conditions:

- (i) The Licence Holder will ensure that all staff will be trained in the four licensing objectives.**
- (ii) The Licence Holder will ensure that anyone who appears intoxicated will not be served and will be asked to leave the premises.**
- (iii) The Licence Holder will ask customers to leave the premises quietly and will ensure that any music played at the premises will be of a background level and not audible outside.**
- (iv) The Licence Holder will apply the Challenge 21 policy to anyone appearing to be under the age of 21 and purchasing alcohol.**
- (v) The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure that they are not excessive or likely to disturb neighbours.**
- (vi) The Licence Holder or a nominated representative shall receive and respond to complaints.**
- (vii) No drinks to be taken or consumed outside of the premises.**
- (viii) That adequate lighting be provided in the alleyway to the side of the premises to protect the amenity of neighbouring residents.**

The Licensing Manager be given delegated authority to amend the wording of the conditions as appropriate.

The Sub-Committee also wished to place on record a recommendation that in the sense of being a good neighbour, the Licence Holder should look at options for sound proofing the premises to avoid the potential for nuisance to neighbours and the licence possibly being called in for review in the future.

The Legal Advisor advised the Applicant and Interested Parties that they had a right to appeal to the Magistrates Court within 21 days.