

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, Melton, on **Monday, 11 December 2023** at **2.30pm**.

Members of the Sub-Committee present:

Councillor John Fisher, Councillor Mark Jepson, Councillor Rachel Smith-Lyte, Councillor Tim Wilson

Officers present:

Teresa Bailey (Senior Licensing Officer), Martin Clarke (Licensing Manager and Housing Lead Lawyer), Sarah Davis (Democratic Services Officer (Scrutiny and Member Development)), Jodie Fisher (Licensing Officer), Matt Makin (Democratic Services Officer (Regulatory)), Jemima Shaw (Trainee Solicitor)

Others present:

The applicant, the applicant's supporter, the objectors

1 Election of a Chair

On the proposition of Councillor Wilson, seconded by Councillor Fisher, it was

RESOLVED

That Councillor Mark Jepson be elected as Chair of the Sub-Committee for the meeting.

2 Apologies for Absence

No apologies for absence were received.

3 Declarations of Interest

No declarations of interest were made.

4 Declarations of Lobbying and Responses to Lobbying

No declarations of lobbying were made.

5 Variation of Premises Licence - Thorpeness Country Club, The Benthills, Thorpeness, Leiston, Suffolk, IP16 4NU

The Sub-Committee received report **ES/1762** of the Licensing Officer, which related to an application to vary the premises licence at Thorpeness Country Club (the premises).

NOTE: prior to proceedings commencing, there was a short adjournment to allow the objectors present to read the meeting papers, as although they had received them in advance of the meeting they had been unable to read them.

The Chair invited the Licensing Officer to summarise the report. The Licensing Officer summarised that a hearing was required for this application as seven relevant representations against the application had been received. The Sub-Committee was advised that no objections had been made by any of the responsible authorities.

The Licensing Officer noted that one of the persons who had made a representation had submitted additional information to be discussed at the hearing; these papers had been forwarded to the members of the Sub-Committee and the applicant.

The Licensing Officer summarised the information contained within the report, which related to the consumption of alcohol on the 'beachside lawn' and alleged this was in contravention of the premises' current licence. The Licensing Officer clarified that the consumption of alcohol was not a licensable activity, and could take place in an area that was not defined on a licence plan, and that the serving of drinks did not have to take place within the same defined area. The Sub-Committee was advised that it was the sale of alcohol that was licensable and that on many occasions at venues such as this, the sale will take place indoors, within the defined area of a premises, or will have previously taken place when one individual pays for the drinks for all guests.

The Sub-Committee was informed that the report identified a number of points for the Sub-Committee to consider; the guidance issued under Section 182 of the Licensing Act 2003, the Council's current Statement of Licensing Policy, and the Human Rights Act 1998. The Sub-Committee was asked to give full reasons for departing from any of these points.

The Sub-Committee was asked to determine the application by either granting the application subject to any mandatory conditions and to those consistent with the application, granting the application subject to the same conditions but modified to such extent as the Sub-Committee considered appropriate for the promotion of the licensing objectives, or by rejecting the application. The Sub-Committee was asked to state its reasons when announcing its decision.

The Chair invited questions to the Licensing Officer, who was supported by the Senior Licensing Officer. Councillor Fisher sought clarity on what was being applied for that was not already allowed at the premises; the Senior Licensing Officer summarised that an extension of opening hours and the playing of live and recorded music were the new elements being applied for. The Senior Licensing Officer noted that live music was already permitted on the beachside lawn as it was designated a working area for on-sales, but that recorded music was not currently permitted.

The Chair invited Ms H, the General Manager of the premises and representing the applicant, to make her representations. Ms H was supported by Ms M, who was the

Events Manager of the premises. Ms H explained that the applicant ran six premises, including three in the Aldeburgh and Thorpeness area.

Ms H said the driving force behind the application was that the premises was now able to hold weddings outdoors and wanted to be able to offer the beachside lawn for wedding ceremonies, which would be a 30-minute ceremony followed by a drinks reception.

Ms H explained that there was no intention to have a public bar on the lawn and the space would be used for arrival drinks, with the majority of guest activity happening within the Country Club itself. Ms H confirmed there was no plan to use the beachside lawn for events where the premises did not know how many guests would be attending, and that most activity would be during the day. Ms H said that all weddings ran to a tight timescale and the lawn would be used for a maximum of 45 minutes.

Ms H referred to the proposed early opening hours and said this was to accommodate a summer youth programme that used the premises in the summer and wanted to be able to use the facilities. Ms H confirmed that the beachside lawn area was not used by the youth group and there was a risk assessment in place for its use. Ms H highlighted that movements to and from the beachside lawn, which involved crossing a road, would be en masse and that the premises would be aware of how many young people are at events; the lawn was always staffed.

Ms H reiterated that the premises was not looking to ruin the essence of why people visit Thorpeness and put on loud events, but wanted to enhance existing activities.

Before moving to questions, the Chair clarified that the Sub-Committee's decision would be based on licensing matters, noting that some of the concerns raised in the representations related to issues outside of this scope.

The Chair invited questions to Ms H. In reply to Councillor Wilson, Ms H confirmed that the beachside lawn would be used no later than 7.30pm. When asked on the timings applied for, Ms H spoke of a management plan submitted as part of the application which detailed what activities would be taking in what areas.

Councillor Fisher asked what containers would be used to serve drinks for consumption outside; Ms H said these would be glass.

The Chair asked how pedestrian movements from the lawn to the Country Club would be managed. Ms H explained that there would always be a staff presence on the lawn and that all bar staff were trained on licensing requirements. Ms H said that there was no intention to install lighting or heating on the lawn and that it was not in the premises' interests to have guests in that area for a significant period of time.

Councillor Wilson queried the intention of the off-sales element of the application. Ms H said that a vast majority of drinks consumed on the lawn were purchased as part of a package and that there would be no physical sales on the lawn area.

Councillor Wilson asked officers if this was a manageable situation; the Senior Licensing Officer replied that off-sales related to the consumption of alcohol off the premises

rather than to the sale location. Ms H confirmed that all sales would take place inside the Country Club. When asked by the Chair for the reason for the off-sales element of the application, Ms H acknowledged the applicant may have misunderstood the advice given by officers.

Ms H, in response to Councillor Wilson, considered that the new application did not represent a different use of the lawn for outside drinks compared to how the area is used now.

Councillor Wilson suggested that the relationship between the premises and neighbours had deteriorated and sought Ms H's views on this. Ms H said that she could not comment on the situation prior to her employment at the premises but was aware there not much of a relationship between parties, and that the premises most often liaised with letting agencies as many neighbouring properties were holiday lets. Ms H considered the premises to be an approachable organisation.

In response to a query regarding the use of temporary event notices (TEN) on the site, Ms H said that not all events wanted to use the lawn and of the 36 events held in 2023 only six had required a TEN to do so. Ms H highlighted that 30 events were held in 2022 and 23 events held in 2021. Ms H could only recall one event on a Sunday, taking place in 2023. When asked by Councillor Wilson about the need for the proposed Sunday hours, Ms H said this was to facilitate Sundays as an option for events.

The Chair asked how prom events were managed. Ms H said that the premises worked closely with schools booking the premises, Alde Valley Academy and Thomas Mills High School, and although different approaches were taken all events were strictly controlled. Ms H confirmed there were no plans to play recorded music on the lawn.

The Senior Licensing Officer asked how long the premises had been used as a wedding venue and how long had the beachside lawn been used as part of wedding events. Ms H was unable to provide clarity on the former question, as weddings had been held at the premises since prior to her employment, but confirmed that the lawn area had been used for wedding events since the end of 2021.

When asked about complaints directly related to outdoor events, Ms H said she was not aware of any complaints related to the use of the beachside lawn and that any noise complaints had related to indoor music. Ms H could not recall any complaints being made in 2022 and added that the premises had made changes to minimise disruption from indoor music. The Senior Licensing Officer noted that one complaint had been made in 2014 via Environmental Protection.

Ms H was asked by Mrs S, one of the objectors, if the off-sales element of the application was not required. Ms H reiterated that the applicant may have misunderstood the nature of off-sales and that the sale of alcohol would be inside the premises, with the beachside lawn only used as a consumption area.

Mrs S suggested that if on-sales were permitted until 11pm, there would be nothing to stop people drinking on the lawn at that time. Ms H said that most events finished at 12am and that there was no intention of providing lighting or heating to make the lawn area usable in the evening. The Senior Licensing Officer clarified that the existing

premises licence permitted sales until 12am and that the Sub-Committee was not considering the existing licence, but what was being applied for in the variation.

Ms H confirmed to the Legal Advisor that there were no plans to make sales by card machine on the beachside lawn. Ms H said that the premises was contactable via the Country Club or the golf club to address issues in real time. When asked by the Legal Advisor about the control of pedestrian movements to and from the lawn, Ms H reiterated that there would not be constant movement between the two areas.

The Chair invited Mr S, one of the objectors, to make his representations. Mr S said that the licensing objectives and the validity of the application should be considered; he highlighted a picture of the beachside lawn and explained that it overlooked a Site of Special Scientific Interest (SSSI) and was of the view that the application would turn the beachside lawn into a beer garden where alcohol would be served until 12am.

Mr S described the neighbouring area as one of relaxation, specifically set up for people to enjoy nature. Mr S appealed to the Sub-Committee to consider this as a special area of Suffolk and opined that if the variation to the premises licence was granted the beachside lawn could be used by any future owner in a different way to the incumbent one.

Mr S provided images which he said demonstrated the anti-social behaviour of the applicant under the existing premises licence, citing incidents of inconsiderate parking and the serving of alcohol on the beachside lawn. Mr S said that in one photo it was clear a table had been set up on the lawn to be used as a bar. Mr S added that coaches accessing the venue ignored signs advising that they could not drive directly up to the site. Mr S outlined an incident where live music had been set up in the car park and had been made loud enough to be heard on the lawn.

Mr S highlighted images from prom events and said that young people would congregate and make noise in the afternoon and evening, describing their behaviour as unpleasant. Mr S provided an image of the premises' current advertising which stated events could be booked to enjoy drinks on the beachside lawn.

Mr S highlighted his concerns about public safety, the mess made by people using the site, and the risk of the extension of hours resulting in people buying alcohol to consume on the beach, including young people. Mr S considered the variation would increase public nuisance through noise and stated that people came to the area for its tranquillity and contributed to the local economy. Mr S was also concerned about how power would be supplied to the beachside lawn for live and recorded music.

Mr S said the application would not promote the prevention of disorder as it would extend the use of the lawn, suggesting there were better areas under the applicant's control where outdoor activities could take place.

Mr S said he would be interested in the Sub-Committee's views on whether the application constituted a change of use for the premises and urged it to think about the safety and tranquillity of the area, and to put this above the short-term commercial interest of the applicant.

Mr S also provided the views of Ms W, who had made a written representation against the application but had been unable to attend the meeting. Mr S summarised Ms W's objections on public nuisance and safety grounds and the current operation of the premises. Mr S said that Ms W considered the application would increase existing issues, noting the incidents highlighted in her written representation.

The Chair invited Mrs S, one of the objectors, to make her representation. Mrs S highlighted that her property was only five metres from the premises, having previously formed part of the site before being sold off. Mrs S noted that Mr S had covered a lot of her concerns and chose to give a brief summary of her written representation.

Mrs S hoped that the Sub-Committee did not grant the variation and expressed concern about the noise disturbance caused by events at the premises. Mrs S said that people visited Thorpeness for tranquillity and did not want excessive noise from private events; she considered that the granting of the variation would cause such an issue.

Mrs S said that although the applicant may not think holidaymakers mattered, they were very important to East Suffolk and contributed to the local economy. Mrs S said that should tourists "vote with their feet" the whole area would lose out, not just the holiday let owners and the premises.

Mrs S said her property was rented out several times a year and was also used by relatives, with many giving examples of events ruining their stay. Mrs S highlighted examples of this occurring, with music and guest behaviour causing a nuisance.

Mrs S acknowledged the applicant's claim they will manage pedestrian movements between the premises and the lawn but considered this was easier said than done. Mrs S was also concerned about the additional traffic the changes would bring, along with the increased risk of sales of alcohol to underage people. Mrs S also noted people would be drinking near a body of water, which she considered to be dangerous. Mrs S said the proposed changes were inappropriate for a family resort area and would spoil a beautiful and important area.

Mrs S also provided the views of Ms M, who had made a written representation against the application but had been unable to attend the meeting. Mrs S summarised Ms M's concerns about the changes in events at the premises since she bought her property, which had grown to become detrimental and a nuisance. Mrs S said that Ms M was of the view that the existing licence conditions were not being adhered to, with noise becoming intrusive, and that the premises would not adhere to any new condition.

The Chair invited questions to Mr S and Mrs S. When asked by Councillor Wilson about the lack of complaints, Mr S described the process as torturous and said there was a significant requirement to be present on the site to monitor noise levels. Councillor Wilson asked if complaints to the Licensing team would be logged; the Senior Licensing Officer said they would and any noise-related complaints would be directed to Environmental Protection.

Ms H asked if Mr S and Mrs if Ms M had spoken to them about the pianist who had used the beachside lawn; they confirmed that she had. Ms H then clarified that this had not been a pre-planned situation due to a miscommunication between the musician and the wedding party, and that Ms M had given permission to provide power from her property. Ms H said that this was not the situation that the premises had wanted.

The Chair invited all parties to sum up. The Licensing officers said they had nothing further to add.

Mr S appealed to the Sub-Committee to think of the long-term consequences of granting the variation, and Mrs S urged it to not grant the variation, describing the area as being special.

Ms H highlighted the perspective of what was being applied for and said the premises was not looking to massively expand the number of events it hosted. Ms H said she had been disappointed to hear some of the comments of the objectors.

The Sub-Committee retired, along with the Legal Advisor and Democratic Services Officer, to make its decision. On its return the Chair read the following decision notice:

"The Hotel Folk (the applicant) has applied to vary the existing premises license at Thorpeness Country Club, The Benthills, Thorpeness, Leiston, IP16 4NU, to:

- extend the licensed times for live and recorded music indoors
- add live and recorded music on an outside lawn area and;
- remove old, obsolete conditions imposed under the now repealed licensing regime.

This Sub-Committee has been held as seven representations against the application have been received from other persons.

The Sub-Committee first heard from the Licensing Officer, who summarised the report, but made it clear that an off-sales licence was not required to enable to the consumption of alcohol on the beachside lawn, as this activity in itself was not licensable. In addition, a licence was not required for alcohol that had been bought and paid for on the licensed premises to be taken to the beachside lawn.

The Sub-Committee then heard from the applicant, who indicated that they wanted to enable their business to cater for weddings and for proms. The applicant said they did not plan to have late night entertainment on the beachside lawn, nor planning to sell alcohol at that location. The purpose of the application was to use the lawn for an area where guests can be located on arrival and whilst rooms were being changed over during the day. The applicant said it was not intended to use the beachside lawn at night, nor was it intended to install any electricity supply or lighting to that area.

The Sub-Committee then heard from two of the objectors, who were also speaking on behalf of two more objectors who were unable to attend the hearing. The objectors raised concerns regarding the negative impact of events at the premises, particularly in

relation to noise pollution, anti-social behaviour, and littering, and were of the view that varying the licence would increase these issues.

The objectors stated that the allowing of off-sales may increase the risk of children and other persons drinking alcohol in public areas. The objectors pointed out that they were business owners and if Thorpeness ceased to be a desirable holiday location this would negatively impact the economy.

When asked about how many times they had formally complained, the objectors indicated that the process was onerous.

The objectors also produced photographic evidence which showed the alleged disruption, and raised issues in relation to planning, health and safety and highways matters.

The decision of the Sub-Committee

The Sub-Committee, having considered the application, the Licensing Officer's report and the representations received from the applicant and the objectors, has decided to grant part of the application by varying the licence to allow the playing of live and recorded music on the beachside lawn between 1200 and 2000, Monday to Sunday.

The Sub-Committee will also vary the licence by extending the opening hours to the following times:

- Monday to Saturday – 0800 to 0000
- Sunday – 0800 to 2230
- Easter Sunday – 0600 to 2230
- New Years Eve – 0800 to 0100

The Licensing Sub-Committee does not agree to vary the licence to allow the off-sales of alcohol.

Reasons for decision

In arriving at this decision, the Sub-Committee has taken into consideration the representations of both the applicant and objectors as well as the Licensing Officer's report. The Sub-Committee also considered the Council's own licensing guidance and statement of licensing policy, as well as the Statutory Section 182 guidance, and the Human Rights Act 1998.

The Sub-Committee is satisfied that the licensing objectives can be promoted by the allowing the beachside lawn to be used for live and recorded music until 8pm. The Sub-Committee notes the objectors' comments regarding the noise pollution that has occurred; however, there is a record of only two complaints being made against the premises, one in 2014 to the Licensing team and another in 2023 to the Council's Environmental Protection team. The Sub-Committee also notes that neither the Police nor Environmental Protection have made representations on the application, and places significant weight on this in accordance with paragraph 9.12 of the Statutory Section 182 guidance.

The Sub-Committee does note, however, that Thorpeness is a quiet area, and this premises is extremely close to residential premises. Also, whilst the premises is in use for licensable activities people will be crossing the road and the danger of doing so will be heightened during the hours of darkness. The Sub-Committee notes that most of the events will take place in the summer and therefore considers it necessary to limit the activities on the beachside lawn to 8pm to promote the licensing objectives, particularly public safety, prevention of children from harm, and prevention of public nuisance.

In relation to the application to extend the opening hours in the morning, this was not commented on in detail and it appears to the Sub-Committee this is unobjectionable.

In relation to extending the opening hours on Sundays, due to the location of the premises it was considered that allowing the premises to open until midnight was incompatible with the promotion of the licensing objectives.

The Sub-Committee has not allowed the off-sales of alcohol as it is concerned that this would not promote the prevention of public nuisance or the prevention of crime and disorder, or the protection of children from harm. Thorpeness is a tranquil location, and the Sub-Committee was concerned that if people were allowed to purchase alcohol from the premises this would cause an overspill that could contribute to damaging the tranquillity of the area. In particular it may encourage drinking in public spaces including on the beach and near the water. In addition, off-sales may increase the risk of children obtaining alcohol as the licence holder would not be able to exercise as much control.

The Sub-Committee was concerned that the applicant did not appear to fully understand the nature of an off-sales licence and why they required it, and also that they appear to not be complying with elements of their existing licence; however this was not a matter that the Sub-Committee was asked to rule on today.

The Sub-Committee was not able to consider issues related to planning, health and safety or the misuse of the highway by coaches. However, this does not preclude the objector or any other party from making reports to the relevant authorities.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 11 December 2023"

The meeting concluded at 6.02pm.

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Chair