

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, Melton, on **Friday, 14 January 2022 at 10.00am**

Members of the Sub-Committee present:

Councillor Linda Coulam, Councillor John Fisher, Councillor Keith Robinson

Officers present:

Teresa Bailey (Senior Licensing Officer), Martin Clarke (Legal Advisor), Leonie Houtt (Licensing Officer), Matt Makin (Democratic Services Officer), Jemima Shaw (Trainee Solicitor), Nicola Wotton (Deputy Democratic Services Manager)

Others present:

The applicant, the objectors

1 Election of a Chairman

On the proposition of Councillor Robinson, seconded by Councillor Coulam it was

RESOLVED

That Councillor John Fisher be elected as Chairman of the Licensing Sub-Committee for this meeting.

2 Apologies for Absence

Apologies for absence were received from Councillor Colin Hedgley.

3 Declarations of Interest

No declarations of interest were made.

4 Declarations of Lobbying and Responses to Lobbying

No declarations of lobbying were made.

Technical Issues

During the introductions it became apparent that the participants attending remotely could not be heard by those present in the Conference Room. The Chairman

adjourned the meeting at 10.14am so that the Democratic Services Officer could seek support from ICT colleagues.

The meeting was reconvened at 10.23am; the Chairman advised that the technical issues were ongoing and that ICT officers were on their way to the building. The meeting was adjourned until 11.30am.

At 11.30am, the Democratic Services Officer announced that the Chairman had extended the adjournment of the meeting to 12pm, to allow the ICT officers further time to try and resolve the technical issues.

The meeting was reconvened at 12pm, however the temporary solution put in place was not sufficient as the remote participants could not be heard clearly. The Chairman adjourned the meeting at 12.17pm for a lunch break; it was agreed that the Senior Licensing Officer would contact those who had attempted to make representations remotely and request that they attend the Conference Room to address the Committee.

The meeting was reconvened at 2.14pm; the Senior Licensing Officer advised that all but one of the remote attendees were now present in the Conference Room; the one remote attendee who was unable to attend had confirmed to the Senior Licensing Officer that another representative would be covering the points made in their written representation.

5 New Premises Licence: The Wood Yard Restaurants Ltd, Unit 3a Deben Wharf, Woodbridge, IP12 1FP

The Sub-Committee received report **ES/1016** of the Licensing Manager and Housing Lead Lawyer, which related to an application for a new Premises Licence for The Wood Yard Restaurants Ltd, Unit 3a Deben Wharf, Woodbridge.

The report was introduced by the Senior Licensing Officer who advised that a hearing had been required as 13 representations against the application had been received. The main concerns raised by the representations related to its location in a residential area and that both the sale of alcohol, for consumption both on and off the premises, and the screening of films would add to noise and nuisance problems in the area and cause anti-social behaviour; the representations also highlighted safety concerns due to the premises' proximity to an open body of water.

The Senior Licensing Officer noted that one representation against the application was received from a responsible authority, namely the Council's Environmental Protection (EP) team; following negotiations between the EP team and the applicant the times for licensable activities were amended and conditions agreed, which were detailed at Appendix C to the report. The Senior Licensing Officer confirmed that as a result of this, the EP had withdrawn its objection.

The amendments were then circulated to those who had objected to the applications, however as only one representation was withdrawn the hearing was still required.

The Sub-Committee was asked to determine the application for a new premises licence, taking into account the guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998. The Sub-Committee was also asked to state its reasons when announcing its decision.

The Chairman invited questions to the Senior Licensing Officer.

There were no questions from the Sub-Committee or the applicant.

One of the objectors asked how noise issues in the outside seating area would be enforced. The Senior Licensing Officer noted the conditions agreed with the EP team; if any of these conditions were breached then the EP team could take enforcement action as the responsible authority for noise pollution.

The Senior Licensing Officer confirmed to the Legal Advisor that no other responsible authorities had made representations.

The Chairman invited Mr R, the applicant, to address the Committee.

Mr R highlighted that he had operated another licensed premises in the district for 18 years and was an active part of that community. Part of that operation had involved running a pizza oven in the premises' garden as well as mobile catering and Mr R said he had been looking to open a pizzeria for some time.

Mr R described The Wood Yard as being 12 years in the making and the unit was the ideal venue within a mixed-use estate; he planned for it to specialise in Neapolitan pizzas and other Italian inspired cuisine, along with Italian wines and craft beer, and to be a family friendly establishment, not aimed at the 18-25 market.

Mr R addressed the concerns raised by the objectors regarding off sales, operating hours, noise, outside seating, the screening of films and public safety. Mr R noted that the off sales were to allow people to purchase alcohol with their takeaway meals, in line with other restaurants, and he was not intending to operate as a retail style off licence.

Mr R said that the operating hours had been aligned with the opening hours of the premises and disputed the claim that the building was timber framed, reading a statement from the building's architect on the details of the construction of the building which he said demonstrated ample soundproofing between the premises and the flats above. Mr R added that Westcott Windows had confirmed to him that the windows overlooking the premises were triple glazed and of the highest acoustic rating.

Mr R advised that he had agreed that the outside seating area would not be used after 10pm and the tables and chairs would be cleared away at that time to prevent the area from being used. Mr R explained that he intended to project black and white films as part of the ambience and not to screen feature films with sound. Mr R stated that he would remove this aspect of the application if required.

Mr R acknowledged the safety concerns raised and reiterated that he was not promoting the venue for the 18-25 drinking market; he considered himself experienced in the pub trade and said that he would operate the "Challenge 25" scheme at the premises.

The Chairman invited questions to Mr R.

Mr R confirmed to members of the Sub-Committee that there would be places for an estimated 30 covers inside the premises, alongside some standing/sitting space at the bar and further standing space at the gelato counter. Mr R advised that the total seated capacity would be below 40. Mr R added that there would be a bookings policy for indoor seating; he envisaged that the outdoor seating would be operated for walk-ups during the summer months.

In response to a question from a member of the Sub-Committee Mr R explained that he saw the premises operating as a pizzeria, outlining the sort of prices he intended to charge for food and drink. Mr R said he was not intending to compete with takeaway pizza venues and envisaged the premises being more upmarket; some other foods would be offered but the range would be limited by the cooking equipment available.

There were no questions from the Senior Licensing Officer.

Mrs G, one of the objectors, questioned how the premises would be aimed at families when it was not being aimed at 18-25 year-olds. Mr R advised that the menu would be family orientated and he was not intending to create a venue explicitly for 18-25 year-olds.

Another objector, Mrs C, queried Mr R's statement about the building's construction, as it differed from the information that she and her husband (Mr C) had received as part of their contract of sale; Mr R said he would be happy to provide a copy of the architect's statement to Mr and Mrs C.

Mr C asked if Mr R had experienced any issues with noise or the Police when running his other licensed premises. Mr R explained that he had experienced a noise-related issue with a neighbour, but the issues had been resolved.

There were no questions from the Legal Advisor.

The Chairman invited Mr and Mrs G, two of the objectors, to address the Sub-Committee.

Mrs G highlighted that the apartments above the premises housed a range of residents from young to old and was a real community; she was concerned that the proposed licensable activities would impact on a modern timber-frame building that had very little soundproofing, allowing noise at unsocial hours and cause disturbance to residents.

Mrs G highlighted specific concerns about the screening of films which she considered would also discourage people from using the nearby independent cinema. Mrs G was also concerned about the proximity of the premises to the open river and suggested

that the behaviour of customers would impact on residents having peace and quiet in their homes, having to keep their windows closed in hot weather to reduce the noise.

Mrs G added that the premises would share a bin store with the residents, which would exacerbate noise issues in the evening and highlighted that the lack of parking would increase instances of residents being blocked in. Mrs G noted that despite several requests, Mr R had declined to meet with residents to discuss concerns.

Mr G said he was confused by the application and what market the premises would be aimed at. Mr G noted concerns about the event being used for stag and hen parties, similar to business models in London, and the impact of this on residents. Mr G considered pizza to be fast food and not suitable for film viewings and suggested that the application for off sales was quite removed from normal restaurants. Mr G echoed that Mr R had not responded to residents about their concerns.

Mr G asked the Sub-Committee to protect the community and its mental health; he highlighted that there was no legal parking for non-residents on Tide Mill Way and that customers would need to park further away. Mr G noted that residents were already disturbed by customers parking to use the existing restaurant in the area along with cars dropping off and collecting customers. Mr G added that inebriated guests of the existing restaurant created significant noise and all of these issues would be amplified by the new premises, along with noise from its closing up.

Mr G considered the opening hours were too generous for what was a quiet residential area and was concerned that if approved, the premises would disturb residents late into the night. Mr G was also worried about the premises' proximity to an open river and drew parallels with the Riverside area of Norwich, where there had been several drownings. Mr G concluded that residents could already hear the noise of the refurbishment and the building was not soundproofed to the standard suggested by Mr R.

The Chairman invited questions to Mr and Mrs G.

A member of the Sub-Committee asked if there was any evidence of the proposed stag/hen party business model being adopted by the applicant. Mr G suggested that the premises would not be as busy during the winter months and considered it was reasonable to assume it could be used as a party venue; Mr G acknowledged this had not been verified by the applicant. Mrs G admitted that an assumption had been made but remained concerned such a business model would be adopted, highlighting the high retired-age population of Woodbridge.

Mrs G, in response to a question from a member of the Sub-Committee on opening hours, considered the proposed hours to be too late for older residents in the area.

There were no questions from the applicant or the Senior Licensing Officer.

The Legal Advisor asked if the withdrawal of the film screening aspect would allay Mr and Mrs G's concerns about the application. Mrs G said this would allay their concerns specific to that element of the application but not the application as a whole; she said

she would remain concerned about noise disruption and the impact on residents' quiet enjoyment of their homes.

The Legal Advisor asked if the additional conditions agreed between the applicant and the EP team would allay any concerns; Mrs G highlighted the existing noise issues from the refurbishment of the premises and did not consider that it was acceptable to have to reach the stage where enforcement action was required to enjoy peace and quiet in her home.

The Legal Advisor asked what type of premises Mr and Mrs G had expected to see in the commercial unit; Mrs G said they had expected a retail/office operation and not a restaurant; Mr G reiterated that the proposed use of the premises would exacerbate parking issues in the area.

The Chairman invited Mr V, an objector, to address the Sub-Committee.

Mr V highlighted that the Deben Wharf apartments had originally been intended as holiday lets before being approved as residential dwellings by the Council; Mr V considered that this meant the Council had a duty of care to the residents of the apartments. Mr V considered that the proposed licensable activities constituted a change of use for the commercial unit as when the site was developed, it was intended to be used for retail purposes.

Mr V had considerable concerns about the impact of the noise from the premises and considered that the applicant's commitment to no noise disturbing residents, although welcome, was not achievable and the Council should require evidence it could be before granting the licence.

The Chairman invited questions to Mr V.

Mr V advised the Sub-Committee that he saw no need for off sales at 9am and confirmed he would like the operating hours amended to begin at 11.30am.

Mr V challenged the view of a member of the Sub-Committee on noise from films and said there was no guarantee that there would be no noise, noting that Mr R was willing to withdraw this element of the application.

There were no questions from the applicant or the Senior Licensing Officer.

The Legal Advisor asked if the withdrawal of the film screening aspect would allay Mr V's concerns about the application; Mr V said it would allay some of his concerns but not all of them.

The Legal Advisor asked if the additional conditions agreed between the applicant and the EP team would allay any concerns; Mr V reiterated that the Council should require evidence that the conditions were achievable before granting a licence.

The Legal Advisor asked what type of premises Mr V had expected to see in the commercial unit; Mr V said that there had been no indication when planning

permission had been granted that the commercial unit could be used at a restaurant and considered the proposed operation to be a change of use.

The Chairman invited Dr B, an objector, to address the Sub-Committee.

Dr B said he had experience of the development of the area and objected to the impact on the residential dwellings in the development, which were all entitled to peace and quiet. Dr B did not consider it necessary for the premises to have off sales and that it would increase the risk of anti-social behaviour and noise pollution in the area. Dr B was also concerned about the safety risks of the premises being located close to an open body of water.

Dr B considered that the takeaway element of the premises would increase littering in the area, highlighting that the one small public waste bin was often overflowing with rubbish from the coffee shop in the area. Dr B added that off sales would increase the risk of broken glass in the area.

Dr B described the area as being quiet in the evenings with some disturbance from the existing restaurant, which closed earlier than the proposed operating times of this application. Dr B said that although Mr R's intentions may be good, he would not be able to control the behaviour of his customers when arriving at and leaving the venue and residents would have to keep their windows closed to reduce the impact of additional noise.

Dr B was also concerned about the screening of films as Mr R would not be restricted to screening only silent films and he would be able to screen feature films and live sporting events. Dr B said that sound travelled vertically through the building and outlined the existing parking problems in the area which would be increased by the premises' operation. Dr B asked the Sub-Committee to reject the off sales and film elements of the application.

The Chairman invited questions to Dr B.

There were no questions from the Sub-Committee, the applicant or the Senior Licensing Officer.

The Legal Advisor asked if the withdrawal of the film screening aspect would allay Dr B's concerns about the application; Dr B said it would only allay his concerns about film screening.

The Legal Advisor asked if the additional conditions agreed between the applicant and the EP team would allay any concerns; Dr B said he was concerned that the conditions were not enforceable.

The Legal Advisor asked what type of premises Dr B had expected to see in the commercial unit; Dr B said he had not considered the possibility the unit would be used as a restaurant.

The Chairman invited Mr F, an objector, to address the Sub-Committee.

Mr F shared the concerns raised by the other objectors and informed the Sub-Committee that his apartment was directly above the premises; he said he wanted a family friendly home for his grandchildren to visit. Mr F had particular concerns about film screenings as it would increase the ambient noise from the premises and considered the soundproofing of the building to be inadequate for the proposed use of the commercial unit. Mr F considered the screening of films to be unacceptable.

The Chairman invited questions to Mr F.

Mr F, supported by Mr V, confirmed to the Sub-Committee that the parking on Tide Mill Way was privately controlled and the road was owned by Woodbridge Town Council.

There were no questions from the applicant or the Senior Licensing Officer.

The Legal Advisor asked if the withdrawal of the film screening aspect would allay Mr F's concerns about the application; Mr F said any such withdrawal would please him greatly but would not negate his other concerns.

The Legal Advisor asked if the additional conditions agreed between the applicant and the EP team would allay any concerns; Mr F said this would go some way to easing his concerns but not to a complete extent.

The Legal Advisor asked what type of premises Mr F had expected to see in the commercial unit; Mr F said he had expected it to be used for retail purposes in the daytime. Mr F said he was concerned about the impact on parking control in the area.

The Chairman invited Mr C, an objector to address the Sub-Committee. Mr C was accompanied by his wife, Mrs C.

Mr C said his main points had already been covered by the other objectors. Mr C added that the premises was located near to a level crossing which was not a good mix with alcohol and would be an accident waiting to happen, especially as the area was not well-lit in the evenings.

Mr C reiterated that noise pollution was a significant concern in the area and would be exacerbated by the new premises; the premises would be operating six days a week for long hours and residents would only have one night off a week from trading in the area. Mr C said that Deben Wharf residents were concerned about the threat to the peace and enjoyment of their homes and had a human right to this.

Mr C asked the Sub-Committee to consider restricting any form of film screenings, reducing the operating hours to give more peace and quiet to residents, and to not permit off sales.

The Chairman invited questions to Mr and Mrs C.

There were no questions from the Sub-Committee, the applicant or the Senior Licensing Officer.

The Legal Advisor asked if the withdrawal of the film screening aspect would allay Mr and Mrs C's concerns about the application; Mr C reiterated his desire that there be no form of film screening at the premises.

The Legal Advisor asked if the additional conditions agreed between the applicant and the EP team would allay any concerns; Mr C saw no value in the conditions as he considered them unenforceable.

The Legal Advisor asked what type of premises Mr and Mrs C had expected to see in the commercial unit; Mrs C said that they had bought their apartment at an early stage and that the literature supplied by the estate agent and developer suggested the development would be a luxury and quiet one, not suggesting that a noisy restaurant would be put in the commercial unit.

The Chairman invited the Senior Licensing Officer to sum up.

The Senior Licensing Officer clarified the following factual points that had been raised during the meeting:

- A significant number of premises licences for restaurants in the district include off sales;
- The service and delivery of food was not a licensable activity, and the food and takeaway element of the premises could proceed without a Premises Licence;
- The Sub-Committee, if it so wished, could include a condition on a Premises Licence to restrict the screening of films to silent films only;
- The screening of live TV for sporting events was not controlled by a Premises Licence;
- There was a significant younger audience in Woodbridge;
- The existing restaurant on Tide Mill Way had held a Premises Licence for approximately four years and in that time no complaints had been made to Licensing regarding noise and nuisance;
- The premises had planning permission to operate to 11pm;

The Senior Licensing Officer added that there was no direct parallel between this area and the Riverside in Norwich and reiterated that the EP team had withdrawn its objection following the agreement of additional conditions. The Senior Licensing Officer concluded that it was difficult for the applicant to obtain evidence he could meet those conditions without holding a Premises Licence.

The Chairman invited Mr R to sum up.

Mr R assured the Sub-Committee that he would be a responsible retailer and reiterated his willingness to remove the film element of the application if it quashed any concerns and said he would abide by any additional conditions the Sub-Committee imposed. Mr R said the development was always intended to be mixed use.

The Chairman invited the objectors to sum up.

Mrs G was concerned that residents were being told they had caused their own problems by buying into a mixed-use development when they had been assured there

would only be one restaurant and the other commercial units would be used for retail purposes. Mrs G considered that residents would lose peace and quiet and the proposed operation was not suitable for the premises. Mrs G said the Council had a duty to protect the peace and quiet of the residents' homes and the objections were not NIMBYism. Mrs G said that if the Sub-Committee was minded to approve the application, it should reduce the operating hours and not allow the screening of films.

Mr G added that refusing the application would not set a precedent in the area.

The other objectors chose not to sum up.

The Sub-Committee adjourned, with the Legal Advisor and the Democratic Services Officer, to make its decision.

On its return, the Chairman read the decision notice which was as follows:

"The Wood Yard Restaurants Ltd has applied for a new premises licence at The Wood Yard, Unit 3a, Deben Wharf, Woodbridge, IP12 1FP, which would allow:

- *The sale of alcohol – both on and off sales*
- *Films – indoors*

This Sub-Committee has been held as 13 objections were received against the application from other persons.

The Sub-Committee heard from the Senior Licensing Officer who read the Licensing Officer's report and in particular drew the Sub-Committee's attention to the representation made by the responsible body, namely the Council's Environmental Protection team, and the subsequent conditions proposed by that responsible body. The Senior Licensing Officer informed the Sub-Committee that the applicant had agreed to these conditions.

The Sub-Committee also heard from the applicant who indicated that they currently operate a licensed premises in East Suffolk and had done so for the last 18 years. During this time they had expanded into providing wood-fired pizzas in the premise's garden. The applicant wished to expand this into a pizzeria at another location, specialising in Neapolitan pizzas and other Italian inspired cuisine.

The applicant's intended market was families rather than the 18-25 market. In relation to the concerns regarding the off-licence, the applicant indicated that his intention was to allow customers to purchase alcohol with their food and sell alcohol at prices that would not be competitive with a retail style off-licence e.g., a supermarket. Due to his intended prices, the applicant was confident that customers would not come in just to buy alcohol as they would be able to obtain this cheaper elsewhere.

The applicant also indicated that if nearby objectors were concerned about the screening of films, he would be content if the Sub-Committee was minded not to grant this part of the licence application.

The objectors all had substantially similar concerns, namely that noise would emanate from the premises and would impact the quiet enjoyment of their homes. The objectors were concerned that the showing of films would encourage more noise and showed that the intention was not merely to run a pizzeria. In addition, they were concerned regarding parking and how customers would park when attending the premises. The objectors also indicated that they were not informed at purchase of their homes that the unit could be used for evening and late-night licensed activities and felt that they had been misled.

Sub-Committee's decision

After considering the application and the representations, both written and oral, the Sub-Committee has decided to:

- *Grant the licence as applied for and subject to the following variations:*
 - *The proposed licensable activities are amended as per paragraph 1.2 of the Licensing Officer's report;*
 - *The proposed opening hours are amended as per paragraph 2.2 of the Licensing Officer's report;*
 - *The conditions proposed by the Environmental Protection team and agreed by the applicant are added as per paragraph 3.2 of the Licensing Officer's report; and*
 - *That only silent films shall be shown.*

The Sub-Committee reached this decision for the following reasons, taking into account the Licensing objectives.

The Sub-Committee was mindful of the objectors' concerns but placed great weight on the fact that the responsible body, namely the Environmental Protection team, had proposed conditions that it felt would adequately address its concerns.

The Sub-Committee noted that no other responsible bodies had made a representation.

The Sub-Committee considered the statutory guidance issued under Section 182 of the Licensing Act 2003 and in particular paragraph 9.12, which states that licensing authorities must consider all relevant representations from responsible authorities carefully as they are the experts in their field. The Sub-Committee also noted that these conditions are clear and if they are breached, enforcement action may be taken.

The Sub-Committee also considered that the sale and consumption of food and the broadcasting of live television are not licensable activities and therefore any additional noise from the licensable activities was likely to be minimal. However, given the applicant's intention not to show films with sound, a condition has been added that only silent films be screened.

In relation to the off-licence aspect of the application, the Sub-Committee considered it highly unlikely that persons would choose to attend these premises for the sole purpose of purchasing alcohol to take away from the premises, given the likely difference in pricing between these premises and neighbouring retail-style off-licences.

For these reasons, the Sub-Committee was satisfied the licensing objectives can be promoted by granting the licence, subject to the additional conditions contained above.

In arriving at this decision, the Sub-Committee has taken into consideration the oral and written representations submitted by all parties, the guidance under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. The Licensing Officer's report also drew the Sub-Committee's attention to its obligations under the Human Rights Act 1998.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving this notice of the decision. Any person can make an application to the Licensing Authority for a review of the premises licence if they believe the licensing objectives have been compromised by the applicant at any time.

Date: 14 January 2022"

The meeting concluded at 5.13pm

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Chairman