

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, on **Thursday, 5 March 2020** at **10.00 am**

Members of the Sub-Committee present:

Councillor Jocelyn Bond, Councillor Mark Newton, Councillor Rachel Smith-Lyte, Councillor Steve Wiles

Officers present:

Teresa Bailey (Senior Licensing Officer), Louise Burns (Environmental Health Officer), Matt Makin (Democratic Services Officer), Kerry Woollett (Litigation Lawyer)

Others present:

Mr CS (Elizabeth Holdings (Landlord)), Mr PS (Licence Holder), Mrs S (Co-tenant)

1 Election of a Chairman

On the proposition of Councillor Bond, seconded by Councillor Wiles it was by unanimous vote

RESOLVED

That Councillor Mark Newton be elected Chairman for this meeting of the Sub-Committee.

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

There were no declarations of interest.

4 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying.

Additional Paperwork

At this point in the meeting, additional paperwork was submitted by the Licence Holder, Mr PS. The Chairman suggested adjourning the meeting for a short break to allow all parties to consider the paperwork prior to its inclusion in the hearing process.

The Chairman adjourned the meeting at 10.10am. The meeting was reconvened at 10.20am.

All parties confirmed that they were content for the new paperwork to be included in the hearing process.

5 Application for a Variation of a Premises Licence - Railway Tavern, 25 Albion Street, Saxmundham, IP17 1BN

The Committee received report **ES/0321** of the Cabinet Member with responsibility for Community Health.

The report was presented by the Senior Licensing Officer. It stated that an application to vary the premises licence at the Railway Tavern, 25 Albion Street, Saxmundham had been received; the details of the proposed variation were detailed in section 2 of the report.

The application was before the Sub-Committee as three representations had been received from nearby residents within the statutory 28-day period. A petition had also been received signed by 15 residents of Albion Street, Saxmundham. The signatories included two persons who had made representation as individuals.

One person making a representation had provided two mobile phone video clips and had requested that they be shown to the Sub-Committee. This person had also reported to the Police an incident which involved damage to his vehicle on 16 February 2020. A Suffolk Police crime reference number had been issued. Photographs of the damaged vehicle had been made available to the Sub-Committee prior to the meeting.

The Senior Licensing Officer confirmed that the applicant had been provided with a copy of the representations and they were attached, including the petition, as Appendix B of the report for members of the Sub-Committee.

It was noted that none of the individuals who had made representations had elected to attend and address the Sub-Committee.

A representation had also been received from the Council's Environmental Protection team; the Environmental Health Officer was in attendance to address the Sub-Committee regarding these representations.

When making its decision, the Sub-Committee was advised to have regard to 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 asked to determine this application by either;

- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003

- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place), and any condition which must be included in the licence in accordance with the Licensing Act 2003, or;

- Rejecting the application

The Chairman invited questions to the Senior Licensing Officer from the Sub-Committee.

A member of the Sub-Committee noted that reference had been made in representations to the Saxmundham Club, also on Albion Street, and asked what that premises' opening hours were. The Senior Licensing Officer confirmed that the Saxmundham Club's opening hours were 10am to 11.30pm Monday to Thursday, 10am to midnight on Saturday, and 10am to 11.30pm on Sunday.

The Committee viewed the video clips submitted by one of the individuals who had made a representation on the application.

There being no questions to the Senior Licensing Officer from either the applicant or the Environmental Health Officer, the Chairman invited Mr CS, representing the landlord Elizabeth Holdings PLC, to address the Committee.

Mr CS advised the Sub-Committee that Mr PS had been able to identify the incident shown in the video clips as having occurred on 31 January 2020 and had stated to Mr CS that he had gone outside that evening to ask those customers to be quiet and move on. Mr CS considered that Mr PS had managed the situation correctly. Mr CS added that there was nothing in the second video clip to identify the noisy individuals as customers of the Railway Tavern.

Mr CS considered the application to be split into two parts, an application for an extension of hours and an application regarding live entertainment.

The Sub-Committee was apprised of the history of the premises, which had previously been known as Cooper's Dip. Mr CS noted that a premises licence had been reissued 18 months previously following issues with a previous tenant.

Mr CS confirmed that Elizabeth Holdings PLC had taken onboard the advice of the Sub-Committee that had granted the premises licence and had remained involved in the management of the premises for the first year of the new tenancy, and had demonstrated that it was a responsible landlord by selecting a suitable tenant.

Mr CS was pleased to introduce Mr PS and Mrs S as the co-tenants of the Railway Tavern. He said that the concerns of local residents had been listened to and that Elizabeth Holdings PLC had wanted to put things right. Mr CS said that he, Mr PS and Mrs S had worked with Environmental Health, Licensing and the Police to improve the situation around the premises.

Mr CS was of the view that actions had been taken to deal with complaints, as demonstrated by a chronology in the additional paperwork submitted at the beginning of the meeting. He added that engagement with complainants had taken place where possible.

It was Mr CS's opinion that Mr PS and Mrs S had created a community pub. The issues with drugs at the pub had been addressed; monitoring and reporting procedures had been put in place and this system had been praised by the Police. Mr CS highlighted several community fundraising events that had been organised by the premises.

Mr CS considered the extensive improvements made by Mr PS to be common sense. He highlighted a recent incident where he and Mr PS had viewed 90 minutes of CCTV footage to identify an incident in the pub; the footage showed Mr PS resolve a fight that had occurred in the pub in an appropriate way and, as a result, the whole incident had only lasted six minutes from start to finish. It was noted when viewing this footage that automatic door closers could be installed to prevent doors being left open and noise spilling out, and this was actioned.

The Sub-Committee was informed that, following a meeting with Environmental Health, a noise reduction policy had been put in place to list the measures the premises takes to minimise noise disruption and the role of all staff members in achieving this.

Mr CS considered that he had gotten to know the area well during his time being involved with the premises. He noted the link to Albion Street from Station Approach and the number of licensed premises on that route, considering there to be a high risk of noise disturbance in the area. He acknowledged the concept that Albion Street was a residential area but added that it is also used as a run-through for traffic from the A12.

Mr CS considered Albion Street to be one of the busier roads in Saxmundham. He added that noise issues could also be caused from those individuals returning from nights out in Ipswich via train and then walking home.

External CCTV had been considered, but this was discouraged by Police advice and data protection issues so was not installed.

Mr CS handed over to Mr PS. Mr PS acknowledged that the building was not designed for live entertainment given its construction. He advised that he was doing as much as possible to mitigate noise pollution and detailed the process that was undertaken over the course of an evening to monitor noise levels, which included immediate action to reduce noise levels if they were found to be too loud. Mr PS considered that he always had residents in mind when doing this.

Mr PS said that he had worked closely with authorities to ensure that the premises was run correctly and had wanted to create a community pub. He noted that the karaoke had been moved to the rear of the pub to minimise the noise impact.

Although the application was for live entertainment on Fridays and Saturdays, Mr PS said it was not his intention to have live music or karaoke on both nights every weekend. He said that karaoke currently took place on the last Friday of the month

and was requesting the change due to the high demand from regular customers for additional events to celebrate birthdays and other milestones.

Mr PS said that the extension of opening hours had been requested in order to allow the premises to compete with other nearby businesses, such as the Saxmundham Club. Mr PS wanted to stop customers from leaving the Railway Tavern to move on to other premises, in order to contain and minimise additional noise.

Mr PS considered that the extension of opening hours would also boost the income of the premises and allow him to do more in terms of soundproofing of windows and doors, which were currently unaffordable. Mr PS noted the letters of support received from regular customers of the premises.

The Chairman invited the Sub-Committee to ask questions of Mr CS and Mr PS.

Mr PS, when asked about the relationship between the premises and its neighbours, noted that he had made considerable efforts to engage with his immediate neighbours but had been ignored. He reiterated that he wanted the premises to be part of the community. Mrs S added that she and Mr PS did have relationships with other neighbours in the area, having given building work to one of them and regularly assisting others with transport.

The Chairman noted the occasions where CCTV had been examined after complaints and sought further detail on the incident reported in November 2018. Mr CS said that the incident took place at the end of October 2018, when Elizabeth Holdings PLC was still the licence holder, and that CCTV footage showed that the premises had been cleared at the end of the night without incident and Mrs S and her daughter (who also worked at the premises) were preparing for the following day's trade.

Mr CS explained that Mr PS had been spoken to about responsible sales but that the footage did not show anyone being forcibly objected from the premises or corroborate the complaint regarding disturbance or a shirtless customer. A daily incident logbook was introduced after this incident to record anything of interest.

The Chairman invited the Senior Licensing Officer to comment on the incident. She advised that the complaint received had been related to noise and loud voices in the street and that a video clip had been sent at the time, however owing to the large number of clips sent by this individual and limited storage space on the Council's network, this video clip had not been retained. The Senior Licensing Officer advised that the video clip had been similar to the ones shown to the Sub-Committee earlier in the meeting.

The Chairman also sought further information regarding the incident in March 2019. Mr CS stated that this related to the incident he referred to in his address, where Mr PS had responded appropriately to an incident inside the pub. It was noted during the incident that doors had remained open for a period of time as customers not involved in the incident moved away from it; this was the reason that automatic door closers had been installed. Mr CS explained that Mr PS had immediately separated the two customers that had started a fight and restored order

appropriately. The only door movements after this incident were people entering and leaving the building.

Mr PS confirmed that since the March 2019 incident, there had only been minor disagreements and nothing of a more major nature. He stated that there had been no incidents that had required the Police to be called and confirmed that he had escorted customers off the premises when it was required.

A member of the Sub-Committee asked the Senior Licensing Officer if there were any records of the Police being called to the premises. The Senior Licensing Officer said that she did not hold these records but had discussed the premises with the Police who had reported that Mr PS had dealt with drug taking at the premises very quickly and effectively and had been happy with how he had addressed the issue. The Senior Licensing Officer had not been contacted by the Police to say that the premises had been involved in altercations.

In response to a question from a member of the Licensing Sub-Committee, regarding the regularity of complaints related to the premises, the Senior Licensing Officer stated that there was one individual who complained about the premises on a regular basis and two of the individuals who had made representations had not complained before this application was made.

There being no further questions to the applicant from any of the parties present, the Chairman invited the Environmental Health Officer to address the Committee.

The Environmental Health Officer was aware there was a history of problems associated with the venue, with noise complaints received over the last 20 years. She advised that her original objection to the application had been due to these complaints continuing.

Following the submission of the objection, the Environmental Health Officer met with Mr PS and Mrs S to discuss mitigation issues that could be attempted, some of which have been suggested by the applicant at the meeting. The Environmental Health Officer noted the positive effect achieved by moving the karaoke to the rear of the premises.

The building had single glazed windows and it was acknowledged that it would be prohibitively expensive for Mr PS to replace these with double glazed windows at that time. Other options suggested by the Environmental Health Officer were bespoke screens or glazing that could be installed for the duration of an event.

The Environmental Health Officer added that a wall that adjoined with a neighbouring property could be fitted with acoustic cladding. It had also been suggested that sealing smaller openings that sound could escape from would also mitigate noise pollution emitting from the building. During that meeting, Mr PS had acknowledged understanding of statutory nuisance to the Environmental Health Officer.

The Environmental Health Officer noted that, after she had met with Mr PS and Mrs S, she visited a near neighbour of the premises on 28 February 2020 during a karaoke event. It was confirmed at that time that following the movement of the karaoke to

the rear of the premises very little noise could be heard in the adjoining property, the neighbour having been very disturbed by the karaoke before. The Environmental Health Officer said that she was no longer concerned about statutory nuisance from the premises.

It was the opinion of the Environmental Health Officer that she would be content to withdraw her objection but wanted to discuss suggested conditions to further improve the situation. She considered that if further changes were not made and the application for the variation of the premises licence was granted, the situation could deteriorate to the point where a statutory noise notice was served.

The Chairman invited the Sub-Committee to ask questions of the Environmental Health Officer.

The Environmental Health Officer confirmed that her suggested conditions had been verbally agreed with the applicant. The Senior Licensing Officer suggested that the suggested conditions could be tabled at the meeting in order for the applicant to have the opportunity to formally agree to them.

The Chairman adjourned the meeting at 11.10 am to allow all parties to consider the additional document. The meeting was reconvened at 11.20 am.

Mr CS and Mr PS confirmed that they agreed with the conditions suggested by the Environmental Health Officer being added to the premises licence.

The Environmental Health Officer summarised the suggested conditions. It was confirmed that the nominated person did not have to be the Designated Premises Supervisor (the DPS) but would be someone who the DPS nominates to take the responsibilities outlined in the conditions in his/her absence.

The Environmental Health Officer advised that she would be withdrawing her objection to the application based on these conditions and considered that they would address the existing noise concerns as well as any potential concerns created by the approval of the licence variation.

The Chairman invited the applicant to comment on these conditions. Mr CS said that Mr PS was content to accept these conditions being added to the premises licence.

The Chairman invited the applicant to sum up.

Mr CS repeated that he considered the application in two parts, for the extension of the opening hours and the provision of live entertainment. He considered that Albion Street was more than just a residential street and that the Railway Tavern was a well-run premises.

It was the view of Mr C that the premises had a right to exist and that significant improvements had been made since Mr PS had been the tenant. He noted the condition that would limit live entertainment only once a week and that the premises would continue to be a community pub.

The Sub-Committee retired to make its Decision, together with the Legal Advisor and the Democratic Services Officer.

On its return the following Decision Notice was read by the Chairman:

"An application was made to vary the premises licence for the Railway Tavern, 25 Albion Street, Saxmundham.

The variation sought was:

- 1. To extend the closing time on Friday and Saturday night from 11:30pm to 12:30am;*
- 2. To extend the hours for the sale of alcohol on Friday and Saturday nights from 11:00pm to 12midnight; and*
- 3. To have live and recorded music indoors on Fridays and Saturday nights until 11:30pm. The premises already has live and recorded music until 11:00pm as the premises is licenced to sell alcohol and the audience is less than 500, therefore a licence is not required to have live and recorded music up to 11:00pm.*

The hearing was held today because relevant representations were received in relation to the application.

The representations were received from a responsible authority, namely East Suffolk Council's Environmental Protection Team. Representations were also received from three nearby residents in addition to a petition signed by 15 residents of Albion Street, Saxmundham, two of these signatories were residents that had also made representations.

The grounds for the representation from Environmental Protection was that it has been dealing with complaints of noise from the premises for over 20 years. An abatement notice in respect of noise nuisance was served on the premises in 2016.

The current DPS has made concerted efforts to introduce live/late music events, however, has come up against issues such as:

- building structure – single skin walls, single glazed windows with little sound insulation;*
- proximity to neighbours; and*
- historical building design in that it was designed to be a pub not a music venue.*

Environmental Protection was therefore of the view that the variation should not be granted.

The grounds for representations from residents were that public nuisance is already experienced by residents by way of noise from customers leaving the premises who shout, swear and scream. Residents' representations also stated that cigarette butts, bottles and sometimes vomit were found in Albion Street and were of the view that this

was caused by the Railway Tavern. Residents fear that if the variation to extend the hours was granted the premises would become a magnet for customers leaving other premises that have closed earlier which would exacerbate the problems already experienced. Live music at previous events at the premises had been of an unacceptable volume which would continue for a further 30 minutes if the variation was granted.

The Sub-Committee was also provided three letters in support of the premises. These stated that the current DPS had gone to lengths to ensure the pub was a centre for the community where everyone feels welcome. The DPS has been concerned about the premises affecting residents in Albion Street and have made changes to reduce these impacts including requiring smokers to smoke out the back rather than the front and not allowing drinking out the back after 10pm. One of the letters specifically disagreed with the claims made by residents that noise from music at the premises had been loud and that cigarettes, bottles and vomit had been found in Albion Street.

Before the hearing commenced the Applicant provided a chronology document setting out attempted contact with one of the persons making representations and also actions taken in respect of noise.

The persons making representations did not attend the hearing. The videos submitted by a person making representations were viewed.

The Applicant informed the Sub-Committee that he was aware of these incidents captured in the footage and had gone outside and asked the persons making the noise to refrain from making noise and to move on, though this was not captured in the footage. In the Applicant's view the incidents had been dealt with appropriately.

At the hearing the Sub-Committee was told by a representative from the Landlord, Elizabeth Holdings, that they would like the application to be viewed as two separate applications, one to extend the operating hours and the other to introduce regulated entertainment.

The representative said that as required when the licence was granted 18 months ago, it had held onto the licence for 12 months and had undertaken due diligence when appointing a tenant and it was proud to have Paul and Julie Summers as tenants. The pub is a community pub and has already put measures in place to deal with noise issues including relocating the karaoke machine and installing automatic door closers.

There had been two incidents since opening 18 months ago, though review of CCTV footage had shown that these were dealt with by the Premises Licence Holder appropriately. In fact the Sub-Committee was told that the police were impressed with the way these incidents were dealt with. The Applicant reminded the Sub-Committee that the police had not made any objections and the Senior Licensing Officer confirmed that the police had only contacted her when the pub initially re-opened. She had not had contact with the police in relation to the premises since and if the police are having issues with a premises they would normally be in contact with her.

The Applicant also informed the Sub-Committee it had obtained quotes to have the doors and windows soundproofed though the costs of this were currently prohibitive.

The Applicant needed the extended hours so as to be able to increase revenue so that it could afford to install soundproofing.

The Senior Licensing Officer also told the Sub-Committee there was only one regular complainant, the two other persons that had made representations had only done so recently.

The Environmental Health officer told the Sub-Committee that she had discussed a number of options with the Applicant which would help with reducing sound escape. She said that the Applicant had moved the karaoke machine and when she visited the complainant's house, she was of the view that it was not causing a noise nuisance and the complainant also agreed. As such the Environmental Health Officer said she had some conditions which if implemented could deal with the noise issue. After discussing these conditions with the Applicant and the Senior Licensing Officer, four conditions were proposed. The Environmental Health Officer confirmed that if implemented she was confident these would address both current noise complaints and any issues arising from the proposed variation. Furthermore, these would ensure the Premises Licence Holder or Nominated Person would always be mindful of any noise being generated by the premises.

In reaching its decision, the Sub-Committee considered the documents provided as well as the representations made by all persons at the hearing. The Sub-Committee also considered the need to promote the four licensing objectives under the Licensing Act 2003, the Central Government guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998.

In respect of the application for regulated entertainment, that is live and recorded music, once a week on either a Friday or Saturday night to 11:30pm, the Sub-Committee was guided by the Environmental Health Officer. The Environmental Health Officer was of the view that the conditions suggested and agreed with the Applicant would mitigate any noise created and provide a mechanism to deal with any complaints. Consequently, the Sub-Committee decided to grant the application in accordance with the conditions proposed in the operating schedule and with the following additional conditions:

- 1. All windows and external doors shall be kept closed at any time when regulated entertainment takes place, including summer, except for the immediate access and egress of persons;*
- 2. The Premises Licence Holder shall nominate a senior member of staff ("the Nominated Person") as the person responsible for the management, supervision and compliance with licence conditions and general control of regulated entertainment. The Nominated Person is to be on site at any time regulated entertainment takes place;*
- 3. The Premises Licence Holder or Nominated Person will assess the impact of any noisy activities on neighbouring premises at the start of the regulated entertainment and periodically throughout regulated entertainment and take action to reduce noise levels if they are found to be heard or are likely to be heard above background levels at the nearest residential property. If the observation reveals noise levels likely to cause disturbance to the occupants of residential properties in the vicinity, then the volume of*

music will be reduced to a level that does not cause disturbance. A record of observations carried out in fulfilment of this condition will be kept in a log for that purpose. Such a log shall be completed immediately after the observation detailing the time, location and duration of the observation, the results of the observation and any actions taken to reduce noise levels. Such a log must be made available at all times for inspection upon request by any relevant authorities; and

4. The Premises Licence Holder or Nominated Person will be available at all times during regulated entertainment and be responsible for cooperating and liaising with any responsible authority.

In respect of the application to extend the opening hours and the hours for the sale of alcohol, the Sub-Committee was impressed with how the pub was being managed. The Sub-Committee was of the view that Elizabeth Holdings was a responsible Landlord and was impressed that it had maintained significant involvement in the premises evidenced by the time spent reviewing CCTV with the Premises License Holder. The Sub-Committee was also of the view that the pub was being managed responsibly, evidenced by the fact that the police had had no recent involvement with the premises and that the Premises Licence Holder had proactively installed automatic door closers to deal with noise complaints.

The Sub-Committee also had regard to the representations made by local residents, though was mindful that there was only one person that made regular complaints. The Sub-Committee was also mindful of the video footage which showed noise from persons leaving the premises.

However, the Sub-Committee had regard to the fact that the pub already displayed 'Leave Quietly' notices at exits and that staff were to be trained in the dispersal of customers. Furthermore, it noted the Statutory Guidance which states "Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right."

The Sub-Committee was therefore of the view that the responsible ownership and management of the premises were sufficient to deal with any noise issues arising from an extension in operating hours and therefore decided to grant the variation as per the application.

Anyone aggrieved by this decision may appeal to the Magistrates' Court within 21 days of receiving notification of the decision.

Date: 5 March 2020

The meeting concluded at 1.02 pm

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Chairman