

**LICENSING SUBCOMMITTEE
(2003 ACT)**26 September 2005
10.00am – 12.55pm

Present: Councillors Benstead (for minute numbers 05/licA/60 to 05/licA/61), Blencowe (for minute number 05/licA/62) Coleman, Hymans (Chair)

FOR THE INFORMATION OF THE COUNCIL**05/licA/57 APOLOGIES**

All members were present.

05/licA/58 DECLARATIONS OF INTEREST

There were no declarations of interest.

05/licA/59 PROCEDURE TO BE FOLLOWED

The procedure for hearings of the subcommittee was noted.

05/licA/60 ALEXANDRA ARMS

Present: Mr Williamson (legal representative for Greene King) Mr Richard Ellis and Mr Stephen Ellis (licensees); Mr Hibbitt, Ms Pearce (interested parties); Councillor Philipps (ward councillor representing interested parties who were unable to attend).

Licensing Officer

The Licensing Officer presented the report to the Sub-Committee. She had been requested to read out letters of representation from 2 residents unable to attend the hearing and did so (see below).

Applicant

Mr Williamson spoke on behalf of the applicant. He said it was a modest application and emphasised that it was not to be a music led venue. The application for recorded music and live music would apply to about 12 events per year. He offered to only provide background music after 11pm so that it did not cause noise nuisance.

He then addressed the concerns raised by residents and pointed out that there were 5 other pubs in the area and it was difficult to identify for certain that those members of the public who caused nuisance and damage in the area did actually come from the Alexandra Arms.

Mr Williamson said the pub had no juke box or pool table and was not designed to attract teenagers. The extended hours would discourage everyone departing at the same time. He asked residents to use the contact number of the pub manager which was advertised to inform him when an identified customer of the pub was causing public nuisance or damage to property. The manager would bar anyone causing such nuisance from the premises. The outside of the premises were only to be used until 11.30pm and the applicant was willing to reduce this on Sundays should the committee so decide. Notices asking customers to leave quietly with consideration for neighbours

had been put up. The pub licensees were members of the community too and did not want poor relations with the rest of the community.

Interested Parties

Councillor Phillips spoke as ward councillor representing a number of residents unable to be present. Their concerns focused on the "prevention of public nuisance" licensing objective. Residents in Gwydir Street and Milford Street were already disturbed and the increase in hours would lead to more. This is a highly residential area with many families with young children. Loss of sleep especially before a weekday, noise through the walls, an increase in alcohol fuelled crime (criminal damage, fights, drunkenness and poor behaviour), the impact on children and more cars leading to less safety and the likely obstruction of the access allowed to emergency vehicles were all issues that concerned these residents.

Mr Hibbitt stated that the notices about the application had been posted on the premises in such a way that they were only seen by residents on the night before objections had to be lodged.

He said that tables and chairs outside the pub led to lots of noise late at night and he noted a recent example where it was 23.51 hours before customers were moved on. He acknowledged that those tables and chairs were not there now but that they might be back in the summer months. He also pointed out that once neighbours were awakened by the disturbance it was too late to call the police because those causing the disturbance would be gone by the time the police arrived.

Mr Hibbitt further pointed out that the streets were small and noise travelled a good distance. He was doubtful that the pub could be adequately insulated and ventilated to prevent noise from inside travelling outside.

He asked for clarification of the removal of embedded restrictions not further amplified in the application and what exactly that meant.

Mr Hibbitt raised an issue at the request of another neighbour who was disturbed by bottle clearing occurring at 6.45am.

The Licensing Officer read out 2 letters of representation:

- 1) From a resident in Gwydir Street living close to the pub whose only bedroom faced the road. Noise and disturbance meant that it was impossible to get to sleep before midnight and it was worse in the summer.
- 2) The second resident said that the conditions proposed were inadequate, that the site was unsuitable for what was proposed and no other pubs in the area were doing what was proposed. Even if noise insulation were installed, the noise and music would travel outside because the door of the pub was usually open. An example was given of the door being open for several hours on one particular day. There was bound to be increased car and cycle traffic raising concerns about safety. The Council should give local residents the power over local decisions such as this. The letter supported the extension to quiet drinking.

Ms Pearce said she lived two doors away from the pub and her main concern was the noise from the garden during the summer. People sitting out drinking there until midnight in the summer was too long. The provision of a canopy and heaters etc would lead to an even longer season.

The Chair asked if a condition limiting the use of the patio area which would have to be cleared by the deadline of say 11pm or 11.30pm would be acceptable.

Ms Pearce thought that 11.30pm was still too late.

Councillor Benstead clarified that the current drinking up time was 11.20pm and that the proposal was for the same.

Councillor Coleman asked two questions of clarification of the applicant relating to noise abatement:

The success of this depended both on the characteristics of the building and what actually was proposed. Could these please be specified.

Good management in relation to good neighbourliness was key. Several examples of poor management had been cited so how were they planning to improve?

The Chair asked the applicant's agent to respond to the points raised by the interested parties and members.

Mr Williamson reiterated the fact that the streets were a main thoroughfare from the centre of the city and those creating noise nuisance might not come from the Alexandra Arms. He acknowledged that older buildings could be difficult to insulate for noise abatement and offered to limit the hours to those that already existed. The Council's Environmental Health department had been helpful in providing guidance and sound levels would have to meet the required levels. The applicant was considering installing air conditioning. He said that the licensees were experienced and had an active dispersal policy. Any properly identified persons committing breaches of the regulations would be banned. He pointed out that once the new regime was in place in November, the residents could ask for a review on the basis of evidence of non-compliance with the conditions.

The Sub-Committee adjourned to consider the application and the solicitor to the Sub-Committee advised.

Decision

In reaching the decision on the application, the Sub-Committee considered the material presented to the Sub-Committee, the written and oral representations made, the Council's Statement of Licensing Policy and the statutory guidance under the Licensing Act 2003.

In this case, the Sub-Committee had to balance the interests of the applicants with those of the wider community. The decision was reached on its individual merits, bearing in mind that these premises are in a residential area.

Accordingly, it was decided:

To grant the variation application in part only, as detailed in the Schedule below, subject to conditions translated from the applicant's Operating Schedule, as detailed in paragraph 3.1 of the report and as modified, namely:

1. Regulated entertainment in the form of live music may only be held by up to two performers between 20.00 and 22.30 on Tuesdays and Thursdays.

2. Regulated entertainment in the form of recorded music may only be held between 20.00 and 23.00 hours on Fridays and Saturday nights of the week and on New Year's Eve when it may continue until 01.00 New Year's Day.

3. Seasonal variations are granted as applied for save for any bank holiday preceeding a normal working day when the sale of alcohol will cease at 23.00 hours.

4. Non standard timings are granted as applied for save for the Annual Gwydir Street Festival when the sale of alcohol may start at 10.00am and will cease at 00.00 hours.

The conditions are considered to be necessary to promote the four licensing objectives identified in paragraph 3.1 of the report and the modified conditions are considered necessary for the prevention of public nuisance. The part of the application relating to the sale of alcohol to 00.00 hours from Sunday to Thursday is rejected to promote the prevention of public nuisance.

SCHEDULE

The sale or supply of alcohol (on and off the premises):

Sun –Thurs: 11.00 to 23.00 hrs
Fri + Sat : 11.00 to 00.00

Live Music (indoors): Tues and Thurs: 20.00 to 22.30 as agreed with the EPM,
and delete all references to Bank Holidays

Recorded Music (indoors): Fri + Sat: 20.00 to 23.00 as agreed with EPM, and
delete all references to Bank Holidays

And New Year's Eve : 20.00 to 01.00

Seasonal variations : as applied for, save for any bank holiday preceeding a
normal working day when the hours of 11.00 to 23.00 will
apply

Non Standard Timings : as applied for, except for the

Annual Gwydir Street Festival : 10.00 to 00.00

Hours premises open to the public

Sun to Thur : 11.00 – 23.30
Fri – Sat : 11.00 to 00.30

Annual Gwydir Street Festival : 10.00 to 00.30

Seasonal variations: as applied for, save for any bank holiday preceeding a normal
working day when the hours of 11.00 to 23.00 will apply

The Licensing Officer said that she had been copied in to a newsflash which advised that the Licensing Minister would be writing to every local authority on the matter shortly.

The Council had not yet received the letter.

Mr Harradence said there was going to be public nuisance because other pubs in the area were closing at 11.30pm. As a result he thought that there would be a massive move of persons to the Panton Arms so there would be a mass exodus. Consequently, everybody from pubs in the area would end up leaving from the Panton Arms at the same time. He was also concerned about customers congregating outside to smoke as one room was already non-smoking, and thus creating noise outside.

Councillor Stuart spoke as ward councillor on behalf of residents unable to attend the hearing. Their concerns focused on the extension of hours. They felt these were excessive in a residential area especially on weekday evenings when people needed a good night's sleep before going to work/school etc the following day. In order to meet the prevention of public nuisance licensing objective, these residents wished to suggest that the pub stay with the existing hours and add an additional half hour on Fridays and Saturdays. They also wished the Bank Holiday provision to be removed from the seasonal variations.

Mr Oswald whose bedroom faced on to the street spoke of the problems of vandalism in the area on Friday evenings in particular. This was the day that the dustbins were collected and these were often left out by residents. He said that people kicked them around which was very trying and he was sure some of the people were from the Panton Arms. In the past some serious damage had also been done to the bonnets of cars.

Mr Williamson proposed a condition of no admission to the Panton Arms after 11pm in order to address the point made by Mr Harradence. The extra opening hour would only be for people already in the pub. In relation to Mr Oswald's point, he reiterated the importance of the pub belonging to Pubwatch and that incidents needed to be reported so that they could be passed on to the police. He emphasised that Panton Street is a thoroughfare, not solely an access route to Panton Arms, and used by students late at night returning home.

The Sub-Committee adjourned to consider the application and the solicitor to the Sub-Committee advised.

Decision

In reaching the decision on the application, the Sub-Committee considered the material presented to the Sub-Committee, the written and oral representations made, the Council's Statement of Licensing Policy and the statutory guidance under the Licensing Act 2003.

In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community. The decision was reached on its individual merits, bearing in mind that the premises are in a residential area.

Accordingly it was decided

To grant the variation application in part only, as detailed in the Schedule below, subject to conditions translated from the applicant's Operating Schedule, as detailed in paragraph 3.1 of the report and as modified, namely:

1. That the use of the outdoor area, namely, the external beer garden and seating area has been restricted for the promotion of the prevention of public nuisance so that it can only be used until 23.00 every day.
2. Seasonal variations are granted as applied for save for any bank holiday preceeding a normal working day when the sale of alcohol will be allowed between 11.00 and 00.00.

The Sub Committee chose to adopt the condition proposed by the Applicant's Counsel that there be no admission to the premises after 23.00 and that the premises should only be open after that time for customers in the premises at 23.00.

The conditions are considered to be necessary to promote the four licensing objectives identified in paragraph 3.1 of the report.

SCHEDULE

The sale or supply of alcohol (on and off the premises):

Mon –Sun: 11.00 to 00.00 hrs

Seasonal variations :

11.00 to 00.30

Christmas Eve, Christmas Day, Boxing Day, New Year's Day, Spring and Aug Bank Holidays, Good Friday, Easter Sat, Sun + Mon and any other Bank Holidays. Also the Thursday before Good Friday and Sundays before Bank Holiday Mondays.

SAVE FOR any Bank Holiday preceeding a normal working day when the sale of alcohol will be allowed between 11.00 and 00.00.

Non Standard Timings

Times, as required, for special occasions eg weddings.

21 days notice of events to be given to police. Police to have power of veto on 7 days notice.

Hours premises open to the public

Mon – Sun: 11.00 – 00.30

Seasonal variations :11.00 to 01.00

Non standard timings on special occasions : times as required

Removal of embedded restrictions

With effect from: The variation to have effect from the 24th November 2005.

The Chair informed the meeting of the decision reached by the Sub-Committee and that all parties would receive written notification of the decision, which would include details of the right of appeal against the decision.

Councillor Blencowe replaced Councillor Benstead as the latter is a ward councillor for Coleridge ward.

05/licA/62 THE ROCK

Present: Mr Moody (Greene King)

Licensing Officer

The Licensing Officer presented the report to the Sub-Committee. She advised that there had only been one representation from an interested party who was not present.

Applicant

Mr Moody spoke on behalf of the applicant. He said the application was limited to some additional opening hours. He agreed to an additional requirement re regulated entertainment.

Councillor Coleman asked for clarification about the current practice regarding doors and windows being open or shut.

Mr Moody confirmed that the pub had air conditioning in the areas covered by the Public Entertainment Licence which meant that windows could remain closed and the front door opened on to a lobby. There was control of the door which opened off the lobby.

The Chair asked for clarification of the term "proceeding" and as a result the applicant agreed to omit the word proceeding from the Bank Holiday hours section of the application.

The Sub-Committee adjourned to consider the application and the solicitor to the Sub-Committee advised.

Decision

In reaching the decision on the application, the Sub-Committee considered the material presented to the Sub-Committee, the written and oral representations made, the Council's Statement of Licensing Policy and the statutory guidance under the Licensing Act 2003.

In this case, the Sub-Committee had to balance the interests of the applicants with those of the wider community. The decision was reached on its individual merits, bearing in mind that these premises are in a residential area.

Accordingly, it was decided to:

To grant the variation application as applied for, subject to conditions translated from the applicant's Operating Schedule, and the conditions recommended by the Environmental Protection Manager with one amendment as follows ;

Any reference to Seasonal Variations should read : " Seasonal variations are requested for one additional hour for Christmas Eve, Christmas Day, Boxing Day, New Year's Day, Spring and Aug Bank Holidays, Good Friday, Easter Sat, Sun + Mon. Preceding day before a Bank Holiday. St George's day, St Patrick's day and any other publicly declared holiday."

The conditions are considered to be necessary for the promotion of the four licensing objectives.

Details of application: -

The sale or supply of alcohol (on and off the premises):

Mon –Thur +Sun: 11.00 to 23.00 hrs
Fri + Sat : 11.00 to 00.00 hrs

Seasonal variations :

one additional hour
Christmas Eve, Christmas Day, Boxing Day, New Year's Day, Spring and Aug Bank Holidays, Good Friday, Easter Sat, Sun + Mon.
Preceding day before a Bank Holiday. St George's day, St Patrick's day and any other publicly declared holiday.

Hours premises open to the public

Mon – Thur +Sun: 11.00 – 23.30
Fri + Sat : 11.00 to 00.30

Seasonal variations as listed above

Live Music (indoors): Mon-Sun: 18.00 to 23.00

Seasonal variations as above

Recorded Music: (indoors)

As for live music and Seasonal variations as above

Anything of a similar description (indoors)

As for live music and Seasonal variations as above

Late night refreshment (indoors and outdoors)

Fri + Sat : 23.00 to 00.00

Seasonal variations as above

Removal of terms, conditions or restrictions

Removal of current restrictions under section 168 of the Licensing Act 1964 (children permitted in bars)

With effect from: The variation to have effect from the 24th November 2005.

The Chair informed the meeting of the decision reached by the Sub-Committee and that all parties would receive written notification of the decision, which would include details of the right of appeal against the decision.

05/licA/63 BRB THE COW

Pre hearing discussions had taken place between the applicant and the Environmental Protection Manager, resulting in the representation being withdrawn after publication of the agenda.

CHAIR