

EASTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 20 AUGUST 2013 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS IN RESPECT OF APPLICATION FOR A PREMISES LICENCE - THE VAULTS, 28A, ST JOHN'S STREET, DEVIZES

Present:

Cllr Ernie Clark, Cllr Magnus Macdonald and Cllr Simon Jacobs

Also Present:

Wiltshire Council Officers

Jane Cowley (Licensing Officer), Lisa Pullin (Democratic Services Officer), Paul Taylor (Senior Solicitor)

Applicant

Mr M Shipp

Those who made a Relevant Representation

Mr G Hilderly
Mrs S Wright
Mrs J Blake

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Ernie Clark as Chairman for this meeting only.

2 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8 of the Agenda refers).

3 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

4 **Declarations of Interest**

Councillor Simon Jacobs wished for all those present to know that some of the residents that had signed the Petition objection to the application were living in his ward.

5 **Licensing Application**

Application for a Premises Licence by the Pop-Up Pub Co. Ltd in respect of The Vaults, 28a St John's Street, Devizes.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Mr Malcolm Shipp the Applicant were:

- That he was the Co-Director of the Pop-Up Pub Company and was planning to open up a micro pub and shop at the premises that would focus on real ales;
- There would be no fruit machines and it was not the intention to be a pub that opened late with loud music;
- Although there was an acceptance that there would be a slight increase to people and traffic movements this would not cause any further problems to this area;
- That he had liaised with the neighbour, Mr Hilderly to address the concerns he had about the noise impact on his property;
- That specialist glass had been fitted to the shared window following expert advice; and
- That he had retained the services of a sound testing company who had the previous day carried out sound testing between the two properties which had shown ????

The following questions were asked of Mr Shipp:

What experience do you have of running a pub?

I have been involved in the trade for most of my working life and have a lot of experience.

What made you chose to open this kind of establishment?

I brew my own alcohol and it appears that micro pubs are continuing to open and thrive over the traditional pubs which are closing down.

What kind of food are you intended to offer?

Locally sourced wrapped food which will be bought in as there will be no catering facilities on site.

Key points raised by Mr G Hilderly who made a Relevant Representation were:

- That he had raised his initial objections to this application based on the perceived intrusion on his living standards which he would wish to maintain;
- That the shared window with 28a St John's Street is in his dining room and at the time when 28b was an Antiques Shop this was just a single glazed window which had a customer approximately every half an hour which did not create an unacceptable disturbance;
- He was pleased that the proposed opening hours had been reduced and the Applicant had installed soundproofing on the shared window and now the sound of people talking was not too audible;
- He would like for there to be a condition that there is no live or recorded music at the premises; and
- He would wish to continue to work with the Applicant to put further soundproofing in place as although the sound testing had been carried out that does not replicate the sound made by a large number of people talking in a bar.

Key points raised by Mr J Blake (who was representing Mrs S Wright) who made a Relevant Representation were:

- That 61 signatures had been obtained to Mrs Wright's petition of those living in the immediate vicinity of the proposed premises;
- That there were already a number of drinking establishments in Devizes and yet another would exacerbate the rowdy and unruly behaviour in the and add to the existing parking problems;
- That the loss of another small shop would affect the town; and
- That they would not object to the premises being an off licence as this would not create the noise, litter and disturbance that a pub would.

Mr Hilderly had no further comments to make for his summing up.

Mr Blake commented that they did wish to see a business at this premises, but it should be the right one and this type of establishment could be somewhere else in the town. He understood the term "pop up" to mean something that pops up briefly and then moves on.

Mr Shipp did not wish to make any further comments for his summing up.

The Chairman confirmed that viability of the establishment was a planning matter and would not be considered by the Sub Committee which reaching their decision.

The Sub Committee then retired to consider the application at 10.30am and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 11.30am.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

- That the effect of the proposal on the economy is not a licensing matter; and
- Due to the changes to the Live Music Act the Applicant does have the ability to play live music as it is not a licensable activity until 11pm. If live music did cause a problem at the premises then this could be looked at by a review of the licence and then the licensing authority would have the ability to disallow live music at the premises if it was proved that this was causing a problem.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

Resolved:

That the Eastern Area Licensing Sub Committee has resolved to GRANT the Premises Licence for the following licensable activities:

Licensable Activity	Timings	Days
<u>Provision of regulated entertainment</u>		
Films (indoors)	11:00 – 21:00 12:00 – 21:00	Monday – Saturday Sunday
Provision of Late Night Refreshment (indoors)	23:00 – 00:30 (next day)	Christmas Eve and New Years Eve only

Sale by Retail of Alcohol (on site and off site)	11:00 – 21:00 12:00 – 21:00 11:00 – 00:30 (next day)	Monday – Saturday Sunday Christmas Eve and New Years Eve
Opening Hours	11:00 – 21:30 12:00 – 21:30 11:00 – 00:30 (next day)	Monday – Saturday Sunday Christmas Eve and New Years Eve

And subject to the following additional conditions:

- 1. That no glasses or open vessels be taken outside (to avoid disturbance to neighbouring properties whilst patrons go outside to smoke).**
- 2. All windows and doors to remain closed except for access and egress.**
- 3. That CCTV with recording facilities will operate at all times that licensable activities take place. Images to be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority and to be of sufficient quality to identify individuals. Recordings to be retained for 28 days.**
- 4. A challenge 25 Policy to be operated at the premises with acceptable forms of identification to include a current passport, photocard driving licence, Touch2ID and PASS accredited identification cards.**

Reasons

The Sub Committee noted that the applicant had modified his original application to reduce the hours of opening and to remove both live and recorded music from the list of activities. They were also informed by the applicant that he had carried out acoustic testing to assess the level of noise transmitted to the neighbouring property and that he would take other measures to try to reduce noise attenuation.

The Sub Committee considered the points raised by Mr. Hilderly, the owner of the adjacent property, who stated that, whilst there had been some progress in reducing noise attenuation, for example by the installation of secondary glazing to the shared window, he remained concerned at being disturbed by the noise from patrons of the pub. The also took note of the comments from Mr. Blake and Mrs. Wright who

expressed concern that the granting of a premises licence would increase the amount of noise and other public nuisance in the local area.

The Sub Committee felt that the reduction in the hours of operation of the premises and the other measures being taken by the owner, together with the additional conditions proposed, were appropriate to address the concerns of the residents, to the extent that they fell within the licensing regime.

In reaching their decision, the Sub Committee considered the written evidence presented in the agenda together with the oral evidence given at the hearing, noting in particular the concerns in respect of noise disturbance.

The Sub Committee also took into account the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

The granting of this licence is without prejudice to any other consents or approvals that may be required.

Right to Appeal

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

(Duration of meeting: 10.00am – 11.35am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services, direct line 01225 713015 , e-mail lisa.pullin@wiltshire.gov.uk

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