

Minutes

Licensing Sub-Committee

Venue:	Microsoft Teams - Remote
Date:	Tuesday, 21 December 2021
Time:	10.00 am
Present:	Councillors R Sweeting, J Chilvers and P Welch
Officers present:	Kelly Dawson, Senior Solicitor and Legal Advisor to the Sub Committee, Sharon Cousins, Licensing Manager; and Dawn Drury, Democratic Services Officer
Others present:	The Comus Inn, Selby Road, Camblesforth, Selby, YO8 8HR , Mr Ian Campey and Miss Jade Campey on behalf of the applicant, Campey Estates Limited

21 ELECTION OF CHAIR

It was proposed, and seconded, that Councillor Richard Sweeting be elected as Chair for this meeting.

RESOLVED:

To appoint Councillor Richard Sweeting as Chair for this meeting.

22 APOLOGIES FOR ABSENCE

There were no apologies for absence.

23 DISCLOSURES OF INTEREST

There were no disclosures of interest.

24 PROCEDURE FOR LICENSING HEARINGS

The Committee noted the Licensing hearing procedure.

25 APPLICATION TO VARY A PREMISES LICENCE FOR THE COMUS INN, SELBY ROAD, CAMBLESFORTH, SELBY, YO8 8HR

The Chair confirmed that the Sub-Committee had read and considered the additional information as set out in the supplementary agenda pack that had been circulated, following the publication of the agenda pack on Monday 13 December 2021.

The Chair introduced all the parties present at the meeting and summarised the Licensing hearing procedure which had been circulated as part of the agenda pack. All parties confirmed that they had received a copy of the hearing procedure.

The Licensing Manager presented the report which outlined the details of the application for the determination of a full variation to the existing premises licence for The Comus Inn, Selby Road, Camblesforth, YO8 8HR. The hearing had been necessitated by representations which had been received from 67 members of the public, 29 of whom had requested to remain anonymous.

It was noted that six representations in support of the application had also been received.

The Sub-Committee heard that the application was to extend the licensable hours at the designated premises, between the times as detailed within the report, and clarification was given that the licensable area of the premises had not changed from the existing licence.

It was confirmed that a consultation had been carried out by the applicant in accordance with the Act and the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerned the displaying of a notice on the premises and an advertisement in a local paper, giving details of the application and serving a copy of the application on all responsible authorities. It was further confirmed that the applicant had complied with all the statutory requirements.

Members noted that conditions had been agreed between North Yorkshire Police and the applicant and Environmental Health and the applicant following representations made by the responsible authorities. The necessary amendments had been incorporated into the operating schedule following these representations and formed the proposed conditions of any granted licence.

It was further noted that additional amendments to the proposed conditions had been made to the operating schedule in terms of an amendment to condition 14 under the prevention of crime and disorder to be amended to 22:00 hours to correspond with condition 10, under the prevention of public nuisance relating to the use of external areas; and conditions 7 & 9 under the prevention of public nuisance were duplicates and would be removed and replaced with condition 2 under annex 3 of

the current premises licence.

The Sub-Committee was informed that of the 67 people who had made representations objecting to the application, these had predominantly been based on the grounds of the prevention of public nuisance objective.

Member's attention was drawn to the supplementary agenda that had been circulated and the photographs contained therein.

The Sub-Committee listened to evidence on behalf of the applicant, Campey Estates Limited, from Mr Ian Campey and Miss Jade Campey and evidence in support of the relevant representations from five members of the public.

Miss Campey clarified that the aim of the application was to develop the restaurant and enable the premises to accommodate the occasional private event; and that the licensable activities at the premises remained the same as the existing licence but allowed the use of the function room and kitchen.

It was further clarified that all conditions had been agreed with North Yorkshire Police, North Yorkshire Fire and Environmental Health, and that the conditions would be complied with.

Miss Campey addressed the concerns of the representors as set out within their individual emails of representation contained within the agenda pack. In relation to the car park, and cars pulling out onto the main road, this was not a licensing consideration but a matter for Highways. In terms of the possibility of vandalism and littering, there was no evidence to suggest that the litter had come from the premises and there had been no incidences of vandalism, to date, that the applicant was aware of.

Miss Campey pointed out that the application was for one extra hour in the evening to allow guests additional time to leave the premises at the end of a function. The 6am start time applied for was to allow the hotel to provide breakfast with an alcohol beverage if requested by residents and would also enable the premises to accommodate events such as wedding parties, funeral wakes and guests would be able to purchase alcoholic drinks while watching popular sporting events when televised.

Mr Campey concluded that the Comus Inn was a community asset for the use of the local community.

In relation to a query from one of the representors regarding the premises currently being advertised as to let, and whether the new tenants would be as considerate as Miss Campey was, Mr Campey emphasised that he had invested a large amount of capital into the premises and was looking to recoup the investment. To this end the premises would be a restaurant, not a public house, and the representors were assured that each potential tenant's portfolio would be thoroughly vetted before a final

decision was made.

One representor queried why the applicant had sought to apply for all activities to be included on the licence if the intended use was as a restaurant, Mr Campey confirmed that the activities applied for on this licence were identical to the current licence with the exception of boxing and wrestling entertainment and the additional opening hours.

Clarification was sought regarding a planning condition around the fitting of a noise limiter at the premises, Mr Campey stated that there was a condition in place for a noise limiter which prevented music exceeding a 90decibel limit. Miss Campey further stated that once an event was underway there was a requirement that the noise be measured and recorded, at least once per event, and should it be found that the sound was exceeding the limit then the band would be asked to turn the speakers down.

The Licensing Manager confirmed that the noise limiter had been a condition of the planning approval and had also been one of the conditions that the applicant had agreed with Environmental Health; it was further confirmed that should complaints be received about the premises regarding loud music, then this would be investigated by the Environmental Health department.

The first representor stated that his primary concerns were based on noise and anti-social behaviour (ASB), particularly on longer events where, it was alleged, beer bottles and glasses had been thrown into nearby gardens.

It was questioned how the requirement to keep doors closed would be policed, and why an extension to closing times to allow guests to leave the premises would be required as that would be included in the current licence.

The representor commented he was not against the premises, but local resident's amenity should be taken into account and that, in his view, an extension to outside events should not be given.

A scooter rally event which had taken place at the premises in July 2020 was highlighted by the representor, and the loud noise which had been generated, Miss Campey clarified that the event should have been held inside the premises, however, due to the guidelines for Covid-19, and having just come out of a lockdown, the decision had been taken to situate the singer outside. It was noted that the singer had finished at 4pm and although Environmental Health officers attended the premises to take noise readings, nothing further had been heard by the applicant following the officer's visit.

The second representor confirmed that she agreed with the comments made by the previous representor and drew Member's attention to the fact that during the day of the scooter rally the level of noise was high and

continued through to 4pm so that neighbours were unable to use their gardens, and the noise was also audible indoors. Grave concerns were raised as this was a residential area and noise from the premises was an ongoing issue.

The Sub-Committee heard that there was a paddock and wooded area opposite the premises which housed various wildlife and it was queried if the impact of noise and disruption from events of this nature would cause the wildlife to leave their natural habitat.

Mr Campey stated that the scooter rally event had been a one-off event in a two-year period.

The Licensing Manager advised Members that the existing premises licence permitted the licence holder to hold events such as the one referred to.

The third representor informed the Sub-Committee that local residents were not seeking to lose the premises as a public house, but had concerns in relation to the applied for extension of licensing hours and additional activities, and stated that the extension of hours was more akin to a town centre nightclub rather than a residential village public house, and therefore inappropriate.

Members heard that a number of local residents had objected to the original planning application in May 2020 for the modifications to the public house and the erection of the new function room, which when applied for was to be used primarily as a restaurant with the occasional function. Now, having seen the extent of the change to the licence and, in his view, how the applicant appeared to have ticked every box on the application form indiscriminately without thought to local residents, grave concerns had been raised.

In terms of hotel residents, it was felt that they could be catered for without a need to extend the operating hours and, if approved, it was considered that it would have a significant impact on the quality of life for those living nearby.

In response to a question from the Chairman enquiring what the representor envisaged would happen if the extended hours were to be granted, the representor explained that guests leaving the premises later had the potential to cause a disturbance into the early hours of the morning, which would prolong what local residents were already experiencing, in terms of excessive noise and disturbance.

Mr Campey re-iterated that the application before Committee was no different to the licence that the Comus Inn already held except for the extension to the licensing hours. Miss Campey stressed to the Sub-Committee that the application was predominantly for a restaurant and explained that prior to this a marque had been used to hold functions which had no sound protection, therefore residents should notice a

reduction in noise. It was further stated that guests would no longer be allowed to smoke at the rear of the premises and that guests would leave the premises by the front door.

At the Chairman's request the Licensing Manager clarified that it was not unusual for applicants to tick every box on the application form.

The fourth representor advised that what he had wanted to say had, in the main, been covered by the previous speaker, however he asked that Members try to understand the close proximity of the function room to the nearby houses and stated that the photographs submitted as part of the supplementary agenda showed a truer representation of how close the rear of the function room was to residential properties.

It was highlighted that most of the representations had been brought about because of previous history at the premises and due to this local residents had a lack of faith in the applicant. It was commented that the applicant did not always behave with integrity and therefore trust between the applicant and the residents had been eroded. It was further commented that had the applicant not failed to do what had been said they would do residents would not have had to complain to the Council on numerous occasions and would not be in this position today.

Mr Campey responded to the representor and refuted the accusation as there was no evidence to suggest what had been said was true. Mr Campey stated that he ran a number of establishments, had a good reputation and had no issues with the Licensing department at Selby District Council.

The Licensing Manager explained that the function room was already part of the licensable area therefore events could be held within the room on the current licence.

In terms of noise complaints, it was confirmed that over the course of the last three years Environmental Health had received eleven reports of potential noise nuisance regarding the Comus Inn. Members were informed that should reports of noise be received by the Council then both the Licensing and Environmental Health team would investigate the claims; and that every licence had the potential for a review.

The fifth and final objector agreed with all the comments that had been made by the previous representors and stated that she had no objection to the public house, however, the closing times of 1.30am and 2.30am, as applied for, were excessive in a residential area.

In summing up the case for the Council, the Licensing Manager highlighted that should the licence application be refused the applicant had the option to apply for a Temporary Event Notice (TEN), which if approved would allow the premises to hold a private function until 4 am in the morning. At present there was a limit of 21 events per year, however this was due to rise to 26 events per year in 2022, and there was also a

cost to the applicant for each TEN applied for.

Mr Campey stated that he wished he had used the land for other purposes, such as to build houses.

The first representor accepted that there may have only been eleven noise complaints received by the Council but highlighted that not all complaints were made to the authority. A query was raised why there was a need for an extension of licensable hours if a TEN could be sought and it was stated that most anti-social behaviour was caused when people leave the public house, therefore it was felt that longer hours would mean more problems.

The second representor stated that she was in agreement with the first representor's comments and added that the extra hours were not necessary for a village public house.

The third representor summed up by querying why Mr Campey didn't operate the public house himself. Mr Campey explained that he had eight properties to oversee and that his vision for the premises was for a restaurant, and to achieve this goal he needed an established food operator to manage the premises.

The fourth representor summed up by stating that if the premises did become a restaurant village pub it would be very welcome and that local residents were just asking for consideration.

The fifth representor stated that she did not want events taking place at the premises seven days a week but would be amenable to events taking place on the odd occasion.

All parties confirmed that they had had the opportunity to say everything they wished to say.

The Chairman thanked all parties for attending the Licensing Sub-Committee and requested that they leave the meeting. It was explained that the members of the Sub-Committee would retire together with the Democratic Services Officer and Solicitor to consider the application, and in doing so would consider the representations made, the agenda pack provided, the supplementary agenda, and the submissions presented to it, as well as the operating schedule. The Sub-Committee would also consider the application in accordance with the Licensing Act 2003, having regard to the Secretary of State's Guidance issued under section 182 of the Licensing Act 2003 and Selby District Council's Statement of Licensing Policy.

It was further explained that all parties would be notified of the outcome of the hearing in writing, within five working days, along with the right of appeal.

The Licensing Sub-Committee considered that it was appropriate and

proportionate, having considered all representations and all the evidence presented and the promotion of the licensing objectives to reject that part of the application in relation to the extension to licensable hours in respect of the finish times; and to grant that part of the application in relation to the extension to licensable hours to an earlier start time but subject to a modification that the start time shall be 8am, and subject to the modified conditions as set out in the draft licence at appendix 10 to the report, and the amendments proposed by the Licensing Officers update in respect of: prevention of crime and disorder condition 10; and prevention of public nuisance conditions 7& 9; and carrying forward annex 3 condition 2 of the existing licence, and the seasonal variations as per the existing licence.

RESOLVED:

The Licensing Sub-Committee decided unanimously that it was appropriate and proportionate, having considered all the representations, all the evidence presented to it and the promotion of the licensing objectives, to:

- i) reject that part of the application in relation to the extension to licensable hours in respect of the finish times;**
- ii) grant that part of the application in relation to the extension to licensable hours to an earlier start time but subject to a modification that the start time shall be 8am, and subject to the modified conditions as set out in the draft licence at appendix 10 to the report, and the amendments proposed by the Licensing Officers update in respect of: prevention of crime and disorder condition 10; and prevention of public nuisance conditions 7& 9; and carrying forward annex 3 condition 2 of the existing licence, and the seasonal variations as per the existing licence.**

Reasons for Decision:

The Sub-Committee considered the concerns raised around public nuisance in relation to noise and anti-social behaviour. The Sub-Committee also had regard to the residential nature of the area, the proximity of the premises to residential properties, and the nature of the premises. The Sub-Committee considered that the proposed extension to licensed hours with finish times of 01:00 hours Sunday to Thursday and 02:00 hours on Friday to Saturday would undermine the licensing objective of the prevention of public nuisance.

In respect of the earlier start time of 06:00 again the Sub-Committee had concerns that this would undermine the licensing objective of the prevention of public nuisance and considered that 08:00 was more

appropriate and proportionate having regard to the premises and residential nature of the area.

The meeting closed at 11.45 am.