



CHESHIRE WEST AND CHESTER BOROUGH COUNCIL

LICENSING ACT SUB-COMMITTEE

NOTICE OF DETERMINATION

Sub-Committee: Councillors Mercer (chair), Tonge and Merrick

To the Applicant, the Chief Officer of Police and to the following responsible authorities and interested parties:-

Date of Hearing: 4th December 2018

Application for the variation of a premises licence in respect of:

Pryors Hayes Golf Club Willington Road, Tarvin, Chester CH3 8NL

The Licensing Act Sub-Committee (LASC) considered the following documents:

1. Report of Business Manager (Assessment)
2. Application form and Operating Schedule
3. The Council's statement of licensing policy

4. Representations from:

- | | | |
|-------|--------------------------|-------------------------------|
| I. | Dr David Smith | - Local resident |
| II. | Harry Ziman | - Local resident |
| III. | J Mason | - Local resident |
| IV. | Robert Temple | - Local resident |
| V. | Mr and Mrs Melody-Rupnik | - Local residents |
| VI. | Mr and Mrs Barraclough | - Local residents |
| VII. | Mike Hassall | - Tarvin Parish Council |
| VIII. | Andrew Etchalls | - Regulatory Services Officer |

The LASC heard oral representations from the following persons:

1. Mr Tim Barnes and Mr Richard Barnes - Applicant
2. Ms Allison Jackson - Licensing Lead Officer
3. Mr Carl Murphy - Sen Environmental Health Officer
4. Mrs Sarah Barraclough - Local resident
5. Dr David Smith - Local resident
6. Mr Melody-Rupnik - Local resident

The LASC disregarded the following matters which were not relevant to the application, the representations or the promotion of the licensing objectives:

Fireworks, these are the subject of different statutory regulation and therefore were not taken into account.

In reaching its decision, the Sub-Committee had regard to:

1. The Licensing Act 2003
2. The Guidance published by the Secretary of State under S182 of the Act
3. The Council's Licensing Policy

The Sub-Committee decided to **GRANT** the Application subject to the appropriate mandatory conditions and such conditions as are consistent with the operating schedule, modified as considered necessary to promote the licensing objectives and indicated below:

Supply of Alcohol on the premises

Sunday to Thursday from 11.00 until 23:30
Friday and Saturday from 11.00 until 00.00

Non Standard timings
From 10:00 on New Year's Eve until 02:00 New Year's Day

Provision of Live Music

Indoors only

Sunday to Thursday from 11:00 until 23:30
Friday and Saturday from 11.00 until 00.00

Non-standard timings
From 23:00 on New Year's Eve until 08:00 New Year's Day

Provision of Recorded Music

Indoors only

Sunday to Thursday from 11:00 until 23:30
Friday and Saturday from 11.00 until 00.00

Non-standard timings From 23:00 on New Year's Eve until 08:00
New Year's Day

Provision of Performance of Dance

Indoors only

Sunday to Thursday from 11:00 until 23:30
Friday and Saturday from 11.00 until 00.00

Non-standard timings From 23:00 on New Year's Eve until 08:00
New Year's Day

Provision of Late Night Refreshment**Indoors only**

Sunday to Thursday from 23:00 until 23:30

Saturday and Sunday 23:00 until 00:00

Non-standard timings

From 23:00 on New Year's Eve until 05:00 New Year's Day

Opening Hours of the Premises

Sunday to Thursday from 07:00 until 23:45

Saturday and Sunday from 07:00 until 00:15

From 07:00 on New Year's Eve until 09:00 New Year's Day

CONDITIONS**Mandatory conditions****1. Supply of Alcohol**

1. No supply of alcohol shall be made under the premises licence

(a) at a time when there is no designated premises supervisor in respect of the premises licence or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence shall be made or authorised by a person who holds a personal licence.

2. Mandatory Licensing Conditions 1st October 2014

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a

particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: half pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

3. Mandatory Licensing Condition

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula-

$$P = D + (D \times V)$$

where-

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the Operating Schedule

1. A tamper proof CCTV system shall be installed at the premises in liaison with and to the satisfaction of the Police Licensing Officer, Local Crime Reduction Officer and or the Council's CCTV Manager and shall be used to record during all hours that a licensable activity takes place on the premises.

2. Where CCTV equipment is fitted, it shall be maintained in good working order in accordance with the manufacturer's instructions.

3. A written record shall be kept of images recorded by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for

the recording and shall be signed by him/her. Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.

4. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days and made available to the Police on request.
5. A documented training scheme shall be used for all staff authorised to sell alcohol which shall include continuous re-training.
6. A suitable and sufficient fire risk assessment including occupancy shall be in place for the premises.
7. Glass bottles shall not be disposed between the hours of 23:00 and 07:00 on any day to prevent disturbance to residents in the vicinity of the premises.
8. Refuse shall not be collected from the premises by a trade waste contractor between the hours of 23:00 and 07:00 on any day.
9. There shall be in place for the premises a Challenge 21 proof of age scheme to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 21 years to produce a recognised proof of age card, accredited under the Proof of Age Standards (Pass), or, if a proof of age card is not available, a photo driving licence or passport, to prove that they are over the age of 18 years.

Conditions imposed following agreement with The Environmental Health Responsible Authority

1. There shall be no amplified music played within the function room outside of the following hours:
Monday to Thursday – 11:00 and 23:30
Friday and Saturday – 11:00 and 00:00
Sunday and Bank Holidays – 11:00 – 22:30
2. Any amplified sound (including bass beat) played (inclusive of wedding marches, music and amplified voices, e.g. quizzes or commentaries) shall be inaudible at the property boundary to all neighbouring residential properties. Weather conditions, wind direction and the rural location are to be considered when managing noise from any event.
3. There shall be no music played outdoors after 22:00 and shall be inaudible at the property boundary.
4. The Premises Licence Holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall

take steps to reduce the level of noise where it is likely to cause a disturbance to local residents.

5. A direct telephone number for the premises shall be made publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity. Any complaints shall be logged along with any remedial action taken. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.

These records shall be made available to officers of the Council on request.

6. All windows and external doors shall be kept closed after 22:00 or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

Conditions Imposed by the Licensing Act Sub-committee

1. In outside areas where customers are permitted to congregate there will be signs that request consideration to be given to the risk of causing noise nuisance to neighbouring properties. (Suitable wording can be obtained from Regulatory Services)
2. Signs will be placed at appropriate points asking customers to be respectful of nearby occupiers when leaving the premises.
3. A record of complaints received in relation to any matter arising under the authorisations of the Premises Licence shall be kept and made available for inspection by the Responsible Authorities on request.

Reasons for the decision:

The LASC heard from the Lead Licensing Officer that the applicant had been in discussions with the Environmental Health Responsible Authority (EH) and had reached a position where there was agreement as to measures that should prevent any nuisance from noise arising from the licensable activities authorised by the premises licence and that were acceptable to the applicant.

Mr Timothy John Barnes (TJB) the applicant and his brother Richard Barnes (RB) appeared before the LASC explained that they were happy with the conditions proposed by the EH. They went on to explain that they had a desire not to upset neighbours of the business by holding noisy events. They had taken the step of planting fir trees to act as a noise break. They apologised for the recent fireworks display that had, in their view been

excessive, and had been arranged direct with the pyrotechnics company that one of the guests was connected with, the scale of the display and the resultant noise had come as a shock to them as much as anyone else. As they came from a farming background they fully understood the impact that fireworks could have on nearby stock. It was explained to those present that the control of fireworks was the subject of a separate legislative scheme and was not a matter that could be controlled under a premises licence. Notwithstanding that the applicant assured those present that they did not intend to permit further displays involving fireworks although some time later this appeared to change to “noisy fireworks”.

When questioned about the bi-fold doors that run along the north side of the building being opened in the summer. The applicant explained that the lay out of the event space meant that it was usually impractical to have the doors open, but on the occasions when they were they were usually closed by 10pm. The LASC made the point that irrespective of the doors being opened or closed there should not be sufficient noise emitted to cause a nuisance.

It was asked of the applicant who was present on site during the functions, the answer was that one of the Barnes was usually on site but if not the operations manager would be there. The applicant assured those present that he (TJB) was prepared to give neighbours a personal phone number in order to make contact in the event of any issues of noise. As he lived only three miles away he would be able to get to the site to investigate any problems.

Dr Smith supplemented his written submission questioned the procedure for assessing noise levels at the premises boundary as he lived to the west and the prevailing wind was usually in that direction. The applicant explained that the intention was to take measurements from various points around the boundary during events to ensure there was no impact on neighbouring properties.

Carl Murphy for the EH explained that a number of conditions had been suggested as part of the EH representation and following discussions with the applicants the conditions, subject to a slight variation, had been agreed. That would then bring the premises license conditions in to line with the planning permission for the premises.

Mr Melody-Rupnik supplemented the submission made on behalf of himself and Mrs Melody Rupnik by saying that while being supportive of the golf club he felt the applicant was, in licensing terms, “seeing what it could get away with”. There had been many complaints about noise, people walking around late at night making a noise, taxi drivers calling to ask “Is this the golf club?” mowing at 05.00 in the morning and discos late into the evening. He felt he was being asked to enforce the conditions of the licence by monitoring compliance and then logging complaints, and did not believe that this should be his responsibility.

Dr Smith reiterated his submission that the premises should be restricted to 23.00 closing in line with other licensed premises.

In response to Dr Smith the applicant explained that 23.00 closing was not feasible as the business was reliant on weddings and people wanted the option of being able to drink late into the evening. Stand-alone golf courses were closing as a result of falling income and the golf club would only survive if supplemented by the event business.

The LASC informed those present that the enforcement of conditions needed co-operation from those affected and that if the conditions were not successful in achieving the licensing objective of preventing public nuisance then if there was evidence to that effect then the power to call a review under the Licensing Act 2003 could be invoked.

While sympathetic to those residents that made representations the LASC had to balance the interests of the applicant in operating a business that contributed to the local economy and provided support for a leisure facility, against the interests of the public as a whole via the statutory licensing objectives. The issue of noise was one that fell squarely within the remit of the Environmental Health Responsible Authority and the objective evidence of that body was that the licensing objective of preventing public nuisance could be met by the license conditions that had been suggested and that following discussions with the applicant, the applicant was content that it could observe those conditions if imposed.

Having considered the relevant representations the applicable guidance, policies and legislation the LASC decided to grant the application subject to those additional conditions agreed by the applicant and three further conditions.

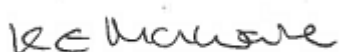
NOT PART OF LICENCE – ADVISORY ONLY

[Not part of the licence – Advisory Only; the LASC felt it would be a matter of good practice for the applicant to inform customers at the booking stage of any conditions of the premises licence that could impact on the behaviour of customers]

The licence takes effect from: 10TH December 2018

The parties have a right of appeal against the decision of the Sub-committee. The appeal must be made to the Magistrates Court within 21 days of receipt of this Notice.

Signed:

A handwritten signature in dark ink, appearing to read 'K. E. McNamee', is written below the 'Signed:' label.