

LICENSING ACT 2003

DECISION RELATING TO AN APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: CREWE ARMS, WHARF TERRACE, MADELEY HEATH, CREWE, CW3 9LP

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Councils Statement of Licensing Policy and also the fact that representations to the application have been received from other persons on the basis that to grant the application would undermine the objectives relating to the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Licensing Sub-Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are persuaded that it would not offend the licensing objectives to grant the application.

A number of residents had expressed concerns with regard to the problems that had occurred prior to the review of the premises licence in 2014. Concerns were expressed that the extension of hours for the provision of live and recorded music would be untenable for residents and would lead to patrons sitting and standing drinking outside the premises causing nuisance. Likewise the sale of alcohol for additional hours would result in patrons leaving the premises later and causing additional noise and anti-social behaviour which was audible within local residential properties and which disrupted, amongst other things, regular sleeping patterns.

Residents also asserted that the lack of sound proofing at the premises rendered them unsuitable to handle live and recorded music. Concern was also expressed that the licence holder, Punch Taverns PLC, had not engaged with local residents with regard to the running of the premises despite their previous undertaking to do so. Incidents relating to drivers in the car park area were also referred to.

In response the solicitor for the applicant referred to the fact that considerable investment had been made in the premises by both the licence holder and the lessee. There had been a fundamental shift in how the premises operated and there had been a change to the customer base. Customers now tended towards families, middle-aged and the more elderly which helped to ensure that the pub operated as a family and community pub. Live entertainment was now provided along with a Spanish and English food menu. In fact, the publican had signed a 3 year tenancy agreement which hopefully demonstrated commitment to continued success at the premises. The publican had endeavoured to speak to residents to discuss the plans for the premises and handed out business cards with contact details if there were any concerns to those residents whom she was able to contact. The solicitor, on behalf of Punch Taverns, apologised for Punch Taverns not engaging with the residents earlier.

Following discussions with the Police, Environmental Protection, and the Fire and Licensing authorities, three temporary event notices were given and events subsequently held. All events had live music and were well supported. No issues were raised by the residents and no complaints were received on any of the music nights.

The Licensing Sub-Committee noted that none of the Responsible Authorities had objected to the application. They also took into account the conditions attached to the premises licence as a result of the previous consent order, in particular the fact that section 177a of the Licensing Act 2003 no longer applied to performances of live music and also that, as part

of the noise management scheme, noise limiting device(s) were to be installed and maintained in effective working order. It was noted that these appeared to have had the desired effect.

The Licensing Sub-Committee also took into account paragraphs 1.2, 9.43 and 9.44 of the Secretary of States guidance to which it was specifically referred to by the applicant's solicitor. Having considered the evidence the Licensing Sub-Committee concluded that whilst problems had occurred in the past, a fact that was not disputed, there was no evidence that suggested that similar problems would re-occur, particularly in view of the assurance given in connection with the new management and operational proposals.

The Licensing Sub-Committee were therefore disposed to grant the application subject to the following amendments to the existing conditions of the licence and also the addition of the further conditions listed below, alongside any relevant mandatory conditions. The amendments and conditions referred to are as follows.

To amend Annex 4 Condition 10 to read as follows:

'All images should be kept for 28 and produced to the Police, Trading Standards and Local Authority licensing officers within 48 hours of request, when sought pursuant to the Data Protection Act 1998 and it is necessary to do so for the prevention of crime and disorder, prosecution or apprehension of offenders or where disclosure is required by law.'

To add the following conditions:

1. A written record shall be kept on the premises by the DPS of every person employed on the premises as a door supervisor in a register kept for that purpose. That record shall contain the following details:
 - The door supervisor's name, date of birth and home address;
 - His/her security authority number;
 - The time, date he/she starts and finishes duty
 - Each entry shall be signed by the door supervisor;
 - Hi-visibility clothing to be worn at all times
2. Daily checks to be made to check the operation of the CCTV and confirm it is working correctly and such checks to be recorded in a log/register, which is to be endorsed by the person conducting the check and to contain the person's name. The CCTV log/register is to be checked monthly by the DPS. This is to be kept updated at all times and remain on the premises for immediate inspection by Police, Trading Standards or Local Authority Officer on request.
3. A dispersal management plan will be drawn up and implemented at the premises to ensure as far as practicable that all customers leave the premises quickly and quietly at closing time.
4. No new entry shall be permitted to the premises from 23:30 hours on any night except New Year's Eve. Signs shall be displayed on the entrances to the premises notifying customers of this condition.
5. A telephone number for the DPS or manager of the premises will be given to any residents on request to allow complaints to be made directly should issues relating to the operation on the premises arise.

Any party aggrieved by this decision has the right to appeal within 21 days from the date of this decision of the Magistrates' Court

LICENSING ACT 2003

**DECISION RELATING TO AN APPLICATION FOR THE GRANT OF A PREMISES
LICENCE: NO.14, 14 BRUNSWICK STREET, NEWCASTLE-UNDER-LYME, ST5 1HL**

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act, the Councils Statement of Licensing Policy and also the fact that an objection to the application had been received on the basis that to grant the application would undermine the objectives relating to the prevention of crime and disorder and the prevention of public nuisance.

The Licensing Sub-Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are persuaded that it would not offend the licensing objectives to grant the application.

A local resident expressed concerns that the granting of the licence would add to disturbances that were already being experienced by him from a nearby premises and it was felt that there were already an abundance of licensed premises in Newcastle town. Concern was also expressed that granting a licence would add to anti-social behaviour in the vicinity of the premises which was located in a mixed residential and business area.

In response the applicant stated that he would do his best to prevent disorder and nuisance. The premises were small and alcohol would only be supplied with a meal. Alcohol would not be 'on show'. In fact the premises could only accommodate about 15 people. The applicant went on to say that Brunswick Street has a number of restaurants and takeaways and this premises would add to that type of business.

The committee took into account that the Police and Environmental Health had met with the applicant and had agreed the terms of the present application for the premises to be used as a noodle bar. In fact the applicant had agreed that a condition be imposed in relation to the provision of alcohol. The committee noted that there had been no objections from any of the responsible authorities or any other residents in the vicinity of the premises.

The committee in its deliberations took into account the decision of the high court in the Daniel Thwaites case in 2008. In which it was held that all determinations of licensing applications should be made on empirical evidence and not on speculative evidence. In fact the Secretary of States Guidance at 9.43 reiterates the fact that the authorities determinations should be evidence based.

The committee were not convinced that the granting of a premises licence for the premises would offend any of the licensing objectives especially in view of the fact that responsible authorities had been instrumental in promoting relevant amendments to the application especially in relation to the deletion of references to regulated entertainment. In any event parties would have the benefit of being able to review the licence if subsequent problems were to arise.

Having taken all of the evidence into account the committee were disposed to grant the application subject to a relevant condition being imposed. The condition which the committee was disposed to impose in addition to the relevant mandatory conditions and also conditions that are consistent with those listed by the applicant in the operating schedule is:

- That food will be available throughout the permitted hours for licensable activities whenever alcohol is available for sale or supply.

Classification: NULBC **UNCLASSIFIED**

Any party aggrieved by this decision has the right to appeal within 21 days from the date of this decision of the Magistrates' Court.

27 September 2017

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