
Licensing Act Sub-Committee



St Edmundsbury
BOROUGH COUNCIL

Minutes of a meeting of the **Licensing Act Sub- Committee** held on **Monday 7 September 2015** at **4.00 pm** in **Room GFR13, West Suffolk House**, Western Way, Bury St Edmunds

Present: **Councillors**

Chairman Clive Springett

Terry Buckle
Sara Mildmay-White

Substitute attending:
Frank Warby

11. **Election of Chairman**

It was proposed, seconded and

RESOLVED – That Councillor Clive Springett be elected Chairman
For this Licensing Act Sub-Committee meeting.

12. **Substitute**

No substitutions were declared.

13. **Apologies for Absence**

No apologies for absence were received.

14. **Hearing Procedure**

The Hearing Procedure (previously circulated) was adopted in considering the under-mentioned item.

15. **Application for new Premises' Licence - 7 Guildhall Street, Bury St Edmunds**

(a) Pre-Hearing

The following actions were taken during the pre-hearing part of the meeting:

- (1) it was announced that Rob Butterworth and Nick Armitage on behalf of the applicants, Butterworth and Son Ltd, were present. Ian Horseman Sewell and Anna Smith, who had submitted written representations as Other Persons were also present. Mr S D Webb who had also submitted written representations as an Other Person was not present at the hearing;
- (2) all parties confirmed that they had received a copy of the Officers' written report (Reference LSC/SE/15/005);
- (3) the parties to the hearing confirmed that they did not wish to amend or withdraw their application or representations;
- (4) the Licensing Officer reported that there had been no requests for witnesses to appear;
- (5) the Licensing Officer reported that none of the parties had submitted additional items of supporting information. Proposed additional conditions to be attached to any grant of the licence were tabled. These had been put forward by the Police and been agreed to by the applicants and were as follows:

`Challenge 21 proof of age scheme is adopted. The Premises' Licence Holder shall operate a requirement for the production of a passport, driving licence or other bona fide form of identity carrying a photographic image, where the individual requesting the supply of alcohol appears to be under the age of 21; and

No person under 18 to be admitted after 9.00pm.`
- (6) the Chairman asked all parties the amount of time they required to present their case. As a result the Sub-Committee determined the maximum time allowed for each party to present their case would be 10 minutes; and
- (7) the Sub-Committee determined that the Substitute Member was not required for the hearing and Councillor Frank Warby left the meeting.

(b) Hearing

The Licensing Officer presented Report LSC/SE/15/005 (previously circulated) in connection with an application received for a new Premises' Licence in respect of 7 Guildhall Street, Bury St Edmunds. A copy of the application was attached as Appendix 1 to the Report. The Sub-Committee noted the proposed additional conditions which had been put forward by the Police. A basic location plan was attached as Appendix 2. Three accepted representations had been received and these were attached as Appendix 3.

The four Licensing Objectives of the Licensing Act 2003 were as set out below. Any representations for consideration must relate to one or more of these objectives:

Prevention of Crime and Disorder
Public Safety
Prevention of Nuisance
Protection of Children from Harm

The Report advised the Sub-Committee that Section 17 of the Crime and Disorder Act 1998 imposed a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in, its area. If the Licensing authority decided that an application should be refused it needs to show that to grant the licence would:

- (a) undermine the promotion of the Licensing Objectives; and
- (b) that appropriate conditions would be ineffective in preventing the problems involved.

If the Licensing Authority could not show the above, the application should be granted. In making its decision the Sub-Committee was advised to consider the Licensing Act 2003, the Guidance on the Act and the Council's Statement of Licensing Policy.

The Sub-Committee was further advised that it could take any of the steps set out below, provided they were proportionate and appropriate for the promotion of the Licensing Objectives:

Grant the licence applied for; or

Grant the licence, subject to such conditions as are consistent with the Operating Schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the Licensing Objectives: or

Reject the whole or part of the application.

The applicants gave further information in support of their application. The concept behind the proposal was to create a predominantly high quality café facility, such as those which existed in airport or hotel lounges, but with the added offer of alcohol being available to customers. There was no intention to provide a night club/bar facility and the facilities would cater for a responsible adult clientèle who wished to have, for example, a pre-theatre drink. The entrance to the premises had an interior door so the possibility of noise from inside the premises being heard outside in the street was unlikely. The music to be played would not be loud and was intended to provide background ambience only. No hot food would be served. The applicants had operated a facility elsewhere in the town previously with the same policy and this had been successful. No complaints had been received about this other business enterprise. The décor of the premises and the price structure was aimed at attracting the specific clientele they had referred to and currently there was no premises in the town which offered this type of facility.

In response to questions the applicants advised that the maximum capacity of the premises was to provide 26 covers. There was a standing/circulating area at the front of the premises and there were comfortable armchairs at the rear. A small garden area existed at the premises and customers would be asked to use this location if they wished to smoke. This area could accommodate 6 persons. The applicants conceded that they had not notified the residents of the flat above the premises about the proposal. They had assumed that their landlord who also rented out the flat had done this. They acknowledged that as the building was listed there would be difficulties in carrying out sound attenuation measures but they were of the view that noise created from the premises would be minimal. In the event of complaints noise levels stood to be monitored by the Borough Council and action taken if these were found to be unacceptable. There were French doors to the rear of the premises and these might be left open during the Summer. No noise checks had been done to ascertain whether this might be a problem. In controlling noise the applicants would rely on monitoring customers. There would be a staff of 3.5 persons and two would always be on site with one manning the bar and the other meeting and greeting customers. The applicants would operate table service only and they felt this was more welcoming and relaxing for customers. They would not cater for large groups. They did not want to have customers smoking outside in the street as it was not the image of the premises they wished to create and use of the garden area would be encouraged. There would be a notice on the door asking customers to respect neighbours' privacy when leaving. The Challenge 21 condition had been accepted but the age group involved was not the clientèle they were seeking to attract.

Ian Horseman Sewell and Anna Smith put forward their objections to the application. Whilst the provision of a purely café facility during daytime opening hours was an attractive idea they had concerns about alcohol being served particularly into the evening on 6 days of the week and until the late time of 11pm being sought. Residents of Guildhall Street already suffered from disturbances and anti-social behaviour by young persons en route to and from night clubs/public houses in the town. The proposed condition about Challenge 21 suggested that young persons would be using the premises if the licence was granted. They had a concern about the feasibility of controlling smoking in the street outside the premises and felt that this would inevitably happen which would cause noise and disturbance. They felt that any increase in footfall along Guildhall Street would exacerbate existing problems. Concerns were also expressed about the effect the application would have, if granted, on the Cumulative Impact Policy Area. Officers explained in response to questions that a licence could be reviewed in the event of substantiated complaints and a review could be initiated by the Police or the Council's Environmental Health or Licensing Officers. A licence enured for the benefit of the premises and it was not personal to the applicant. If there was a change of ownership or leasehold of the premises the licensed activities could be continued. Changes to the activities to be carried out or a

change of the Designated Premises Supervisor would, however, have to applied for by way of an application for a variation or the licence.

The parties summed up their respective cases.

(At this point the Sub-Committee retired accompanied by the Legal Advisor and Committee Administrator to give consideration of the merits of the application. In considering the application the Sub-Committee's principal concern was the objective of the Prevention of Crime and Disorder. Regard was taken by the Sub-Committee of the representations made by the applicants and the Other Persons and the effect the application could have on the Cumulative Impact Policy as the premises were within this designated area. The Sub-Committee re-convened and announced the following decision).

Decision

That:

- (1) The application for a new Premises' Licence in respect of 7 Guildhall Street, Bury St Edmunds be granted as follows:

Supply of Alcohol

Monday	11.00 to 18.00
Tuesday to Saturday	11.00 to 22.00
Sunday	12.00 to 16.00

Opening Hours

Monday	07.00 to 18.00
Tuesday to Saturday	07.00 to 22.00
Sunday	10.00 to 16.00

- (2) **Conditions**

Consistent with the applicants' Operating Schedule, as contained in Appendix 1 of Report LSC/SE/15/005, with the following additional conditions:

- (a) Challenge 21 proof of age scheme is adopted. The Premises' Licence Holder shall operate a requirement for the production of a passport, driving licence or other bona fide form of identity carrying a photographic image where the individual requesting the supply of alcohol appears to be under the age of 21.
- (b) No person under 18 to be admitted after 9.00pm

- (c) Signs be erected to encourage smokers to use the rear garden area.

The meeting concluded at 5.10 pm

Signed by:

Chairman
