

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## LICENSING SUB-COMMITTEE

### MINUTES OF THE MEETING HELD ON MONDAY, 21 JANUARY 2013

**Councillors Present:** Peter Argyle (Chairman), Paul Bryant and Billy Drummond

**Also Present:** Amanda Ward (Licensing Officer) and Ella Whitehead (Solicitor), Moira Fraser (Democratic Services Manager)

#### PART I

##### 11. Declarations of Interest

There were no declarations of interest received.

##### 12. Application No. 12/02003/LQN - Victoria Arms, 54 Victoria Road, Mortimer Common, Reading RG7 3SE

The Sub-Committee considered a report (Agenda Item 2(1)) concerning an application to vary an existing premise license (12/02003/LQN) in respect of the Victoria Arms, 54 Victoria Road, Mortimer Common, Reading, RG7 3SE.

In accordance with the Council's Constitution, Amanda Ward (Licensing Officer, West Berkshire Council), John Morden (Stratfield Mortimer Parish Council) and Dr Elise Fraser (Objectors) and Rosemary Green (Senior Environmental Health Officer – Responsible Authority) addressed the Sub-Committee on this application.

Ms Ward, in addressing the Sub-Committee, raised the following points:

- The Licensing Authority had received an application to vary a premises licence under Section 34 of the Licensing Act 2003 from the Applicant Mr Francis Philbert of The Victoria Arms, 54 Victoria Road, Mortimer Common, Reading, Berkshire. RG7 3SE;
- The consultation period ran until 2nd January 2013 and the application had been advertised correctly with the blue notice displayed at the premises and a notice placed in the Reading Post;
- During the statutory consultation period of 28 days, representation was received from Environmental Health as well as a further 24 representations from residents;
- No mediation had taken place and the applicant Mr Philbert had advised that he would not be attending the hearing to support his application;
- Existing opening hours were as follows:
  - Monday to Thursday 12h00 to 24h00
  - Friday and Saturday 12h00 to 01h00
  - Sundays 12h00 – 23h00
- Non Standard Timings were not shown on the current licence included in the committee paperwork due to an administrative error when the licence was originally issued in 2005. These permitted hours were Christmas Eve 1200 – 0100 and New Year's Eve and Bank Holidays 1100 to 0400;

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- The Victoria Arms currently held a premises licence that allowed only the supply of alcohol during the following periods:
  - Monday to Thursday 12h00 to 24h00
  - Friday and Saturday 12h00 to 01h00
  - Sundays 12h00 – 23h00
  - Non Standard Timings Christmas Eve 12h00 to 01h00 and New Years Eve and Bank Holidays 11h00 to 04h00;
- The Variation sought to add Regulated Entertainment Live Music and Recorded Music but did not seek to extend the hours for the sale of alcohol or the opening hours of the premises;
- The application sought approval for the performance of live music indoors only during the following hours:
  - Monday to Thursday 12h00 to 24h00
  - Friday and Saturday 12h00 to 01h00
  - Sundays 12h00 – 23h00
  - Non Standard Timings Christmas Eve 12h00 to 03h00 and New Years Eve and Bank Holidays 12h00 to 04h00;
- Officers had contacted Mr Philbert who had confirmed that the application contained an error and that the application for Christmas Eve should read 01h00 and not 03h00 as stated on the application form;
- The application sought approval for the playing of recorded music indoors only during the following hours:
  - Monday to Thursday 12h00 to 24h00
  - Friday and Saturday 12h00 to 01h00
  - Sundays 12h00 – 23h00
  - Non Standard Timings Christmas Eve 12h00 to 01h00 and New Years Eve and Bank Holidays 12h00 to 04h00;
- The Non standard timings applied for in this application were from 12h00 to 01h00 Christmas Eve and 12h00 – 04h00 for New Year's eve. This was a reduction of one hour from the current non standard timings for Alcohol as the current licence non standard timings were for 11h00 – 01h00 Christmas Eve and 11h00 – 04h00 New Years Eve and Bank Holidays;

Mr John Morden and Dr Elise Fraser in addressing the Sub-Committee, raised the following points:

- Mr Morden was a member of Stratfield Mortimer Parish Council;
- The Parish Council was not opposed to businesses operating in the parish but needed to consider the wider impact a business was having when commenting on these applications;
- the granting of this variation to the existing licence would generate a public nuisance;
- the level of sound emanating from the premise could be excessive and a number of comments to this effect had been received from residents although these were not always translated into formal complaints;
- the Parish Council felt that the hours being applied for were excessive and that they would be difficult to enforce;

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- the premise was located in a residential area and the sound generated, even when it was intermittent (due to doors opening and closing) was unacceptable;
- patrons leaving late at night were disturbing residents despite reassurance from the applicant that he was asking them to leave quietly. Once the patrons were no longer on the premises the applicant had no control over their behaviour in any event;
- the number of parking spaces had been reduced by the development of properties on the site and the parking provision to the rear of the public house was insufficient.
- Dr Fraser lived at number 39 Victoria Road and she had been a resident of the village all her life;
- the noise currently being generated by the premise was already excessive;
- during the summer months local residents had to close their windows to reduce the effect of noise levels being generated by the public house; this was especially true when karaoke music events were held;
- patrons making use of the smoking area also generated a lot of noise and often used language which was inappropriate in a residential setting where families lived;
- the noise kept residents awake until late at night which made it difficult to get up and go to work in the mornings;
- residents were confronted by fighting, vomiting and urinating in the street which impacted negatively on the quality of residents' lives;
- she had previously complained to the Council about the noise levels emanating from the public house;
- she could not object strongly enough to the application.

In response to a query from Councillor Drummond Dr Fraser explained that the ordinary piped music was often audible to residents as well. Councillor Bryant queried how frequently residents were disturbed by the noise levels. Dr Fraser explained that it was a common occurrence over weekends although the noise levels had reduced over the past few weeks. She explained that the noise was at a constant intrusive level especially when residents had to get up for work the next morning or had young families. Councillor Argyle queried whether it was background music that was creating the disturbance. Dr Fraser explained that she was not in a position to answer that question as she did not frequent the public house as she found it to be an intimidating place.

Rose Green in addressing the Sub-Committee, raised the following points:

- The Victoria Arms public house was located within a residential area in Mortimer. There were residential properties either side, to the rear and on the other side of Victoria Road. The nearest residential property was approximately 10 metres away;
- The existing premise licence covered the sale of alcohol only. The licence did not cover any regulated entertainment. Temporary event notices (TEN's) had previously been used to cover music events held at the premises.
- Complaints regarding noise from music during TEN's were first received in 2011, with further complaints received for the two TEN's held in 2012 on 11<sup>th</sup> August and 20<sup>th</sup> October 2012.
- Environmental Health had contact with the licence holder following the noise complaints received regarding the August event. When the October TEN application was received Ms Green contacted Mr Philbert and discussed measures that he could

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put in place to control noise from the premises during the event. A range of conditions set out below were agreed and were added to the TEN.

- “Noise from amplified music playing at the Victoria Arms (indoors) shall be regularly monitored at the boundary of the public house to ensure that the playing of live music does not give rise to noise nuisance at nearby residential properties.
  - Doors and windows to the public house shall be kept closed for the duration of the event, except for access and egress from the premises, to control noise breakout from the playing of live music at the premises.
  - Letter drops to be carried out to neighbouring properties to advice of the event, giving a contact name and telephone number for residents to use during the event if the playing of live music gives rise to noise disturbance at these properties.”
- Following the event Environmental Health were contacted by a complainant who advised that although noise during the early evening had not caused disturbance, noise from music caused a disturbance later in the evening when trying to go to sleep. The resident advised that music was played until 00:30. The resident had not received a letter advising of the event and had only found out about the event by an advert outside the public house.
  - A subsequent application for a temporary event notice was received for regulated entertainment until 12:00 for 24<sup>th</sup> November 2012 which was recommended for refusal on noise grounds by Environmental Health. The applicant as a result of this action withdrew the application, and advised that an application to vary the premise licence would be submitted.
  - Due to the recent issues covering live and recorded music played indoors at the public house Environmental Health were concerned that the proposed timings for live and recorded music every day up until midnight Sunday to Thursday and up to 01:00 Friday and Saturday would result in additional noise complaints from neighbours.
  - Environment Health felt that the proposed increase in intensity of use for live and recorded music coupled with the later hours on the weekend would give rise to statutory noise nuisance at nearby residential properties.
  - Despite agreeing conditions on the TEN for 20<sup>th</sup> October 2012 these were not complied with. Residents were not notified of the event, the timings for the playing of music or provided with a contact number if noise should cause a disturbance. Officers therefore had concerns about future compliance with any conditions attached to the licence should members be minded to approve the application;
  - Environment Health were therefore recommending that Members refuse the application. However should Members be minded to approve the application they asked that the following be considered:
    - Whether the playing of live and recorded music (indoors) should be allowed every day.
    - The finish times for the playing of live and recorded music (indoors) should be appropriate for a residential area.

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- She reminded Members that the recent introduction of the Live Music Act 2012 allowed for the playing of amplified music between 08:00 and 23:00 hours for audiences of no more than 200 people in alcohol licensed premises. Where Environmental Health received noise complaints regarding noise from live or recorded music during these times a review would be called;
- She summarised Environmental Health's position by recommending that this application was refused due to concerns that the playing live and recorded music every night until 12:00 hours Sunday to Thursday and 01:00 hours Friday and Saturday would give rise to noise nuisance at nearby residential properties. The licensing objective 'Prevention of Public Nuisance' would therefore not be met.

The Sub-Committee retired at 10h26 to make its decision.

**RESOLVED** that Application 12/02003/LQN for the Victoria Arms, 54 Victoria Road, Mortimer Common be granted subject to:

reduced times for the two types of regulated entertainment applied for and conditions as detailed below, any relevant mandatory conditions in ss19-21 of the Licensing Act 2003 and the following variations.

The times that were granted for regulated entertainment are as follows:

Live music

New Year's Eve: From the hours of 23:00hrs to 01:00hrs.

Recorded Music

From the hours of 12:00hrs to 23:00hrs, from Monday to Sunday.

New Year's Eve: From the hours of 12:00hrs to 01:00hrs.

Conditions

1. Noise from recorded music playing at the Victoria Arms shall be regularly monitored at the boundary of the public house to ensure that the playing of music does not give rise to noise nuisance at nearby residential properties.
2. Doors and windows to the public house shall be kept closed for the duration that recorded music is played at the premises, except for access and egress from the premises, to control noise breakout.
3. Notices of sufficient size to allow people to read them easily, shall be placed at the exits and entrances to the Victoria Arms, reminding customers to leave quietly.

The Sub-Committee also gave the reasons for their decision:

1. REASON: Members consider that permitting live and recorded music until 23.00hrs is reasonable in all of the circumstances. Additional hours for live and recorded music were refused, save for two extra hours on New Year's Eve, due to the representations that were received regarding noise at the premises and the impact this would have on public nuisance in the area.
2. REASON: Members were not satisfied that live and recorded music over the hours that have been granted could be controlled adequately by way of conditions.

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*(The meeting commenced at 10.00 am and closed at 10.26 am)*

**Name** .....

**Date of Signature** .....

**Name** .....

**Date of Signature** .....

**Name** .....

**Date of Signature** .....