

# DRAFT

## LICENSING SUB-COMMITTEE

### MINUTES OF THE MEETING HELD ON THURSDAY, 20 SEPTEMBER 2018

**Councillors Present:** Peter Argyle, Jeff Beck, James Cole (Chairman) and Quentin Webb

**Also Present:** Anne Marie Baird (Solicitor), Alex Lisowski (Licensing Officer) and Stephen Chard (Principal Policy Officer)

#### PART I

##### 1 **Declarations of Interest**

All Sub-Committee Members declared an interest in Agenda Item 2(1), but reported that, as their interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

##### 2 **Application No. 18/01035/LQN - The Spotted Dog, Gladstone Lane, Cold Ash, Newbury, RG18 9PR**

*(All Sub-Committee Members declared a personal interest in Agenda item 2(1) by virtue of the fact that Councillor Marigold Jaques, speaking on behalf of Cold Ash Parish Council, was known to them as a fellow District Councillor. As their interest was personal and not an other or disclosable pecuniary interest they were permitted to take part in the debate and vote on the matter).*

*(Councillor Quentin Webb declared a personal interest in Agenda item 2(1) by virtue of the fact that Councillor Linda Verner, speaking on behalf of Cold Ash Parish Council, was known to him as a Cold Ash Parish Councillor. As his interest was personal and not an other or disclosable pecuniary interest he was permitted to take part in the debate and vote on the matter).*

*(Councillor Jeff Beck declared a personal interest in Agenda item 2(1) by virtue of the fact that Councillors Marigold Jaques and Linda Verner, speaking on behalf of Cold Ash Parish Council, were known to him as Cold Ash Parish Councillors as his Ward (Clay Hill) included part of the Cold Ash Parish. As his interest was personal and not an other or disclosable pecuniary interest he was permitted to take part in the debate and vote on the matter).*

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 18/01035/LQN in respect of The Spotted Dog, Gladstone Lane, Cold Ash, Newbury, RG18 9PR.

In accordance with the Council's Constitution, Mr Alex Lisowski (Licensing Officer, West Berkshire Council), Mr Piero Pagliaroli (Applicant) and Councillors Linda Verner and Marigold Jaques from Cold Ash Parish Council (Objectors) addressed the Sub-Committee on this application.

Mr Lisowski, in addressing the Sub-Committee, raised the following points:

- The application was to seek a variation to the premises licence to allow for the performance of live music, playing of recorded music and similar such activities. An extension was also sought to the timing for the supply of alcohol on and off the premises and to the opening hours of the premises.

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- Post receipt of the application, conditions of approval had been produced by West Berkshire Council's Environmental Health Quality Team and these had been accepted by the applicant via e-mail. The list of conditions was tabled.
- Mr Lisowski then raised some points requiring further clarification on which he asked the applicant for additional detail. Anne Marie Baird (Solicitor) advised that Mr Lisowski's approach to obtaining this further information from the applicant was approaching a hearing within a hearing, and advised that the Sub-Committee should obtain any further information on which it was seeking clarification during the course of the hearing.

In response, Mr Pagliaroli explained that:

- He was willing for the timing for bank holiday events to be restricted between 12:00 and 21:00. Mr Pagliaroli explained that it was not the intention to regularly have performances of live music, the application had been completed with a view to enabling some flexibility and the ability to cover different eventualities. It was also hoped that this broad application would save money on fees for potential future licensing applications/TEN applications.

Mr Lisowski commented that this timeframe was automatically permitted as it fell within the auspices of the Live Music Act. It was not therefore a consideration for the Sub-Committee.

Mr Pagliaroli continued by explaining that outdoor live music would take place in the summer months and would cease outdoors by 23:00 at the latest (again in line with the Live Music Act). He considered that these outdoor summer events would be held between May and September. Indoor events would be held at any time during the year.

To be specific, Councillor Webb queried if outdoor live music events could be restricted to between 1 June and 30 September. Mr Pagliaroli accepted this.

Mr Pagliaroli, in addressing the Sub-Committee, raised the following points. These points were also on behalf of Mr Kevin Dobson (DPS) who was unable to be present:

- It was not the intention to be playing loud music/have music events seven days a week. Mr and Mrs Dobson ran the pub, they had two young children and the premises operated as a family pub/restaurant.
- Mr Pagliaroli commented that Mr Dobson ran a 'tight ship', this would continue and he had no wish to upset local people. There was local support for the pub and events were publicised locally.
- The Spotted Dog operated more as a restaurant and it rated highly on Trip Adviser. It had been renovated both inside and outside, and a new children's play area had been put in place.
- Renovations included a new exterior gin bar and decking area for use outside during warmer weather.
- Objections had related to concerns over noise and public nuisance, but the Spotted Dog was a thriving family pub and restaurant and this would not be jeopardised.
- The application sought flexibility to hold special events, in general during the summer. This would not incorporate discos or loud music. Mr Pagliaroli had already accepted the Environmental Health conditions. He also pointed out that the pub opposite the Spotted Dog more often had events involving louder music.
- Six live music events had been held in 2017, with three or four held to date in 2018.

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- Mr Pagliaroli concluded by commenting that a conversation with the Parish Council could have alleviated concerns relating to the application.

### Questions from the Sub-Committee

Councillor James Cole queried the length of time the applicant had been operating the premises. Mr Pagliaroli explained that he and Mr Dobson had begun operating the pub jointly seven or eight years ago. Mr Dobson had taken it on independently in March 2017, but he had been the DPS for the premises for some time.

Councillor Peter Argyle noted that music could be played indoors until 01:00 on Friday and Saturday evenings and he queried how the noise level could be contained, particularly during the summer when windows would be opened. Mr Pagliaroli reiterated that there would not be a significant amount of live music. In addition, a proposed condition was to ensure after 21:00 that noise from entertainment was not audible outside any dwelling in the vicinity.

Councillor Argyle followed this by asking if the number of outdoor live music or recorded music events could be given a limit. Mr Pagliaroli stated that he would find that acceptable and suggested 12 outdoor music events.

Questions were then asked on timings. The application requested that closing time on a Friday and Saturday night was extended to 01:30 from 00:30. Councillor Webb asked if the existing time could be retained. Mr Pagliaroli had a preference for the applied for times. Last orders would be at 01:00 and customers would have until 01:30 to finish their drinks. As a compromise he would be willing to have a closing time of 01:00 with 00:30 for last orders.

Councillor Webb sought to understand whether the current licence allowed for an external bar area/bar sales. Mr Pagliaroli confirmed that the application was to enable external bar sales from the gin bar during periods of warm weather. Mr Lisowski added that it was not usual for outside bar sales/outside consumption of drinks. He added that the Environmental Health conditions reflected this point.

The Sub-Committee identified with some difficulty the location of the external bar on the plans.

### Questions from Objectors:

Councillor Jaques queried how the gin bar would be used. She asked if it would close at 21:00 and if so if customers would then be required to go inside to order drinks? Mr Pagliaroli explained that his request was for the bar to remain open beyond 21:00, outdoor music would cease or be turned down after 21:00.

In response to a point made by Mr Pagliaroli, Councillor Verner stated that Mr Dobson was free to have attended a Parish Council meeting and believed that the Parish Clerk had made him aware of this.

Councillor Verner, in addressing the Sub-Committee, raised the following points:

- She was the Chairman of Cold Ash Parish Council and was expressing the views of the Parish Council.
- The Parish Council was concerned at the prospect of nightly outdoor events and the negative impact this would cause to neighbouring properties and local gardens, there were many young families living in the area. The Parish Council's unanimously agreed objection was solely to prevent public nuisance. They were content with the existing licence.
- An unrestricted licence would make any enforcement very difficult.

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- However, Councillor Verner noted the suggestion that the number of outdoor events would be limited to a maximum of 12 and she personally felt that this would be acceptable, but she could not speak for the entire Parish Council. Any further events would need to be approved via a TEN application.
- The Parish Council was aware of the proposed Environmental Health conditions.
- Councillor Verner queried whether the outside bar area had received planning consent.

Councillor Jaques, in addressing the Sub-Committee, raised the following points:

- She was speaking on behalf of local residents. There was concern at the prospect of a licence without any restrictions on the number of events that took place and the noise impact this would bring, including the noise of people leaving the pub late at night and the impact of car headlights shining into people's windows. However, Councillor Jaques felt that the 12 events referred to would be acceptable.
- There had been issues in the past that were concerning to local residents. An example of this was the temporary erection of a gazebo that in fact remained in place for some time. This was two to three years ago. This resulted in the involvement of planning enforcement.
- There was also concern at potentially setting a precedent, i.e. with the adjacent public house, should the application be approved without the adjustments and conditions being discussed.

### Questions from the Sub-Committee

Councillor Argyle noted the past issue referred to occurred two to three years ago, prior to Mr Dobson's tenure as landlord. He then, for clarity, queried if the Parish Council would accept 12 events per year. In response, Councillor Verner stated that personally she would accept this, but she would need to put this suggestion to her fellow Parish Councillors for a formal view.

Anne-Marie Baird advised that the Sub-Committee were hearing the application today and could make a determination today.

### Applicant Comments

Mr Pagliaroli was then permitted to comment on the points that had been made. As already stated he was willing to accept the restriction of 12 events per year. Beyond those 12 events, outdoor music would be very rare, other than potentially light background music. He acknowledged that a restriction was not made clear in the application.

He did not feel that recorded music would be a feature in the outside area. Indoor recorded music would be no louder than a disco.

On the subject of the gazebo, this was not a licensing matter. There had been an objection from West Berkshire Council but this went through the planning process. Mr Pagliaroli was not aware of any local concerns on this point.

### Questions from the Sub-Committee

Councillor Cole questioned the applicant on whether planning permission had been obtained for the external bar. Anne Marie Baird advised that the hearing today was to determine the licensing application. Planning permission for the external bar was a separate matter for consideration and could not be taken into account in reaching a determination on this application. Mr Pagliaroli explained that he had been advised that planning permission was not required for a temporary building.

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Councillor Webb queried whether use of the outside bar would be between the 1 June and 30 September. Mr Pagliaroli envisioned that the bar could be used from as early as Easter, weather permitting. If further use beyond the licence was required then a TEN application could be submitted.

The Sub-Committee retired at 2.03pm to make its decision.

Having taken the representations into account, including the written representation made by Cold Ash Parish Council, the Licensing Sub-Committee **RESOLVED** that Application 18/01035/LQN be granted, subject to the conditions set out in the operating schedule, as modified and detailed below, as well as the mandatory conditions of the Licensing Act 2003 or secondary legislation.

**The amendments to the operating schedule are as follows:**

**Box E: (Live Music) (indoors); Box F: Recorded Music (indoors); Box H: Background Music, Disco, Live Music (indoors)**

Monday to Thursday: 11:00 to 00:00

Friday to Saturday: 11:00 to 00:30

Sunday: 11:00 to 23:30

Non Standard Timings: From 10:00 on Christmas Eve to 01:00 on Christmas Day. From 10:00 on New Year's Eve to 00:00 on New Year's Day

**Box E: (Live Music) (outdoors); Box F: Recorded Music (outdoors); Box H: Background Music, Disco, Live Music (outdoors)**

Monday to Sunday: 11:00 to 23:00

The number of outdoor events at the premises playing live music, recorded music, background, disco or live music outdoors shall be limited to 12 (twelve) events per calendar year. Notification of each outdoor event at the premises shall be provided to the Licensing Department of West Berkshire District Council, within five working days of any event having taken place. The Licensing Department of West Berkshire District Council will maintain a record of each outdoor event.

**REASON:** Prevention of public nuisance

**Box I: Late night refreshment (indoors); Box J: Supply of Alcohol (indoors) (On and off the premises)**

Monday to Thursday: 11:00 to 00:00

Friday to Saturday: 11:00 to 00:30

Sunday: 11:00 to 23:30

Non Standard Timings: From 10:00 on Christmas Eve to 01:00 on Christmas Day. From 10:00 on New Year's Eve to 00:00 on New Year's Day

**Box I: Late night refreshment (outdoors); Box J: Supply of Alcohol (outdoors) (On and off the premises)**

Monday to Sunday: 11:00 to 23:00

**Box L: Opening Hours (For licensable and non-licensable activities)**

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Monday to Thursday: 11:00 to 00:30

Friday to Saturday: 11:00 to 01:00

Sunday: 11:00 to 00:00

Non Standard Timings: From 10:00 on Christmas Eve to 01:00 on Christmas Day. From 10:00 on New Year's Eve to 00:00 on New Year's Day

### Prevention of Public Nuisance

#### Noise and Vibration

1. Noise from the Premises must not unreasonably disturb other people.
2. No music or speech shall be relayed via external speakers after 21:00 hours, other than for events with the prior approval of the licensing authority.
3. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
4. The licensee or a nominated representative shall receive and respond to complaints of noise throughout the duration of all entertainment and during the time that patrons are leaving the premises.
5. Staff must be given adequate training to ensure they keep noise levels to a minimum when leaving the premises.
6. No live or recorded music shall be permitted outdoors after 23:00 hours.
7. The licensee or other nominated representative should monitor noise levels outside nearby dwellings during entertainment involving amplified music or speech. If, as a result of this monitoring, it is considered that the noise levels are excessive, immediate action should be taken to cause the volume of the entertainment to be reduced to suitable levels. The licensee's attention is drawn in particular to the effect of the low frequency bass notes which readily pass through doors and windows and are most often the principal reason for people complaining of entertainment noise. After 21:00 hours the licensee should aim to ensure that noise from entertainment is not audible outside any dwelling in the vicinity. A record of these checks and of any action taken as a result shall be maintained in a log book kept specifically for the purpose. The log book shall be made available for inspection by an authorised officer of the licensing authority on request.
8. Noise from the patio/beer gardens/ children's play areas, should be controlled as this can be the cause of neighbour annoyance. The degree of control that you may need to exercise will largely be dependent upon the disturbance between the facility and the nearest dwellings. You should be aware the patio/beer gardens/ children's play areas are at their busiest on warm summer evenings when occupants of nearby houses are likely, not unreasonably to want to open their windows or enjoy their own garden. Although it will depend on circumstances, as a general guide patio/beer gardens/ children's play areas should not be used after 23:00 hours.

#### Refuse

1. Refuse, such as bottles, shall not be placed into receptacles outside the premises between 22:00 hours and 08:00 hours in order to minimise the disturbance to nearby properties.

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### Deliveries and waste collection

1. Collection and deliveries shall be limited to 08:00 to 19:00 hours in order to minimise the disturbance to nearby properties

### Noxious smells

1. Noxious smells from the premises must not cause a nuisance to nearby properties.

### REASONS

Any issues raised in relation to planning, the Sub- Committee did not consider were relevant to the Application which is made under a distinct regulatory regime.

The Sub- Committee noted that the applicant agreed to amendments to the operating schedule proposed by the Environmental Health Department of West Berkshire District Council.

The conditions that have been applied to the licence are intended to prevent any public nuisance arising by virtue of the licensable activities taking place at the premises. These conditions are considered to be both necessary and proportionate in order to achieve the licensing objective of the prevention of public nuisance. In reaching this decision, the sub-committee had regard to the representations received and the circumstances of this application, in particular, the setting of the licensed premises in a residential area.

The Sub-Committee was satisfied that the grant of the premises licence, subject to conditions, would promote the four licensing objectives.

*(The meeting commenced at 1.03pm and closed at 2.30pm)*

**Name** Councillor James Cole



**Date of Signature** 9 October 2018

**Name** Councillor Peter Argyle



**Date of Signature** 9 October 2018

