

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 21 MARCH 2018

Councillors Present: Peter Argyle, Graham Bridgman, James Cole (Chairman) and Tony Linden

Also Present: Anne Marie Baird (Solicitor) and Emilia Matheou (Environmental Health & Licensing) and Jessica Bailiss (Policy Officer (Executive Support))

PART I

5 Declarations of Interest

There were no declarations of interest received.

6 Application No. 18/00004/LQN - Ace Space, St Nicholas Road, Newbury, RG14 5PR

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 18/00004/LQN – Ace Space, in respect of the application for a full Premises Licence.

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Mr Adam Kotz (Applicant), Mrs Christine Eeley and Samuel Vine (Objectors) and Councillor Jeanette Clifford (Ward Member) addressed the Sub-Committee on this application.

The Chairman asked Members to note that the representation from Mr and Ms Mitchell included on page 59 of the agenda was withdrawn after the agenda was published.

The Chairman added that the representation from Thames Valley Police (TVP) had also been withdrawn as the applicant had agreed to the conditions from TVP on pages 67 and 68 of the agenda.

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

- The applicant was seeking a Premises Licence to be granted for the licensable activities of:
 - The Provision of regulated entertainment – (*performance of plays, exhibition of films, performance of live and recorded music, the performances of dance and anything of similar description*).
 - The Supply of Alcohol.
- Regarding timings the applicant was seeking to allow the sale of alcohol from Wednesday to Sunday from 18:00 to 23:00, and for regulated entertainment from Wednesday to Sunday from 19:00 to 23:00.
- The application did not seek permission for any seasonal variations or non-standard timings besides those stated.
- All licensable activities would take place inside the building.
- The supply of alcohol was for consumption on the premises only.

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- As part of the application for the granting of a Premises Licence, the committee responsible for the management of the community premises also applied for the mandatory alcohol condition, which required a designated premises supervisor (DPS) for the sale of alcohol, to be dis-applied to their premises licence, and an alternative condition included that “every supply of alcohol under the premises Licence must be made or authorised by the management committee”.
- A 28 day consultation period had run until 8th February 2018. (*Post meeting note: the consultation period ran until 8th March 2018.*)
- The application was advertised in accordance with the regulations with blue notices displayed at the premises (witnessed by officers on 9th February 2018) and by publishing a notice in a local newspaper ‘Newbury Weekly News’ on 15th February 2018.
- Representations from residents were not specifically linked to any of the four licensing objectives (the prevention of crime and disorder/ public safety/ the prevention of public nuisance/ the protection of children from harm).
- It was too late to invite each objector to re-submit however, those individual objectors who were present at the hearing and had chosen to speak could expand on the points they had made.
- Copies of the relevant letters and emails detailing the nature of the representations were supplied to the applicant.
- The Chief Officer of Police had objected to the application on 8th March 2018. They had however submitted a number of conditions to prevent crime and disorder and to protect children from harm. The applicant had indicated that they were happy to agree to the proposed conditions.
- The Enforcing Authority for Pollution (Environmental Quality Team) had promoted the prevention of the public nuisance objective and the applicant had formally agreed the additional Licence conditions on 6th March 2018.
- Royal Berkshire Fire and Rescue Service had responded on the 8th March 2018 and had raised no objections to the application. (*Post meeting note: RBFRS responded on the 9th March, which was after the cut of date for the consultation (8th March).*)
- No comments had been received from Trading Standards; The Enforcing Authority for Health and Safety at Work Act 1974 (Comm); the Local Planning Authority; the Local Safeguarding Children Board (LSCB) or Public Health and Wellbeing
- Ace Space held a Club Premises Certificate (issued on the 31 October 2005) which authorised them as a qualifying club, to supply alcohol and provide regulated entertainment to members and guests.

Councillor Bridgman noted from Ms Matheou’s presentation that that Royal Berkshire Fire and Rescue Service had responded on the 8th March 2018 however, the period of time for comments had only run until the 8th February. Ms Matheou’s confirmed that what she had stated was an error and Royal Berkshire Fire and Rescue Service had responded on 8th February. (*Post meeting note: references to February should have been to March.*)

Councillor Bridgman asked for clarification regarding the difference between a Club Premises Licence and a Premises Licence. Ms Matheou confirmed that to qualify as a club, only members and their guests could attend events whereas with a Premises Licence the establishment would be open to the general public. With a Premises Licence there normally needed to be a Designated Premises Supervisor (DPS) responsible for the operation of the premises. However in this case the applicant had applied as part of

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the application to remove the condition which required a DPS for the sale of alcohol, and for an alternative condition to be included in its place that “every supply of alcohol under the premises Licence must be made or authorised by the management committee”.

Councillor Bridgman outlined from his understanding what would be permitted if the application was approved. Firstly plays and films would be added to the licence. Councillor Bridgman noted that the operating hours were currently 19:00 to 23:00 Wednesday to Sunday and this included alcohol, dance and live music. Alcohol could also be provided at the weekend between the hours of 12:00 and 15:00. The applicant was seeking to change the hours of supplying alcohol to 18:00 to 23:00 Wednesday to Sunday and the lunchtime provision at weekends would be removed. As far as Councillor Bridgman understood, there would be no difference in the days of operation. Regarding alcohol, the applicant was seeking to increase the time alcohol could be served by bringing the time forward to 18:00. Ms Matheou was not sure if the applicant was planning to use the Premises Licence Certificate alongside the Premises Licence if the application was permitted.

Ms Matheou highlighted that the establishment was a community centre for use by community centre members and their guests and was not operated like a Public House.

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

- There was a mistake in the application pack in that the start time for the supply of alcohol should be **19:00** not 18:00. Therefore no changes to timings for evening alcohol supply were being proposed.
- It was being proposed that the supply of alcohol from 12:00 to 15:00 on Saturday and Sunday should no longer be permitted as it was not required.
- Mr Kotz had written to all residents within the surrounding area to try and clarify what was being proposed as part of the application.
- He had spoken to local resident, Mr Walker, on the phone and in writing and felt that the objections being made by Mr Walker were misleading. Mr Kotz continued by responding to the collection of objections that had submitted by Mr Walker in writing:
 - If approved, alcohol could be supplied from the venue between the hours of 19:00 and 23:00 Wednesday to Sunday. This did not differ to what could take place under the Club Premises Licence that had been held for 10 years however, the full provision had never been utilised.
 - Unplugged events only took place one Friday each month.
 - The hours of permitted alcohol supply gave a degree of flexibility if a weekend event needed to be moved to mid-week.
 - The door at the back of the venue was only open when there were private functions/gigs. These only took place about three times per month.
 - Constant consideration was given to the impact upon neighbours.
 - The venue was not a public house and there was no intention to run it like one in the future.
 - An increase in traffic/footfall was not expected if a Premises Licence was granted.
 - Regarding the state of the road, it had not been adopted and therefore it was difficult to know what to do. Advice had been sought and Mr Kotz had been advised that if he was pay to repair the road, the upkeep going forward would automatically become the responsibility of Ace Space. Therefore in Mr Kotz’s opinion the Council needed to take responsibility for the road.

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- The Ace Space Committee had agreed that the road needed to be repaired however, disagreed that its operation worsened the condition of the road.
- If a large event was taking place then attendees were asked to park elsewhere.
- Mr Walker had stated in his letter of objection that Ace Space was un-managed. Mr Kotz clarified that this was not the case and no complaints had been received regarding this in the past.
- Regarding access and car parking, Mr Kotz felt that the venues use of car parking in the surrounding area was relatively low compared with residents.
- Mr Kotz stated that the objections raised by Mr Walker needed to be considered in proportion. He felt that extra signage might help alleviate some of the parking and access issues raised.
- Mr Kotz stated that he made it very clear in his letter to Mr Walker that there was no intention to increase activity at Ace Space. The venue was led by volunteers, who simply would not be able to commit to longer opening hours.
- Mr Kotz commented that he had used his response to Mr Walker as an example because a similar letter had been sent out to all residents who had raised objections.
- Mr Kotz hoped that the information he had provided would help improve relations with local residents in the future.

Councillor Bridgman asked for confirmation that Mr Kotz was not looking to change the time Ace Space began supplying alcohol from 19:00 to 18:00 as suggested in the report. Mr Kotz confirmed that this was correct.

Councillor Bridgman stated that the venue already held a Club Premises Licence, which was operating well and therefore asked why there was aspiration to change to a Premises Licence. Mr Kotz responded that the Club Premises Licence had been inherited from the former RAFA Social Club. Mr Kotz explained that attendees of Ace Space were not formally members but rather their details were added onto a system. It was felt that a Premises Licence would better reflect the venue's status.

The Chairman asked if the aim obtaining the Premises Licence would be to regularise the position of Ace Space and Mr Kotz stated that this was correct. The change in the Licence if permitted, would actually cause a higher level of provision to be provided.

Samuel Vine asked if the Licence held by the venue restricted the frequency of events. The Chairman stated that there were no restrictions under a full Premises Licence. Ms Anne Marie Baird (solicitor) confirmed that a Club Premises Licence also offered no restrictions on time/frequency of event. The Chairman confirmed that a change in Licence would not have an impact on the practical operation of the venue.

Ms Christine Eeley and Samuel Vine in addressing the Sub-Committee, raised the following points:

- When the car park was removed, there had been a huge impact on local residents.
- Ms Eeley felt that Councillors who formed part of the panel should visit the area to see how bad the situation was. St Nicholas Road was particularly narrow with many vehicles parked along it.
- Residents were having to put chains across their driveways to prevent vehicles from using them for turning.
- It was noted that Mr Kotz had stated that some groups using the hall would occasionally drop off only. Although this was not always a problem, it did become an

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issue if residents were unable to leave their properties due to vehicles being backed up along the road waiting to drop people off.

- Ms Eeley had no problem with people with disabilities using the venue however, vehicles often backed up along the road whilst waiting for wheelchairs to be loaded onto vehicles.
- Ms Eeley stated that she had been subjected to abuse from users of the venue in the past when asking them not to use her driveway to turn around.
- Although Ace Space only opened five times per week, there was concern that if another organisation took over the venue in the future, this could increase. Ms Eeley asked if another organisation was to move into the venue, if it would automatically be awarded the full Premises Licence.
- Ms Eeley was concerned that the venue would become a pub in a small residential area if the application was approved.
- The back door to the building was opposite Ms Eeley's front door. She was aware that there was a condition in place to enforce that the door should be kept shut however, this was often ignored. Mrs Eeley was concerned that the situation would get worse if there were more events at the venue. It was felt that there was not adequate supervision to ensure the door was kept shut.
- There were notices to ask people using the venue not to park outside properties however, this was often not adhered to.
- Ms Eeley had photo evidence of the parking issues, which in her view could stop an emergency vehicle accessing properties along St Nicholas Road. This had been a problem whilst her daughter had been terminally ill and caused a great amount of stress.
- Samuel Vine was mainly concerned about the element of public nuisance and residents were at the threshold of what they could cope with. There was a real issue for residents about twice a month at present and he wanted to voice his concerns to help ensure this did not increase.
- Ms Eeley stated that as residents they did not want to live in conflict. She had been called 'racist' by a user of the hall in the past for asking them to move their vehicle.

Councillor Bridgman asked a question regarding the transfer of the Licence certificate. He assumed that in 2009 the certificate had transferred from the RAFA club to Ace Space and he queried what happened when a transfer took place. Ms Matheou confirmed that the new organisation would need to request consent from the existing Licence holder. The timeframe for this was 14 days.

Councillor Bridgman asked if residents would be made aware if the Licence was being transferred and the Chairman commented that at this stage residents could potentially ask for a review. Ms Matheou stated that once the Licence had been transferred anyone could apply for a review of the Licence.

Councillor Bridgman asked Ms Eeley if any complaints had been submitted to Ace Space regarding the parking issues. Mr Eeley reported that initially complaints had been made however, it had been of little use as parking issues needed to be dealt with on the spot. She was aware that Ace Space had installed CCTV. It was not felt that the parking issues were directly Mr Kotz's fault as he had gone to the effort of putting up 'no parking' notices however, people chose to ignore them.

Councillor Bridgman noted that most of the objections raised related to activities taking place at the venue. He had asked Officers what the difference would be between the two

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Licences and there seemed to be very little difference. The hours that alcohol could be supplied from the venue would actually reduce due to the retraction of lunchtime hours. Therefore Councillor Bridgman was of the view that the objections raised could also happen under the existing licence. The venue currently was not following the rules of a Club Licence and therefore a full Premise Licence would regularise activity.

Ms Eeley stated that her main concern was uncertainty. Councillor Bridgman reminded Ms Eeley that what she was concerned about could happen under the current Club Premises Licence and stated that a review could be requested if there were ongoing problems or if a new operator took over the venue. Councillor Bridgman confirmed that he was not pre-empting any decision that the Sub Committee would make regarding this application. Councillor Tony Linden commented that a review would have to be reasonable.

Councillor Linden question Ms Eeley and Mr Vine how often problems were being encountered by residents. Mrs Eeley stated that people being outside of the building was mainly an issue in the summer.

Mr Vine asked if a member of staff from Ace Space always had to be present when alcohol was being supplied and Ms Baird confirmed that they did.

Councillor Linden reiterated his question regarding the frequency of problems. Mr Vine stated that car parking was an issue on a daily basis however, he struggled to see how this could be improved because the road was naturally very narrow. Ms Eeley was concerned that the situation would worsen if the frequency of events increased. Councillor Linden commended that if this was the case then a review could be requested and Ms Eeley felt that it was unfair that residents should be put in such a position.

Councillor Peter Argyle asked Ms Eeley and Mr Vine if they kept a log of events. Ms Eeley confirmed that they had not in the past however, should do going forward. The Chairman reminded Ms Eeley that Mr Kotz had stated that the number of events would not increase if a full Premises Licence was granted.

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

- An application, like the one in question, was difficult to consider because it involved a valuable community resource and the concerns of residents.
- The Trustees of Ace Space understood the residents' concerns and usually did their best to address any issues.
- Ace Space had worked closely with the Environmental Quality Team to reduce the impacts in that area. Ace Space had also agreed to conditions set out by Thames Valley Police.
- Ace Space had worked to address concerns under the four licensing objectives (the prevention of crime and disorder/ public safety/ the prevention of public nuisance/ the protection of children from harm).
- Opposition by residents to the venue and the application was not universal. Councillor Clifford was aware of residents who supported the application.
- Councillor Clifford had attended events at the venue and was aware that attendees were always asked to leave quietly.
- Councillor Clifford reported that St Nicholas Road would be resurfaced in 2018/19 as part of the Highways Improvement Programme. It was hoped that this would help to reduce negative impacts on nearby residents.
- In summary Councillor Clifford supported the application.

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Councillor Linden asked if the Council would be adopting the road. Councillor Clifford confirmed that St Nicholas Road was already adopted however, the road directly in front of the venue was not. It was therefore thought that the re-surfacing would have a marginal impact.

Councillor Clifford was confident that Ace Space would take a note of the concerns raised and make changes as a result as they had done in the past.

Ms Eeley felt that it would be beneficial for residents and Ace Space to improve their lines of communication.

Mr Kotz wished to address the concerns raised by Ms Eeley and Mr Vine. He stated that there were a number of issues that had risen out of the application for the Licence. Mr Kotz had not been aware that the process would be as formal as it had proved to be. He stated that relationships with the community were generally good however, were much more difficult with Mr Mitton who had chosen not to engage.

Regarding Ms Eeley's points, Mr Kotz firstly referred to concerns about traffic. He stated that there was a turning circle and most people visiting the venue did make use of it. Ace Space did not condone rudeness however, Mr Kotz was aware that occasionally situations did arise. Mr Kotz stated that the group in question, that had accused Ms Eeley of being 'racist' were no longer permitted to use the venue as a result of their behaviour.

Regarding access, Ace Space had a lawful right to use the access road. Residents and Ace Space needed to find a way to live in harmony together.

Regarding drinking on site, Ace Space trustees were present at all events. There was a bar supervisor and also staff placed at the front of the venue to oversee visitors arriving, leaving and parking.

Mr Kotz confirmed that they did respond to concerns raised by residents and the venue often shared the same problems. When Ace Space had first moved into the venue, there was a larger car park, which had since been developed. Mr Kotz felt that if the car park was still available then people would be inclined to bring vehicles and it would fill up quickly.

Mr Kotz reported that he had a link to the CCTCV system at home and therefore could see when vehicles parked irresponsibly.

Mr Kotz asked that Members of the Licensing Sub-Committee take copies of the correspondence between Ace Space and residents to assist them in making their decision.

Councillor Bridgman felt that it would be helpful for Ace Space to have a formal complaints process and asked Mr Kotz if he would be happy to implement this. Mr Kotz felt that it would be helpful and was happy to enforce a complaints procedure.

The Chairman stated that correspondence could only be viewed by Members if the objectors present did not object to the written material being placed before the Sub-Committee as it was being served late. Ms Baird would show the content of the material to Mr Vine and Ms Eeley to confirm they had no objections to the material being admitted into evidence. Mr Vine queried which correspondence Mr Kotz was referring to and he stated that it would only include that sent to Ms Eeley and Mr Vine. Ms Eeley and Mr Vine confirmed that they were happy for this information to be shared once they had checked it.

The Chairman summarised that his interpretation of the objections raised was that they were more in relation to the applicant's ability to manage.

Mr Kotz commented that idealistically he would like to see the whole area re-surfaced and a drop off space created. Mr Kotz was keen to keep restrictions to a minimum as he

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felt Ace Space was operating in a responsible manner. He concurred that discussions were required with the residents of St Nicholas Road around reasonable solutions.

The Sub-Committee retired at 11.10am to make its decision.

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

Box A: Plays (Indoors); Box B: Films (Indoors); Box E: (Live Music) (Indoors); Box F: Recorded Music (Indoors); Box G: Performance of Dance (Indoors); Box J: Supply of Alcohol (On the Premises)

Wednesday to Sunday: 19:00 to 23:00

Opening Hours (For licensable and non-licensable activities)

Monday to Sunday: 08:00 to 23:00

The Prevention of Crime and Disorder

1. The premises Licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping.
2. The entire licensable area shall be covered by the CCTV.
3. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or West Berkshire Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act.
4. Recorded images shall be of such quality as to be able to identify the recorded person in any light.
5. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.
6. An incident/refusal book shall be used to record details of incidents that occur in and around the venue and refusal of sale of alcohol. The incident book shall truly reflect what has occurred and shall be specific in detail. All incidents shall be signed off by the Committee.
7. The premises Licence holder shall ensure a recorded weekly review of the incident/refusal book by the Committee shall be carried out.

Public Safety

1. Staff employed to sell alcohol shall undergo training upon induction. This training shall include, but not be limited to:-
 - The premises age verification policy
 - Dealing with refusal of sales
 - Proxy purchasing
 - Recognising valid identity documents not in the English language
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
 - Conflict management

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- How to identify and safeguard vulnerable persons who attend and leave the premises
 - Drug Policy and substance awareness and effects
 - Search Policy
 - Dispersal Policy
 - Crime scene preservation
 - Child Sexual Exploitation
2. Refresher training shall be provided every 6 (six) months and signed records made available for inspection by a Police Officer or authorised officer of West Berkshire Council upon request. Written records are to be kept for a minimum of 2 (two) years of the date of training.

The Prevention of Public Nuisance

1. An entry, closure and dispersal policy for controlling the opening and closing of the premises and the departure of customers from the premises at the conclusion of the Licenced activities shall be put in place and shall be actively operated. The policy shall be in written format and made available upon request to an authorised officer of West Berkshire Council and Thames Valley Police.
2. Recorded music shall be reduced to background level 30 minutes before the end of the time that the premises is permitted to be open to the public.
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. If the Council receives justified complaints about noise that cannot otherwise be resolved a noise limiting device must be installed at the premises and maintained in such a manner as to control all sources of amplified music and speech at the premises. The device must be:-
 - Used at all times during the entertainment;
 - Set at a level agreed in writing with the Council; and
 - Sealed in a manner, which is tamper proof.
5. All external doors and windows must be kept closed, other than for access and egress, when activities involving amplified music or speech are taking place. Noise from the premises shall not unreasonably disturb other people.
6. No music or speech shall be relayed via external speakers.
7. No explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding areas, should be used without first obtaining the written consent of the licensing authority.
8. The Licencee or a nominated representative (e.g. hirer) shall receive and respond to complaints of noise throughout the duration of all entertainment and during the time that patrons are leaving the premises.
9. All staff must be given adequate training to ensure they keep noise levels to a minimum when leaving the premises.
10. The Licencee or other nominated representative (e.g. hirer) shall 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 Licencee's attention is drawn

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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.

11. At the request of the licensing authority, following complaints of noise, 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.
12. Refuse, such as bottles, shall not be placed into receptacles outside the premise between 23:00 hours and 07:00 hours in order to minimise the disturbance to nearby properties.
13. Deliveries to or from the premises shall not occur between the hours of 21:00 and 08:00.
14. A Notice detailing a designated contact telephone number for complaints shall be provided to local residents and displayed on clear and legible signage on the outside of the premises adjacent to the entrance.
15. A record of complaints received and any action taken as a result of complaints received shall be maintained in a log book kept specifically for this purpose and shall be made available for inspection by an authorised officer of the licensing authority on request.

The Protection of Children from Harm

1. At all times that the premises is operating under this licence, the Premises Licence Holder shall ensure that its staff operate a Challenge 25 Policy (to minimise the risk of alcohol being sold to underage customers). This Policy shall (as a minimum provide) that before entry (or alternatively before any sale of alcohol), any person who appears to be under the age of 25 will be required to produce photo ID in the form of a passport; driving licence, UK Military ID card; PASS (or similar) card to prove that he/she is over the age of 18, before being permitted.
2. Notices advertising the Challenge 25 and proof of age policies shall be displayed in prominent places in the premises so that they can be seen internally and externally.
3. The Premises Licence Holder shall display in a prominent position a copy of their policy on checking proof of age.

Reasons

The Sub-Committee noted that the conditions that have been applied to the Licence are intended to protect public safety, to protect children from harm, to prevent crime and disorder and to prevent 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 objectives. 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 Licenced premises which is located in a residential area.

The Sub-Committee was satisfied that the grant of the premises Licence subject to conditions promoted the four licensing objectives.

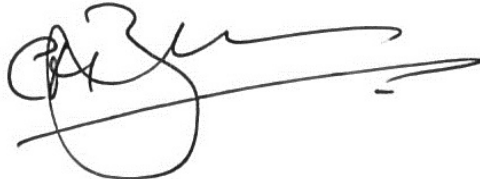
(The meeting commenced at 10.00 am and closed at 11.10 am)

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Name Councillor James Cole

Date of Signature 29th March 2018



Name Councillor Graham Bridgman

Date of Signature 29th March 2018



Name Councillor Tony Linden

Date of Signature 29th March 2018



Name Councillor Peter Argyle

Date of Signature 29th March 2018