

DRAFT

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 2 APRIL 2019

Councillors Present: Jeff Beck, Graham Bridgman (Chairman) and Quentin Webb

Substitute: Billy Drummond

Also Present: Anne Marie Baird (Solicitor), Jo Reeves (Principal Policy Officer) and Councillor Anthony Stansfeld (Council Member)

PART I

8 **Declarations of Interest**

There were no declarations of interest received.

9 **Application No. 19/00144/LQN - The White Hart Inn, Hamstead Marshall, Newbury**

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 19/00144/LQN in respect of a New Premise Licence for the White Hart Inn, Hamstead Marshall.

In accordance with the Council's Constitution, Karen Court and Julia O'Brien (Licensing Officers, West Berkshire Council), Stella Coulthurst and John Trueman (Applicant), Councillor Anthony Stansfeld (Ward Member), C2107 Declan Smyth for Thames Valley Poice (Repsonsible Authority), Matthew Maggs (objector) and John Handy, Chairman of Hamstead Marshall Parish Council (supporter) addressed the Sub-Committee on this application.

Karen Court, in addressing the Sub-Committee, raised the following points:

- The application was for a new premises licence for the White Hart Inn.
- The application had been received on 4 February 2019 and amended on 1 March 2019 following a meeting with licensing and environmental health officers. The amended proposal with reduced hours of operation was at page 37 of the pack.
- Thames Valley Police had made representations on 28 February 2019 including proposed conditions. There had been discussions with the applicant which had lead to the removal of some proposed conditions.
- Representations in respect of the application had been received from two members of the public and the parish council.

Councillor Quentin Webb queried why different hours for supply of alcohol and opening hours for 'drinking up time' had not been requested. Julia O'Brien advised that the applicant had decided that it was not necessary due to the nature of the pub.

Councillor Graham Bridgman sought clarification on the existing license. Karen Court advised that the 2011 license on page 59 of the agenda pack had been reinstated.

Councillor Bridgman sought to record that while Councillor Stansfeld was the Police and Crime Commissioner, he would be addressing the Committee in his capacity as the Ward Member. Councillor Stansfeld had also had a conversation with Mr Smyth the previous day in his capacity as the Ward Member.

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

Councillor Stansfeld, in addressing the Sub-Committee as Ward Member, raised the following points:

- The Council's policy was to support rural pubs. The White Hart Inn had been through a difficult time and he hoped the Council and the local community would support the business.
- He supported the involvement of the police in licensing matters and suggested that any conditions should be sensitive to the rurality of the business and avoid conditions more suited to urban areas.
- Environmental Health had received no complaints about noise at the site and licensing officers supported the application.
- Any people who lived next door to a pub should expect some noise.
- The application was supported by the ward members and the parish council.

Councillor Bridgman asked for a view on the parish council's request to bring the opening hours on a Tuesday in line with other weekdays. Councillor Stansfeld advised that he was happy to support the parish council. He highlighted that in Norfolk an approach was being taking to allow rural pubs to be open until 2am.

Ms Coulthurst and Mr Trueman, in addressing the Sub-Committee, raised the following points:

- The White Hart had been bought as a derelict pub in 2011. It had at times been a successful business with gross turnover of a maximum of £600k per annum. However it had been financially unsustainable with a loss of £200k in one year so the business closed in 2015.
- A planning application to convert the building into dwellings had been lost at planning appeal and the Planning Inspector had suggested that there may be a viable concept for the business to pursue.
- The new format would feature a micro brewery and beer club with membership set at £20 per year. Food and wine would be served in a quality casual atmosphere. Wines and the pub's own beers would be available for customers to take home.
- New CCTV and point of sale technology would be used to reduce theft. Online bookings for rooms would also be used and rooms would be code controlled.
- They had been open for a week in the new format and had established a social media presence. Of the 180 visitors only 20 people were from Hamstead Marshall which was disappointing. The new license would allow the business the flexibility to operate as a destination pub.
- The beer club would run either monthly or quarterly depending on interest. These events were necessary to make the pub viable.
- It had not been intended to cause concern through the application for late operating hours. These had been reduced in the amended application and opening hours would be shorter still. Ms Coulthurst apologised for the confusion and advised that it would not be commercially viable to operate until 2am.
- Temporary Event Notices would be used for special occasions.
- The proposed conditions by Thames Valley Police would effect the operation of the business. Commentary on those conditions was available in a paper format should the Committee wish to consider it. Some conditions had been removed through negotiation.

Councillor Bridgman confirmed with all parties present that they were satisfied for the Committee to consider whether to accept this new information.

The Committee adjourned between 10.27am and 10.41am to consider the information.

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

Upon recommencement of the meeting, Councillor Bridgman confirmed that the paperwork was accepted by the Sub-Committee.

Ms Coulthurst and Mr Trueman were invited to conclude their presentation and raised the following points:

- If deliveries were not permitted before 8am, the wage bill would increase by £120 per day in order to provide breakfast for guests. The viability of the business would be undermined.
- Mr Trueman ran an IT company which provided systems to a range of well-known hospitality companies, including in the pub sector.
- The pub had taken £3300 in its first week of trading and business rates were £750 per week. A business would expect rates to be 5% of their turnover.
- It was not clear how including 'drinking up time' would prevent crime and disorder and it would impact on trade.

Councillor Jeff Beck asked whether it was intended to sell the beer brewed on site to the wider market. Ms Coulthurst confirmed it would not. Mr Trueman advised that the beer could be bottled for sale at the pub and would be available for customers to take home in 3L containers. The applicants did not want to breach planning conditions by selling the beer to the general market; the microbrewery was intended to be ancillary to the pub.

Councillor Beck sought a comment on the parish council's concern regarding smells. Mr Trueman advised that they brewed at night and he doubted that smells would be a problem.

Councillor Beck further asked why no application had been made for recorded or live music. Ms Coulthurst advised that there was no intention to play music after 11pm; all recorded and live music at the premises would be in accordance with the standard license conditions.

Councillor Beck asked why breakfasts for guests would be delivered when there were facilities available on site. Ms Coulthurst advised that it would increase the wage bill by £120 per day to provide breakfast so it was more economical to have a continental breakfast delivered. Councillor Beck asked whether a limitation on the collection of waste in the early morning would be acceptable. Ms Coulthurst explained that every condition applied would have an impact on the profits of the business. She provided instructions to all contractors to be mindful of neighbours and noted that household waste collections were often very early in the morning.

Councillor Webb enquired whether the applicant was against the idea of factoring in 'drinking up time' to the hours of operation. Ms Coulthurst advised that she was concerned about the potential impact on a customer being able to purchase alcohol for consumption off the premises. Councillor Webb asked if she would be amenable to a distinction between on and off sales. Ms Coulthurst advised that clarity on the situation for guests in rooms would be needed and asked what the Sub-Committee might seek to achieve by applying 'drinking up time'. Councillor Webb responded that they sought to prevent a scenario where a customer was able to order a drink immediately before closing as this might cause conflict. Ms Coulthurst advised that she had sought hours which would offer flexibility for occasional later opening; the usual opening times would be 4pm – 10pm. They did not expect to operate for the full hours. Councillor Bridgman advised that the Sub-Committee would wish to prevent, in the event the license was transferred, the use of the full hours. Ms Coulthurst advised that residents of Hamstead Marshall were unlikely to make use of the pub around the clock. In areas such as North Norfolk 24 hour licenses were applied. A nearby business owned by Anthony Worrall-Thompson, outside of West Berkshire but within the Thames Valley Police area, was

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

permitted late opening hours. She reassured the Sub-Committee that later hours would allow the business flexibility and would not be fully utilised.

Councillor Webb noted that the hospitality industry was cyclical and business might improve. Ms Coulthurst advised that Airbnb had impacted on inns and other changes to the way people enjoyed alcohol had affected the industry.

Mr Smyth drew attention to paragraphs 10.4 and 10.5 of the Revised Guidance issued under section 182 of the Licensing Act 2003 and asked where in Section M of the application the risk assessment had been referred to. Ms Coulthurst advised that the application outlined the proposals.

Mr Smyth asked which of the proposed conditions the applicant would accept. Ms Coulthurst advised that she would abide by the application she had made and did not see the point in the administrative burden which came with the conditions.

Councillor Bridgman confirmed with Ms Coulthurst that, in the commentary on the Police's proposed conditions, where the applicant had advised that a matter was 'covered in the application' that it meant the condition was accepted. He explained that conditions were necessary to ensure formality. Ms Coulthurst advised that she had completed an application to state what she would do and expected to carry out those things.

Mr Smyth recalled that he and Mr Trueman had agreed some conditions but this agreement was later withdrawn by Ms Coulthurst. He asked why the conditions had been agreed in the first instance. Mr Trueman advised that he was aware of the need to open the pub and was unaware that the original license could be reinstated.

Mr Maggs asked the applicant whether more could have been done to advertise the reopening of the White Hart. Ms Coulthurst advised that in addition to social media it had been advertised in a number of local newspapers and parish magazines.

Councillor Webb asked why the applicant did not wish to accept proposed condition 20. Ms Coulthurst advised that it was her obligation as an employer and did not understand why it should be a condition of the license. Councillor Webb advised that it was within the police's remit to enforce the requirements of the Home Office. Councillor Bridgman suspected that the police sought to tie the requirement to the license.

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

- The application for a new premises license provided an opportunity to future proof; it was not the intention to hinder the success of the business.
- The proposed conditions would ensure the licensing objectives would be upheld.
- It was common practice to include drinking up time and omission would be a cause for concern.
- Conditions relating to recruiting Security Industry Authority registered door staff were in response to the originally proposed opening times until 2am. These conditions would be expected as the likelihood of an incident was higher at that time in the morning.
- The CCTV condition would be expected on all applications for a premises license.
- A closure and dispersal policy would give clarification to the community and ensure best practice.
- The condition to limit the timing of deliveries and waste collection would mitigate residents' concern about noise.
- Condition on the use of the beer garden would ensure harmony with the community and was not considered onerous. Any Temporary Event Notice would supersede the conditions.

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

- The use of toughened glass would ensure that broken shards could not be used as weapons.
- The condition on employment would prevent crime and disorder and was not outside the police's remit.

Councillor Beck asked whether toughened glass should also be used indoors. Mr Smyth advised that he would recommend any premises use it as a safe product.

Councillor Webb asked whether other similar pubs would not have drinking up time. Mr Smyth advised that many wouldn't as their licenses were transferred with grandfather rights to the new regime following the adoption on the Licensing Act 2003. He requested 30 minutes of drinking up time for all new premise license applications to prevent disorder.

Councillor Webb questioned the restrictive timings on the use of the pub's external areas. Mr Smyth advised that he was willing to compromise on the hours.

Councillor Bridgman asked for more information regarding the proposed condition for staff to be available to disperse customers quietly. Mr Smyth advised that in the event that customers were talking loudly in the car park and playing music from cars, he wanted there to be an onus on the premises to ensure effective dispersal.

Councillor Bridgman enquired why stringent restrictions were sought on external noise. Mr Smyth advised that in his experience the majority of problems perceived by the community on such businesses would be due to the management of the beer garden, for example a pub in Reading had been closed due to the noise from the beer garden.

Mr Trueman asked whether Mr Smyth had visited the White Hart and explained that the pub faced open fields. Mr Smyth advised he had not visited the premises.

Ms Coulthurst asked Mr Smyth to confirm that when they spoke the day before he had refused to discuss the application. Mr Smyth advised that they had spoken early in the day and Ms Coulthurst asked him what he needed in order not to attend the hearing. He had explained that he sought agreement in writing to conditions and the applicant had refused.

Mr Trueman sought clarity on whether people staying on the premises could be served alcohol until closing time under the proposals to include drinking up time. Councillor Webb suggested that different times for the sale of alcohol to residents could be applied. Councillor Bridgman advised that licensing officers could be requested to provide an appropriate condition.

Ms Coulthurst asked what incidents had occurred between 2011 and 2015 which had caused the police to attend the premises. Mr Smyth advised that he had not said there had been incidents. He had proposed conditions on the basis of prevention as the application was for a new premises license.

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

- He and his family lived next door to the pub and were pleased to see it reopen.
- He was aware he was moving next door to a pub when he bought his home and understood that there would be some associated noise.
- Any noise he heard from the pub tended to end at around 9.30pm with the occasional exception. His children were 15 and 11 so there was usually some overlap with their bedtime.
- The beer garden was noisy without music but it was mainly used in the summer when his family would stay up a bit later.
- There had been no issues with smells.

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

- Weddings held at Elm Farm could be very loud and guests passed his house as they left. He was concerned that extended opening times would attract wedding guests to the area.
- He supported proposed conditions 14, 15, 16 and 17.
- He wanted the pub to be successful but did not want his children to feel unsafe.

Councillor Webb asked for the distance between Mr Maggs' property and the pub. Mr Maggs advised there was a gap of 5m to the pub and 30m to the beer garden. The pub's rooms abutted his house.

Ms Coulthurst asked how many weddings were held at Elm Farm. Mr Maggs advised that it was around one per month in the summer months. Ms Coulthurst advised that she had spoken with the owners who advised that they were struggling with bookings because of the terms of their license.

Ms Coulthurst posited that Mr Maggs did not know the operating hours of the pub when he moved next door. Mr Maggs advised that he had checked the hours before buying his home and would have felt differently if he knew of the proposed extended hours and parties. He had called during a party before to advise that it was too loud and had not received a warm response. Mr Trueman advised that on that occasion a living wake was being held.

Councillor Bridgman sought advice from the licensing officers in respect of on and off sales. Karen Court advised that the Sub-Committee could apply different hours for on and off sales of alcohol and make reference to closed containers. Ms Coulthurst advised that she did not object in principle but asked that conditions remained easy to understand.

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

- He supported the application and had been involved in the Save the White Hart group. There had been a long campaign to keep the building as a pub.
- It would be perverse if the conditions applied effected the viability of the pub.
- Shorter hours were preferred and the opening hours on Tuesdays should be brought in line with the rest of the week.
- The only crime at the pub had been a burglary while it was closed.
- All conditions should be appropriate for a country pub and not town drinking houses. Some of the conditions regarding noise were impractical. Others would impact on the ambience.

The Sub-Committee retired at 12pm to make its decision.

Having taken the representations into account, including the written representations made by Mr and Mrs John Fraser, the Licensing Sub-Committee **RESOLVED** that Application 19/00144/LQN be granted subject to the conditions as in the operating schedule, any relevant mandatory conditions as prescribed by the Licensing Act 2003 or secondary legislation and the following amendments to the operating schedule:

Box J: Sale of Alcohol (on the premises)

Mon	11.00 – 23.00
Tue	11.00 – 23:30
Wed	11.00 – 23.00
Thu	11.00 – 23.00
Fri	11.00 – 00.00
Sat	11.00 – 00.00
Sun	11.00 – 23.00

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

Box J: Sale of Alcohol (off the premises)

Mon	11.00 – 23.30
Tue	11.00 – 00.00
Wed	11.00 – 23.30
Thu	11.00 – 23.30
Fri	11.00 – 00.30
Sat	11.00 – 00.30
Sun	11.00 – 23.30

Box L: Hours premises are open to the public

Mon	11.00 – 23.30
Tue	11.00 – 00.00
Wed	11.00 – 23.30
Thu	11.00 – 23.30
Fri	11.00 – 00.30
Sat	11.00 – 00.30
Sun	11.00 – 23.30

In addition the Licensing Sub-Committee imposed the following **conditions**:

- 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. The entire licensable area shall be covered by the CCTV. There shall be at least one camera positioned at each entry and exit point to monitor any external areas to the premises. This includes any areas designated for tables and chairs and/or a designated smoking area. 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. Recorded images shall be of such quality as to be able to identify the recorded person in any light. 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.
- 2 A closure and dispersal policy for controlling the closing of the premises and the departure of customers from the premises at the conclusion of licensed 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.
- 3 Clearly legible and suitable notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly. Staff shall be available to assist in the dispersal of customers at the cessation of licensable activities each evening to ensure that customers disperse quietly.
- 4 The Premises Licence Holder shall ensure that all staff employed in the sale of alcohol shall be trained in their responsibilities and a record of their training shall be maintained. Refresher training shall be carried out every six months and documented. These records shall be made available to an authorised officer of Thames Valley Police or an authorised officer of West Berkshire Council.
- 5 Staff shall be trained on the Premises Licence Holder's policies on intoxication, age verification and customer welfare and vulnerability. Refresher training shall be carried out every six months and documented. These records shall be made

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

available to an authorised officer of Thames Valley Police or an authorised officer of West Berkshire Council.

- 6 The premises shall at all times operate an age verification policy of at least Challenge 25 to prevent any customers who appear to staff members to be under the age of 25 years from purchasing alcohol without having first provided identification. Only a valid driver's licence showing a photograph of the person, a valid passport, national identity card or proof of age card showing the "PASS" hologram are to be accepted as identification. Notices advertising the Challenge 25 and proof of age policies shall be displayed in prominent positions on the premise.
- 7 All staff involved in the sale of alcohol shall be trained to record refusals of sales of alcohol in a refusals log (whether written or electronic). The log shall contain details of the time and date the refusal was made, the identity of the staff member refusing the sale, and any detail or description of the person refused and the reason why. This log will be available for inspection by a Police Officer or authorised officer of West Berkshire Council upon request.
- 8 An incident log shall be maintained to record all incidents of crime and disorder occurring at the premises. Details of occasions when the police are called to the premises shall be recorded. This log shall be available for inspection by a Police Officer or an authorised officer of West Berkshire Council upon request and shall be retained for one year. The log shall be signed off by the Designated Premises Supervisor or nominated representative at the end of each trading session.
- 9 No deliveries shall be permitted to attend the premises any day between 21.00hrs and 06.00hrs.
- 10 No contracted waste removal services shall be permitted to attend the premises any day between 20.00hrs and 08.00hrs
- 11 The premises licence holder or nominated representative shall ensure that the premises actively participates in the local Pub Watch scheme.
- 12 During operating hours the premises licence holder or nominated representative shall be available to receive and respond to nuisance related complaints. A contact number shall be readily available to residents upon request. An incident log shall be maintained to record all nuisance related complaints received. This log shall be available for inspection by a Police Officer or an authorised officer of West Berkshire Council upon request and shall be retained for one year.
- 13 Before any person is employed at the premises sufficient checks will be made of their bona fides to ensure they are legally entitled to employment in the UK. Such checks will include proof of identity (such as a copy of their passport), nationality, current immigration status and employment. Copies of any relevant documents produced by an employee will be taken, which will be retained on the premises and kept for a minimum period of one year. Employment records as they relate to the checking of a person's right to work will be made available to an authorised officer of West Berkshire Council or Thames Valley Police upon request.

Reasons

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

The Sub-Committee noted that the Council as a Licensing Authority must determine each application under the Licensing Act 2003 on its merits, and every decision must be both justified and proportionate based on the available evidence.

LICENSING SUB-COMMITTEE - 2 APRIL 2019 - MINUTES

It was noted by the Sub-Committee that the police as a Responsible Authority had requested the imposition of conditions which they felt were appropriate to promote the four licensing objectives. The police are a key source of information and advice on the impact of licensable activities, particularly on the crime and disorder objective.

The conditions that have been applied to the licence are intended to promote the four licensing objectives. The Sub-Committee did not consider that the objections raised were supported by evidence which would be sufficient to justify refusal of the licence, or the imposition of any additional conditions to those referred to above.

(The meeting commenced at 10.00 am and closed at 12.00 pm)

Name Councillor Graham Bridgman (Chairman)

Date of Signature

Name Councillor Jeff Beck

Date of Signature

Name Councillor Quentin Webb

Date of Signature