

Minutes of the Licensing Sub-Committee 1
Tuesday, 9th June, 2020 at 2.00pm
Microsoft Teams Meeting

Present:

Councillor S Keasey (Chair)
Councillors P Miller and C Perks

Officers:

B Hughes – Assistant Team Manager (Directorate of the Public Realm), A Grant – Environmental Health (Directorate of Public Health and Wellbeing), R Clark – Principal Solicitor, S Griffiths – Democratic Services Manager and Manjit Johal – Senior Democratic Services Officer (All Directorate of Finance and Legal).

6. **Apology of Absence**

An apology for absence from the meeting was submitted on behalf of Councillor C Elcock.

7. **Appointment of Substitute Member**

It was reported that Councillor P Miller had been appointed as substitute Member for Councillor C Elcock for this meeting of the Sub-Committee only.

8. **Declarations of Interest**

There were no declarations of interest from Members in accordance with the Members' Code of Conduct.

9. **Variation of premises licence in respect of The Wall Heath Tavern, 14 High Street, Wall Heath, Kingswinford**

A report of the Director of Public Realm was submitted on an application for a variation of premises licence in respect of The Wall Heath Tavern, 14 High Street, Wall Heath, Kingswinford.

The following persons were in attendance at the meeting in respect of the application:-

Mr T Evans – Applicant

Mr G Domleo – Flint Bishop Solicitors – Representative of Mr T Evans

Mr Grant – Environmental Health

Three local residents who made representations.

Following introductions the Assistant Team Manager presented the report on behalf of the Council and in doing so, confirmed that The Wall Heath Tavern had been issued with a premises licence on 26th September, 2005 and the current premises license transferred to Mr T Evans on 25th September, 2019 which was presented as set out in the report submitted.

It was reported that on 23rd April 2020, Flint Bishop Solicitors made an application on behalf of Mr Evans for The Wall Tavern seeking to amend the licence, as set out in Appendix One to the report. In addition, reference was made to the removal of Annex 2 and Annex 3 conditions, as set out in Appendix Two to the report, as these were now either outdated or had been converted by other primary legislation and replaced with updated and proportionate conditions.

Mr Green, then made representations on behalf of local residents, and in doing so stated that those objecting, lived within close proximity to The Wall Heath Tavern and were extremely concerned about the proposal to extend the drinking hours into the early hours of the morning. Reference was made to the anti-social behaviour that some residents were already experiencing which had prompted the creation of a WhatsApp group to address such issues. It was noted that whilst some residents in the WhatsApp group were not willing to object to the application, all stated that they would not use the premises until 1.00am and raised concerns that The Wall Heath Tavern being the only public house in the village that would be open to 1.00am, would likely therefore, attract a young clientele from outside the area and it would be the local residents that would suffer the consequences of this late night drinking.

Mrs Bailey, then made representation in relation to her concerns with regards to the late night drinking until 1.00am and the nuisance that could follow when the patrons leave the premises. Mrs Bailey stated that she had been unable to approach Mr Evans and raise her concerns due to her work commitments. It was noted that she would have preferred to have dealt with this issue in person and would have also raised the issue with regards to the damage that had been made to her property, dating back some 5 to 6 years. Mrs Bailey also raised her concern with regards to derogatory comments that had been made on Mr Evan's Facebook page towards residents that had objected to the application. She stated that she felt it was reasonable for music to be played at the public house until 11.00/11.30pm, but not until 1.00am in the morning.



Vicki, a further resident, then made representations expressing similar concerns to the previous objectors. In addition, reference was made to anti-social behaviour and glasses, bottles and nitres-oxide canisters that had been discarded on her drive and across the public house car park. It was acknowledged that there was no evidence that the canisters had belonged to patrons using the public house. It was considered reasonable to accept noise from the establishment till midnight, but not to the time requested, especially for those residents living close to the public house and those with school age children. The resident also raised concern at the comments made on Facebook.

Arising from a question raised, Mr Green advised that Wall Heath was a small, family village, where most people had lived for over 20 years and there were two other traditional public houses within walking distance of The Wall Heath Tavern. The main concern raised by residents related to the extension of the licensing hours as it was strongly believed that this would attract youths from outside the community as they would be able to drink until 1.00am.

Reference was also made to live events and events held in the beer garden in the past at the premises and the disturbance to local residents. It was noted that these concerns had been raised with Mr Evans and objectors had questioned what procedures would be implemented to ensure the extra drinking hours would not create a nuisance for residents. It was advised that no response had been received.

Arising from a question raised by the Sub-Committee, Mrs Bailey acknowledged that rubbish, glasses and bottles may not have come from The Wall Heath Tavern as there were other public houses in close proximity and located on a main road. It was commented that her property had been damaged in the past and although there were no CCTV cameras on her property, she had attributed the damage to patrons leaving The Wall Heath Tavern. It was noted that complaints had been made previously and she acknowledged that although she had bought her property with the understanding that it was close to a public house, she had not needed to complaint as much as she had done in the last few months. She accepted that this was a business but she considered that her complaints were reasonable.

Arising from a question raised in relation to the allegation of drug dealing taking place on the public house car park, it was noted that when the activities had been witnessed, an email had been sent to Mr Evans and the Police had been contacted. Residents were concerned that this activity would be exacerbated if the extra licensing hours were granted. Reference was again made to Mr Evans' Facebook page which had already advertised the extension to the opening hours and the derogatory comments that had been made about those who had objected to the application which had not fostered a good relationship with the community.



Mr Domleo presented the case on behalf of the applicant and in doing so reported that Mr Evans had been the Designated Premises Supervisor (DPS) of The Wall Heath Tavern since September 2018 and had become the Premises License Holder (PLH) in September 2019. Mr Evans lived at the premises and like the local residents, he did not wish to be disturbed by patrons leaving his establishment as it was not his intention to create noise nuisance as it was his desire that everyone, including local residents could enjoy what the premises had to offer.

Mr Domleo advised that the purpose of the application was to give The Wall Heath Tavern the opportunity to succeed following the pandemic bearing in mind, the impact that the lockdown had had on the hospitality industry. It was believed that the application was a considerate and sensible application, critical to supporting the success of the public house whilst at the same time, up-holding the licensing objectives and not causing any problems to local residents as it was not envisaged that even with the extra hours, the establishment would become a rave venue or a nightclub.

It was advised that the purpose of the application was to seek an extension to the terminate hour for the sale of alcohol only on a Friday and Saturday night until 1.00am, together with the playing of recorded and live music until 12midnight only on a Friday and Saturday night. The premises would not trade to these times every Friday and Saturday. The extra hour would allow for flexibility, especially when holding functions such as weddings or birthday parties to allow patrons to stay a little later.

Mr Domleo confirmed that the application also sought to include the whole of the site within the licence area to allow the premises the flexibility for the sale of alcohol to take place from a portable bar unit externally on occasions, such as when holding a Christmas market to sell mulled wine or a portable bar in the beer garden. The application also sought to remove existing Annex 2 and Annex 3 conditions as the majority of these were either now outdated or covered by primary legislation. It was reported that these would be replaced with updated and proportionate conditions such as CCTV and regular boundary checks when entertainment would be taking place.

Referring to Annex 3 conditions, Mr Domleo advised that the majority of those that were still in some way enforceable, had been replaced with updated wording in the operating schedule. Referring to the objections to the application, it was noted that several residents had referred to vehicles parking outside their properties causing a nuisance and reference was made to the use of a drone. Mr Domleo advised the Sub-Committee that these issues fell outside of the licence remit. Mr Domleo commented that if the residents had issues with how Mr Evans as DPS operated the premises, they could have complained to Environmental Health who have statutory powers to investigate statutory nuisance. However, this did not seem to have been the case as Environmental Health had not objected to this application.



In response to the objector's claim that Mr Evans was not complying with his existing conditions, Mr Domleo commented that Mr Evans had given assurance that this was definitely not the case and he was very disappointed by this allegation as he takes his responsibilities under the Licensing Act very seriously and he wanted the premises to flourish and be both successful and an asset to the local community. Mr Domleo stated that furthermore, it was important to note that no objections had been received from the Police, Environmental Health or the Licensing Authority in relation to this application and should any of the authorities have any concerns with regards to non-compliance in terms of the existing premises license or the proposed timings and conditions, it would have been expected that either objections would have been lodged or a request be submitted to modify the application in some way or agree conditions, but again this did not seem to be the case.

It was noted that it was Mr Evans' intention that the premises continued to trade in its current form with slightly extended trading hours only on Friday and Saturday. Furthermore, should any proposed conditions be breached, Mr Evans was fully aware of the consequences, such as possible enforcement action being taken by the authorities against the premises licence and the imposition of an unlimited fine. It was reiterated that Mr Evans lived on the premises and had invested a lot of his own money into the premises and it is within his own interest to promote the licensing objectives and ensure the success of the business.

Mr Domleo commented that there appeared to be no issues with the current running of the premises and with the proposed measures in place, it was envisaged that there would be no issues with the future running of the site. It was noted that should any issues arise however, local residents and the authorities had numerous options to impose on the premises and Mr Evans as the DPS and reference was made to the measures available. Mr Domleo stated that these safeguards should provide confidence to the Sub-Committee and the residents that Mr Evans would continue to uphold and promote the licensing objectives.

It was advised that having reviewed the residents' objections, Mr Evans had agreed to an additional condition to be added to the premises license, should the application be granted, to provide residents with a dedicated telephone number to allow complaints to be made directly to Mr Evans at all times when the premises was open. It was reiterated that Mr Evans had invested his own money into the site and as a resident of the local community, he felt that at this very difficult time, it was critical to support public houses and appreciated the importance in upholding the licensing objectives and not causing a nuisance to local residents.

In concluding, Mr Domleo stated that the application put before the Sub-Committee, along with the additional condition, would maintain the premises, promote and uphold the licensing objectives and for these reasons, it was requested that the application be granted.



Mr Evans reiterated the comments made by Mr Domleo and made reference to events that had been held on the premises which had raised money for a Defibrillator machine to be installed in the village. Mr Evans made reference to the current ethos of the establishment as a safe, middle-aged family friendly public house being the most expensive in the area and as such, he did not envisage attracting a youth market. It was noted that the doors to the premises were shut at 11.00pm to discourage people coming into the premises at that time from other establishments.

The Chair raised a question in relation to the concerns that had been raised with regards to the potential for a different type of clientele being attracted to The Wall Heath Tavern should the application be granted to extend the drinking time, and any potential issues this may bring. It was questioned, therefore, whether Mr Evans would confirm that his unofficial door policy of not letting in potential customers after 11.00pm would remain and would he consider having licensed door staff on the premises as this would help to alleviate some of the concerns that had been raised at this meeting. In response, Mr Evans stated that as the DPS, he had the responsibility to refuse to serve people already inebriated who may try to gain entry from other establishments and that all his staff had been Challenge 25 trained and also had a responsibility to not serve people already under the influence of alcohol.

In this regard, Mr Domleo, made reference to the licence already in place that allowed for the sale of alcohol until midnight, with the doors shut at 12.30am. Therefore, any last entry condition should only apply to the extra hours granted, therefore, last entry would finish at midnight and the beer garden would not be used after 11.00pm on any night. Mr Domleo confirmed that Mr Evans would be willing to close the door at 12midnight, however it was requested that this be left as an operational decision rather than a condition of the licence.

Whilst acknowledging the concerns raised with regards to door staff, Mr Domleo made reference to the huge financial burden in hiring door staff, and given that there was no objection submitted from the Police, it was considered that this would not be proportionate under the circumstances. It was noted that as part of the application, it would be stipulated that the CCTV system already in operation, be retained up to 31 days and would be provided to the Police on request to assist with any crime and disorder should it arise. Mr Evans as the DPS could risk assess the need for door staff and any advice would be taken from the Police if necessary. It was noted that a request for a door staff condition usually came from the Police and it was reiterated that the Police had raised no objection to this application. Mr Evans had demonstrated that the proposed extra trading hours were to increase the flexibility for customers to continue to drink who were already on the premises attending events, and it was envisaged that this would not take place ever Friday and Saturday night.



At this juncture, all parties were provided with the opportunity to sum-up their cases.

The Solicitor provided a summary of the application to be considered by the Sub-Committee together with the representations presented at the meeting and the written representations received. Following summing up, the parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited all parties to return and the Chair outlined the decision.

Resolved

That, following consideration of the information contained in the report submitted and presented at the meeting, the application for the variation of a premises licence in respect of The Wall Heath Tavern, 14 High Street, Wall Heath, Kingswinford, be granted, with the additional condition:

1. A dedicated telephone number will be given to any resident on request to allow complaints to be made directly at all times the premises are open.

The meeting ended at 4.05pm

CHAIR



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