

EAST STAFFORDSHIRE BOROUGH COUNCIL
LICENSING ACT SUB-COMMITTEE

Minutes of the Meeting of the Licensing Act Sub-Committee held a virtual environment on Tuesday 8th September 2020 at 10.00am.

Present:

Councillors S Gaskin (Chairman), Ms A Legg and Mrs B Toon.

Officers Present:

Mrs A Wakefield (Solicitor), Mrs K Critchley (Licensing Officer) and Mr N. Harris (Licensing Officer).

37/20 DECLARATIONS OF INTEREST

There were no declarations of interest at the commencement of the meeting.

38/20 APPOINTMENT OF CHAIRMAN

Resolved:

That Councillor S Gaskin be appointed Chairman for this meeting.

39/20 URGENT BUSINESS

There was no urgent business brought forward to the Licensing Act Sub-Committee pursuant to Rule 12.

40/20 APPLICATION TO VARY A PREMISES LICENCE – THE CROWN, MAIN STREET, YOXALL, BURTON UPON TRENT, STAFFORDSHIRE DE13 8NQ

(HoS) The report of Mark Rizk (Head of Service), regarding application to vary a premises licence was considered.

Mr Darren Kelly, the applicant, was present at the hearing.

Mr Michael and Mrs Jeanne Charlesworth, objectors, was present at the hearing.

The sub-committee heard oral evidence from the following:

Mrs Kathryn Critchley (Licensing Officer)

Mr Darren Kelly (the Applicant)

Mr Michael Charlesworth (Objector)

Resolved:

This was an application to vary the existing premises licence to allow the supply of alcohol between 10.00 and 22.00 Monday to Saturday and between 11.00 to 22.00 on Sundays, from a new outside bar at an existing licensed premises. The application also included the playing of recorded music during the same hours within the proposed new licensed area, although, if the audience does not exceed 500 then no licence permission would be required for the playing of recorded music in these circumstances.

No representations have been received from any Responsible Authority. One representation had been received from Other Persons, namely Michael and Jeanne Charlesworth, whose property is next door to the Crown Inn. Mr Charlesworth spoke eloquently and at length on

behalf of himself and his wife. He prefaced his submissions by stating that they had lived next to the Crown Inn for the past 36 years and they have never had cause to complain about the pub. He explained that their concerns centred around the playing of recorded music outside the pub and the detrimental impact that would have on Mr and Mrs Charlesworth's quality of life, their ability to enjoy their garden; and the potential impact on Mr Charlesworth's health. Mr Charlesworth also described the context within which the pub is situated, saying that this is a quiet residential area and he believed that the playing of music outside the Crown would give rise to public nuisance. Mr Charlesworth said that he had no objection to the occasional playing of music at the venue, at a reasonable level and he told the Members that previous tenants have played music outside, but only occasionally, at a reasonable level and with prior notice. Mr Charlesworth also said that when he and his wife (and any visiting friends and family) were in their garden they were able to hear patrons of the pub swearing in the beer garden and on one recent occasion someone swore over the pub's public address system. With the consent of all parties, Mr Charlesworth talked the Members through a plan of the premises, explaining that in his view the red line plan was flawed in that it did not present a realistic picture of the full extent of the pub's outside spaces and their proximity to his property. Mr Charlesworth cited the Council's Statement of Licensing Policy in support of his objections, namely, 4.8; 19.1; 19.3; 20.3 and 20.5. Once again with the consent of all parties, Mr Charlesworth played a video, recorded in his garden over the August Bank Holiday weekend at a time when music was being played in the garden of the Crown. Mr Charlesworth ended his submissions by saying that he feared even a low level of volume would be intrusive and detrimental to his and his wife's quality of life; they believed that what was being applied for was unreasonable and the application should be refused.

Members also heard from David Kelly, Admiral Tavern's Licensing Team Leader. Mr Kelly said that the applicant agreed with Mr and Mrs Charlesworth's position and that they did not want to do anything that would cause nuisance. Admiral Taverns wished to take account of the concerns of any neighbours and to work together to address those concerns. He explained that the proposed new outside bar would be housed in a converted shed with a seating area. Mr Kelly told Members that there was no history of complaints at the premises and no issues of noise. He was concerned by what he had heard on the video and what Mr Charlesworth had said about someone swearing over the public address system; and he would be raising those issues with the area manager and the premises management respectively.

In their final statements, Mr Kelly said that the applicant believed that what they were asking for was reasonable and he pointed out that they had not asked for live music; Mr Charlesworth said that he believed the proposed hours were disproportionate and unreasonable.

Decision

Having considered the submissions of both parties and the documents contained in the agenda pack, the Members determined that there would be no harm to the licensing objectives arising from the variation applied for and they therefore granted the variation as requested.

In reaching their decision the Members took into account the fact that this premises had no history of complaints. The new licensed area was as shown on the plan submitted with the application and this is where the background recorded music would be played, incidental to the licensable activity of the sale of alcohol. The Members were able to attach only limited weight to the video played for them by Mr Charlesworth: they took at face value that he had recorded the footage in his garden and that it contained music emanating from the Crown; however, they were not able to conclude that this was representative of the type of background music it was intended to play at the outside bar. The Members also took at face

value Mr Kelly's assurances that the applicant wished to avoid causing any nuisance to its neighbours and the premises would be run accordingly; that Admiral Taverns would ensure that neighbours could contact it to discuss any concerns; and would work with its neighbours to address those concerns. Members recognised that this decision would be disappointing for Mr and Mrs Charlesworth but they wished to remind Mr and Mrs Charlesworth that if the premises were to be the source of nuisance at any point in the future then Mr and Mrs Charlesworth would have the ability to call for a review of the premises and a range of sanctions would then be available to the Sub-Committee. Members trusted that that premises would continue to be run in such a manner that it will not be the source of nuisance or give cause for complaint.

Chairman