

Public Document Pack

South Northamptonshire Council

Licensing Sub-Committee

Minutes of a meeting of the Licensing Sub-Committee held at The Forum, Moat Lane, Towcester, Northants NN12 6AD on Tuesday 22 October 2019 at 10.00 am.

Present

Councillor Dermot Bambridge
Councillor Sandra Barnes MBE
Councillor Hywel Davies

Officers: Nicholas Sutcliffe, Licensing Manager
Stephanie Broomfield, Licensing Enforcement Officer
Lisa Gilligan, Solicitor
Aaron Hetherington, Democratic and Elections Team Leader

10 **Appointment of Chairman for the Meeting of the Subcommittee**

Resolved

(1) That Councillor Hywel Davies be appointed Chairman of the Sub-Committee

11 **Declarations of Interest**

There were no declarations of interest

12 **Premises Licence Review Hearing**

The Assistant Director of Environmental Health and Regulatory Services submitted a report which considered a request from Mr T Beckett for a review of the premises licence relating to; Butchers Arms, 10 Whittall Street, Kings Sutton, OX17 3RD.

Resolved

(1) As set out in the attached determination letter

The meeting closed at 11.02 am

Chairman:

Date:

Mr Beckett

Your Ref:
Our Ref: Butchers Arms
Ask For: Licensing
Direct Dial: 01327 322278
Direct Fax:
Email: Licensing@southnorthants.gov.uk
Date: 25 October 2019

Dear Mr Beckett,

Licensing Sub-committee Hearing: 21 October 2019
Application for Review of the Premises Licence – The Butchers Arms

I write to confirm the outcome of the above hearing.

The Hearing

The Licensing Sub-Committee carefully listened to all of the oral submissions made by both Mr Beckett & Mrs Beckett and those appearing on behalf of the Premises Licence Holder: Mr James Anderson (Solicitor), James Clarke (Hook Norton Brewery), Gerry Winder (Hook Norton Brewery), Karen Hales and Wayne Selwood (Tenants) and Felix Faulkner (Trainee-Observer). The Sub-Committee also considered all of the written representations submitted by all parties ahead of the hearing, including the two packs of supplemental information.

The Licensing Team

The Licensing Officer presented to the Sub-Committee the licensing report and further apprised the Sub-Committee as to the options available to it as regards determining the application, namely:-

- To modify the conditions of the licence;
- To exclude a licensable activity from the licence;
- To remove the Designated Premises Supervisor;
- To suspend the licence for a period not exceeding 3 months;
- To revoke the licence

The Licensing Officer reiterated to the Sub-Committee the Licensing Objectives specified in the Licensing Act 2003, the promotion of which the Sub-Committee is required to give effect to in the determination of the application, namely:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

The Application

The application considered was for the review of the Premises Licence submitted by Mr T Beckett. The Sub-Committee heard from both Mr and Mrs Beckett in terms of the issues they had experienced since the current tenants had taken over. These primarily related to noise, caused by the "Aunt Sally" games and children being so close to garden boundary. The noise created by children screaming and shouting unsupervised in the garden and climbing the hedge between the two properties.

It was noted by the Sub-Committee that within the written representations received the only letter in support of the application which appeared to be referring to a previous planning application. Mr Anderson highlighted that the representation was in relation to a different application and reminded the Sub-Committee that planning and licensing were not to be linked. However Mr Beckett maintained that there were relevant issues to both. Mrs Beckett further stated that residents had been unaware of the review application.

The Sub-Committee heard from Mr James Clarke the Managing Director of Hook Norton Brewery who gave an outline as to his professional background and his role at Hook Norton Brewery. The Sub-Committee noted that Mr Beckett had previously refused to meet Mr Clarke to discuss the problems. The Sub-Committee also noted the lengthy e-mail exchange between the two which was provided within the supplementary information.

Mr Anderson questioned Mrs Beckett's assertion that residents were unaware of the review application this pointing to the letter which was provided within the supplemental information. The Sub-Committee noted that Mr & Mrs Beckett had written to local residents highlighting both the review and planning applications and the action which residents could take should they wish to raise concerns. Mr Anderson further stated that some 30 people had taken the trouble to write to the Licensing Authority in support of the premises pointing out how well the tenants were doing. Mr Anderson stressed that the Premises Licence Holder complied with the use of the garden until 23:00 and sought to address the issue of children climbing the hedge and the Aunt Sally games. He stated the Premises Licence Holder was quite prepared to erect a fence to prohibit access to the hedge. The intention was to put up a picket fence in the same style of the one surrounding the car park. He also confirmed that the Aunt Sally boards had been repositioned and padded in a genuine attempt to limit any disturbance.

In answering the concerns raised about a lack of supervision in the garden Mr Anderson referred to back to the previous variation application to permit an external bar. The Sub-Committee noted his view that supervision would now be increased with an increased parental presence and bar staff.

The Sub-Committee also noted Mr Anderson's comment that the Council's Environmental Health Officer had carried out an investigation which had concluded there was not an ongoing noise issue.

In response Mr Beckett stated that he didn't agree with most of what had been said. Whilst the Aunt Sally boards had been padded, the PVC had no noise absorbent impact whatsoever. His view was that the padding should be changed to sacking/wool as this could reduce noise. The Sub-Committee noted that he invited the Hook Norton Brewery to look at this as an inexpensive alternative.

Mr Beckett asserted strongly that the Premises Licence Holder was aware of the monitoring when it was taking.

The Sub- Committee noted that Mr Clarke confirmed that the Brewery were currently looking at alternative padding measures for Aunt Sally boards not only at The Butchers Arms but in all of their premises where Aunt Sally was played. He said it was highly likely that an alternative solution would be in place by Spring of 2020. Both Mr Anderson and Mr Clarke refuted any suggestion that the Premises Licence holder had been made aware of the noise monitoring. Mr Anderson pointed out that it wouldn't be usual to notify the person that you were investigating as it could and would and indeed defeat the object.

The Sub- Committee noted the Licensing Manager's confirmation of the EHO investigation and the fact that the subject would not have been informed.

In summing up Mr Beckett commented that he had asked for unredacted versions of the written representations in support of the premises licence holder but the Licensing Manager had not been prepared to release them. His view was that this is unfair and unlawful.

The Legal Advisor stated it was the Licensing Authority's standard policy to redact personal information from representations. The redacted representations formed part of the Licensing Manager's public report considered by the Sub-Committee.

Mr Beckett also referred to an email on page 35 of the supplementary information which was titled "from planning website, comment from ". The Sub-Committee noted that there was no date on the document and furthermore it was unclear whether the measures in relation to the re-positioned sound insulated Aunt Sally boards had been put in place before the email was sent.

Mr Beckett stated that the premises were trying to show the Sub-Committee a model pub which was not a true representation of facts on the ground. Mr Beckett referred to the Council's Licensing Policy paragraph 6.2 in relation to public nuisance highlighting that there was a broad common law definition which had nothing to do with the statutory noise nuisance.

Mr Anderson stated that the Council could draw an inference from the independent noise investigation of a lack of nuisance, statutory, public or otherwise.

Objections

The Sub-Committee listened very carefully to all of the submissions made and carefully considered the written representations to the application.

The Sub-Committee noted that Applicant's concerns were raised in relation to the four Licensing Objectives but in particular had regard to noise issues arising from the close proximity of the pub garden.

Determination

In determining the application the Sub- Committee gave primary consideration to the promotion of the four Licensing Objectives.

The Sub-Committee considered the current licence conditions in force and had particular regard to condition 1 in Annex 5 which prohibits the use of the garden after 23:00.

Whilst the Sub-Committee noted all of the submissions made by Mr Beckett in relation to noise caused by children and the playing of Aunt Sally in the pub garden. The Sub-Committee were satisfied that appropriate measures were being taken. The Sub-Committee were encouraged by the undertakings given by the Premises Licence Holder that an alternative padding would be investigated with a view to implementation in April 2020. The Sub-Committee were also satisfied with the undertaking to erect a fence between the garden and the hedge denying children access. The Sub-Committee was also satisfied that the creation of an external bar would lead to increased supervision in the garden area.

The Sub-Committee also noted the result of the Council's independent noise investigation.

The Sub-Committee considered all of the measures available but concluded that no further steps were necessary or proportionate given the Premises Licence Holder's undertakings.

The Sub-Committee noted Mr Beckett's previous refusal to meet with Mr Clarke but were encouraged by his closing comments that he hoped they could now get together amicably.

The Sub-Committee therefore urges the parties to engage in dialogue moving forward.

Appeal

Parties have the right to appeal this decision by giving notice to the Magistrates' Court within a period of 21 days beginning with the day upon which notification of the determination was given.

Any appeal should be made to Northampton Magistrates' Court at the court's correspondence address:-

Regent's Pavilion
Summerhouse Road
Moulton Park
Northampton
NN3 6AS

Yours sincerely,

Nicholas Sutcliffe
Licensing and Business Support Manager