

**Minutes of the Licensing Sub-Committee 4
Tuesday, 2nd May, 2023 at 10.40 am
At Saltwells Education Development Centre, Bowling
Green Road, Netherton.**

Present:-

Councillor A Taylor (in the Chair)
Councillors M Howard and S Greenaway

Officers:-

N Slym - Assistant Team Manager (Licensing and Waste Enforcement)
(Director of Environment); S Wright – Solicitor and H Mills – Senior
Democratic Services Officer (Directorate of Finance and Legal).

4 Apology for Absence

An apology for absence from the meeting was received on behalf of
Councillor M Evans.

5 Appointment of Substitute Member

It was reported that Councillor A Taylor had been appointed to serve as
substitute Member on behalf of Councillor M Evans, for this meeting of
the Sub-Committee only.

6 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

7 **Minutes**

Resolved

That the minutes of the meeting held on 29th November, 2022, be approved, as a correct record and signed.

8 **Application to Vary a Premises Licence – The Crown, High Street, Sedgley**

A report of the Interim Director of Environment was submitted to consider an application for variation of the premises licence in respect of The Crown, High Street, Sedgley.

The following were in attendance at the meeting:-

M Hazelwood – John Gaunt & Partners
S Jackson – Marston's Area Manager
G Morris – Designated Premises Supervisor
A Bayliss – Business Owner
Councillor M Evans – Ward Councillor

Following introductions of those present, the Assistant Team Manager (Licensing and Waste Enforcement) then presented the report on behalf of the Council, advising that the variation application proposed for the premises licence to commence trading earlier to undertake breakfasts and to facilitate the provision of alcohol on an occasional basis with those breakfast, particularly to travelling sports fans. The premises also sought to operate later on Friday's and Saturday's.

It was reported that an amendment to conditions on the licence was requested to bring forward the commencement time for retail sale of alcohol to 8am daily Monday to Sunday and to extend the hours of operation in respect of the sale of alcohol and licensable activities until 2am on Fridays and Saturdays. The consequential amendment in relation to the opening hours of the premises were sought as follows:-

Opening Hours

Monday to Thursday - 08.00 until 00.30

Friday and Saturday – 08.00 until 02.30

Sunday – 08.00 until 23.30

It was reported that the premises had proposed to apply an additional measure in order to promote the four licensing objectives should the variation be approved, which would entail a risk assessment being undertaken of the last entry policy when undertaking licensable activities after 12 midnight.

Councillor M Evans, on behalf of local residents and fellow Ward Councillor, outlined the reasons for his objection, and in doing so stated that the premises was located in a heavily populated residential area with other licensed premises within the vicinity licensed to operate until 23.30 hours. It was considered that the proposed variation would give residents inequality of peace.

Further concerns were expressed with regards to the proposal to cater for travelling sport fans, the majority of which would arrive by coach or minibus and the difficulties that may be encountered of such vehicles accessing the premises designated car park, which was considered impossible due to the need to travel along an extremely narrow street and emphasised that the traffic flow in Sedgley was already extremely congested. It was anticipated that the requested variation could result in public nuisance and would be detrimental to local residents.

As no questions were asked of the objector, M Hazelwood then presented the case on behalf Marston's PLC.

M Hazelwood stated that the premises had been owned and operated by Marstons PLC for a significant period of time and Mr and Mrs Morris were to be the new tenant under a new agreement moving forward. Both Mr and Mrs Morris were local to the area and familiar with Sedgley. It was reported that the premises had historically served and offered breakfasts, although the license did not reflect this. Therefore, this element of the variation, together with the option to sell alcohol on an occasional basis was requested to regulate this offer. It was emphasised that the offer of breakfast would not just be to accommodate sporting fans, but to meet the needs of the dynamic society. It was also stressed that alcohol at that time would only be served with food.

In addressing the concerns raised of coaches and mini-buses being present, it was stated that these would only be in attendance for a brief period of time to allow for users to board. Whilst it was recognised that the designated car park was not big enough for a coach to turn around on, it would allow for a coach to reverse onto to load. Alternative options had also been explored for the vehicle to park for a brief time on the main road outside the premises for people to access directly. It was further emphasised that this would not be on a weekly basis.

In addressing concerns with regards to the premises remaining open until 02:00 hours, M Hazelwood referred to the letter and comments made by Mrs Morris included in the bundle, in that it was not the intention for the premises to revert into a late night venue, but was an option to be used at their own discretion and would not be advertised, but would allow patrons to continue to have an extra drink after the entertainment had ceased. It was reiterated that a risk assessment for last entry at 12 midnight would be implemented as an additional condition.

At this juncture the meeting was adjourned to allow Members and all parties to read the additional information that had been submitted by John Gaunt & Partners on behalf of the applicant, after the agenda had been circulated.

Upon reconvening, the Chair confirmed with all parties and it was unanimously agreed for the meeting to proceed taking into account the additional information that had been provided.

The Solicitor to the Sub-Committee stated that during the adjournment Members had expressed concern with regards to the comments made that the extended opening hours would not be advertised, however were of the view that it was inevitable that it would soon become common knowledge and questioned how this would be managed.

In responding M Hazelwood reiterated that it was not the premises intention to become a late-night venue and the additional hours would not be advertised, but would allow time for patrons to continue their conversations. The current customer base was persons aged 30+ which would continue moving forward to create a community hub. It was further reiterated that a risk assessment at 12 midnight would be undertaken to stop migration from other venues in Sedgley and that no other persons would be admitted after 12 midnight on Friday and Saturday evenings. It was recognised that on some weekends there would not be any migration, however on critical weekends a 12-midnight curfew would be implied by the premises licence holder.

Reference was made to the measures that would be taken to prevent noise breakout, in that the premises would continue to ensure that the fire door that faced on to The Walk would remain closed from 22:00 hours during regulated entertainment, to alleviate any concerns of noise nuisance. This would be made mandatory as part of the variation. It was stressed that no representations had been received from Environmental Health in relation to noise nuisance or from West Midlands Police.

In responding to questions raised, M Hazelwood confirmed that Mrs S Morris was a business partner and the DPS's wife. It was also confirmed that the residents that had provided letters of support, although had been asked if they would be willing to provide, had done so on their own accord.

In addressing the concerns raised in relation to coaches being parked on the highway, it was reiterated that coaches would arrive at designated times and people would automatically migrate out of the premises into the mode of travel to their destination. It was emphasised that it would not be a pub crawl, it would provide the opportunity for local people to gather, meet and eat before attending scheduled events, it was not the intention to host out of the borough coaches on the way to an event. It was also commented that the premises was not a sports pub and there were no televisions in the public areas.

Following further deliberations about the possible impact coaches would have to the congestion at Sedgley, the Solicitor reminded Members that highway congestion did not form part of the Licensing Act or Licensing Guidance. Public safety would be in relation the premises and car park and not the high street.

In referring the proposed extended times, it was commented that the license currently allowed for the premises to remain open until 01:00 hours and there was no record of past nuisance.

Arising from a question raised with regards to extending entertainment until 02:00 hours on Friday's and Saturday's and the impact this may have on nearby residents, it was stated that there had been no request to extend the time for live music. Recorded music was already permitted until 12 midnight.

Following a suggestion by the Sub-Committee, M Hazelwood, in consultation with her client, agreed to a reduction in the hours for regulated music and all aspects of entertainment to cease at 00:30 hours, with alcohol and premises permitted to open until 02:00 hours. This variation would address concerns raised in relation to potential noise nuisance and would be more fitting to the desired community hub environment that was envisaged.

All parties were provided with the opportunity to sum up their cases, following which the Sub-Committees Solicitor provided a legal summary in relation to the application.

All parties withdrew from the meeting to enable to Sub-Committee to determine the application.

The Sub-Commtee having made their decision invited the parties to return and the Solicitor outlined the decision.

Resolved

That following careful consideration of the information contained in the report submitted and presented at the meeting, the application for variation of the premises licence in respect of the premises known as The Crown, High Street, Sedgley, as outlined in the report, be granted, subject to the modified hours, as agreed during the meeting, in respect of licensable activities, namely indoor sporting events, films, recorded music, performance of dance and entertainment of similar description on Friday's and Saturday's, which will cease at 00.30 hours and the additional condition as outlined below:-

- That the premises would continue to ensure that the fire door that faced on to The Walk would remain closed from 22:00 hours during regulated entertainment, to alleviate any concerns of noise nuisance. This would be made mandatory as part of the variation.

The applicant was informed of their right of appeal.

9 **Application to Vary a Premises Licence – The Red Lion, Abbey Road, Gornal Wood, Dudley**

A report of the Interim Director of Environment was submitted to consider an application for variation of the premises licence in respect of The Red Lion, Abbey Road, Gornal, Dudley.

The following were in attendance at the meeting:-

M Hazelwood – John Gaunt & Partners
S Jackson – Marston's Area Manager

The Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that the application proposed the variation of the premises licence as follows:-

Sale of Alcohol and Regulated Entertainment
(Films/Indoor Sportig Events/Live Music/Recorded Music/Dance)

Monday to Sunday – 09.00 until 00.00

Late Night Refreshment

Monday to Sunday 23.00 until 00.00

Hours open to the Public

Monday to Sunday (Inclusive) 09.00 until 00.30

A review of the conditions had also been undertaken and the following amendment was proposed:-

Children under the age of 16 shall not be permitted to enter the premises after 21;00 hours until attending a pre-booked function or dining.

It was reported that the representations received from a local resident had been withdrawn prior to the meeting, following mediation with Marstons PLC, however the concerns of the Planning Department in relation to the proposed hours and the unacceptable impact this may have on neighbours' amenities in terms of noise and disturbance in unsociable hours of the night, still remained.

M Hazelwood then presented the case on behalf Marston's PLC, and in doing so stated that a new designated premises holder had now been appointed, who was local to the area and had historic experience in working in the pub sector. It was advised that the premises was a community hub and the proposed variation to the licence was to refresh and update the licence.

In referring to the representations received by a local resident, the Sub-Committee were advised that the resident had been spoken with to identify and address the concerns raised, and it had become apparent that the loud music that had been referred to was not directly from the premises itself, although the speaker had been removed from the garden area to alleviate any noise nuisance concerns. The resident had also referred to customers smoking outside of the premises instead of using the dedicated smoking shelter in the garden and it was agreed that the new Premises Licence Holder would encourage customers to smoke within the designated zone.

With reference to the concerns in relation to anti-social behaviour at the bus terminal and the wasteland adjoining the premises, it was reported that whilst it recognised that this was not the responsibility of the premises, the Premises Licence Holder would work collaboratively with local residents to try to alleviate the concerns and as a result the resident was happy to retract their original objection.

On conclusion of hearing all of the representations submitted, it was

Resolved

That the application for variation of the premises licence in respect of the premises known as The Red Lion, Abbey Road, Gornal, as outlined in the report submitted, be granted.

All parties would be informed of their right of appeal.

10 **Application for House to House Collections Licence – Recycle Proline Limited, Ukraine Appeal**

A report of the Interim Director of Environment was submitted to consider an application for the grant of a House-to-House Collections Licence received from Recycle Proline Limited on behalf of the Ukraine Appeal.

The following persons were in attendance at the meeting:-

K Donelaite – Recycle Proline Limited
A Kulikauskas – Recycle Proline Limited

Following introductions, the Sub-Committee's Solicitor advised of the prescribed information that was required in accordance with the House-to-House Collections Act 1939 for the Sub-Committee to be able to consider an house-to-house collections application.

The Assistant Team Manager (Licensing and Waste Enforcement) presented the report and in doing so stated that the Licensing Section in accordance with the Neighbouring Authorities working Group introduced a policy in 1999 requiring all House-to-house collection applicants to submit income and expenditure accounts for the previous financial year. In 2009 a further policy was introduced by the Council that all applicants should also submit income and expenditure accounts for the previous financial year of the charity for which the collection is being made, to ensure that a substantial amount of the monies collected was used for charitable purposes. It was acknowledged that as the Ukraine Appeal was a new organisation, accounts were unable to be produced at this time.

In considering the application, the Chair commented that the accounts provided on behalf of Recycle Proline Limited were dated May 2021, and questioned if the accounts for 2022 were available.

In responding, A Kulkauskas stated that at the time of the application the 2022 accounts were not available however they had since been submitted to Company House.

The Solicitor to the Sub-Committee confirmed that Members should see the relevant accounts for the previous year in advance of a decision being made, therefore it was

Resolved

That the application for grant of a House-to-House Collections Licence to Recycle Proline Limited on behalf of the Ukraine Appeal, be deferred to a future meeting upon receipt of the relevant income and expenditure accounts.

11 **Questions from Members to the Chair (Council Procedure Rule 11.8)**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

The meeting ended at 1.30pm

CHAIR