

LICENSING SUB COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY, 1 OCTOBER 2015

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Thursday 1 October 2015
SUB-COMMITTEE MEMBERS PRESENT:	Councillor Gordon Jackson (Chairman) Councillor David Goodwin Councillor Mike Parsons
OFFICERS PRESENT:	Carrie Anderson (Committee Manager) Raj Devandran (Lawyer Litigation & Corporate) Mark Adams (Licensing Compliance Officer) Victoria Coombs (Trainee Solicitor)
RESPONSIBLE AUTHORITIES:	One representation from the Environmental Health Officer.
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	No pecuniary interests were declared.
PREMISES:	Kings Head Pub, Quarry Street, Guildford GU1 3XQ
TYPE OF APPLICATION:	Variation of premises licence.
DETAILS OF APPLICATION SOUGHT:	Variation of condition F6 and removal of condition G2, both imposed at the Sub-Committee Licensing hearing held 20/01/2012. The variation to condition F6 was to extend the permitted public use of the outside garden areas for drinking from 23:30 throughout the week to 00:30 Sunday – Thursday and to 01:30 Friday and Saturday. Condition G2 stated: No more than 12 people to be allowed in the smoking area at any one time.
APPLICANT:	Mr Mike Davey Mr Bob Mattock (Agent)
OTHER PERSONS:	Mr Paul Narraway (speaking) and Mr Doug Clare (observer)

DETAILS OF DECISION TAKEN:

The Sub-Committee considered the application to vary the premises licence relating to the outside garden areas of the Kings Head Pub. The Sub-Committee also considered the relevant sections of the Council's Licensing Policy and the National Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 (as amended).

The Licensing Compliance Officer informed the Sub-Committee that Mr Mike Davey sought a variation of the licence in relation to the outside garden areas of the pub. The existing licence condition F6 prevented use of the outside areas for drinking after 23:30 hours. Mr Davey proposed an extension to the hours which the public were permitted to use the outside garden areas for drinking to a later time of 00:30 Sunday – Thursday and to 01:30 Friday and Saturday. In addition, Mr Davey proposed the removal of condition G2 which set a limit on the number of people permitted to use the smoking area at any one time to 12. No changes were proposed to the existing hours of operation. Mr Davey proposed additional staff supervision of the outside areas at 30-minute intervals during opening times during which patrons would be encouraged to keep noise levels to a minimum.

The premises was located on the corner of Castle Street and Quarry Street in an area of mixed-use development near to the town centre. The Licensing Compliance Officer advised that there had been one representation from the Environmental Health Officer to state that no past complaints of noise nuisance had been received. There were no other representations from the responsible authorities. Two representations had been received from other persons relating to neighbourhood noise levels in relation to the proposed variation of Condition F6. No representations were received in relation to the proposed removal of Condition G2.

The applicant's agent, Mr Mattock, waived an invitation to address the sub-committee in advance of the public speaker. Instead, Mr Paul Narraway spoke and set out his objections to the application.

Mr Narraway made the following submissions in objection to the application:

- The Environmental Health Officer had not received any past complaints of noise nuisance because Mr Narraway had always discussed and resolved his concerns directly with Mr Davey, instead of reporting them to the Council. He had previously enjoyed a positive, neighbourly relationship with Mr Davey and the pub staff and was an occasional customer.
- It was explained that the pub garden was on two levels and that the upper level of the pub garden and Mr Narraway's garden were joined on a common boundary. He felt this had not been made clear in the officer report. Mr Narraway's daughter's bedroom backed onto the pub garden side of the house.
- The increased use of the back exit to the pub would put a greater number of customers at risk as they would step onto a road without a pavement on that side of the road.
- The applicant had mentioned a similar premises nearby being granted a similar variation; having made enquiries Mr Narraway discovered that the premises was Pews Bar. Mr Narraway said that a comparison with Pews Bar was not appropriate as the Pews Bar garden was a courtyard in the town centre with a roof/enclosure over the garden.
- Quarry Street was rapidly becoming a more residential part of the town and this should be recognised.

- The proposed 30-minute supervision of the outside areas would be insufficient.
- Mr Narraway felt that the use of the outside garden area beyond 23:30 hours was unreasonable and did not display sufficient consideration to local residents.
- Mr Narraway said that he was speaking on behalf of a number of local residents in the Holy Trinity area. He said he had received verbal requests from other residents to speak on their behalf.

Following a question from the Sub-Committee, Mr Narraway said that he approached the pub with regard to noise issues about twice a year for a number of years. The last time had been in mid-July 2015.

It was noted that, although Mr Narraway said he was speaking on behalf of others, the Sub-Committee could only consider the representations that had been received.

Mr Mattock made the following submissions in response and in support of the application:

- The Castle Street exit is already used and there have been no safety issues.
- The use of both exits would reduce noise and enable customer 'drift off'.
- The playing of low-level noise in the outside area would prevent customers from making additional entertainment and more noise.
- The license awarded to Pews Bar had created a business need to respond.
- There had been no complaints of noise and no Police call outs for several years.

Mr Devandran reminded the Sub-Committee of the following:

- The applicant did not need to prove a business case to be awarded the licence. The matter of the license awarded to Pews Bar was irrelevant to this application. The application should be considered on its own merits.
- That the age of people potentially affected by noise nuisance was not a valid consideration. The only matter to be considered was whether a noise nuisance was made out.

As a concession, Mr Davey then offered to retain the existing condition F6 on the upper garden area and alter the application to relate only to the lower garden area. Mr Narraway did not consider this would sufficiently mitigate the impact.

In consideration of the submissions from the applicant, the applicant's agent and the other persons the Sub-Committee noted that although there had been complaints about noise, these had not been formally logged with the responsible authorities. They also noted that, although the applicant had offered a concession to the application, the impact of late night noise in a residential area was capable of causing a public nuisance for local people.

Having considered the application and the submissions the Sub-Committee advised that Mr Narraway and local residents should log all future noise issues with the responsible authorities, so that a record of noise disturbances could be kept; and

RESOLVED: That the application for a variation of the premises licence in relation to the Kings Head Pub be granted subject to the following conditions:

1. Condition G2 be removed from the licence; and
2. Signage will be prominently displayed and customers will be advised to keep the noise levels down in the outside garden areas; and,
3. Condition F6 be amended to read:

“Customers shall not be permitted to use any external part of the premises, e.g. outside drinking areas, for any purposes after 00:00hrs (12 Midnight), including the consumption of alcohol, except for the designated smoking area as detailed on the submitted plan.”

4. The Designated Premises Supervisor (or their nominated representative) shall carry out regular monitoring checks (every 30 minutes) to encourage those patrons in the patio bar/courtyard area to keep noise to a minimum.

REASON FOR DECISION:

In reaching their decision to grant the application subject to the above conditions, the Sub-Committee considered both written and oral representations from the applicant and the other persons

The Sub-Committee agreed that since no representations had been received in relation to condition G2 that this condition should be removed from the licence.

With regard to condition F6 the resolution addressed the changing needs of the business set within the vibrant night-time economy, but also engaged the Council’s Licensing Policy objective of prevention of Public Nuisance, in acknowledgement of the expectation of local residents to have peaceful enjoyment of their properties.

While the sub-committee was sympathetic to the levels of noise generated by patrons in the garden areas, they did not find that the increased hours would generate a public nuisance, particularly in light of the representation made by the Environmental Health Officer that no noise nuisance complaints had been made to date. They did however consider that 00:00 would be a reasonable time for the variation, due to the

changing nature of the location.

The Committee took into consideration the fact that the Applicant has sought to resolve any concerns raised by Mr Narraway, to the point where Mr Narraway felt it unnecessary to complain to the Council. They also considered the frequency of Mr Narraway's raising concerns with the Applicant.

It was accepted that keeping the garden open would allow patrons to "drift off" as opposed to leaving as one large group, thus minimising the risk of a public nuisance through increased noise.

Signature of Chairman:

Dated:

