

**LICENSING PANEL
16 JANUARY 2014
10.00 AM - 12.30 PM**



Present:

Councillors Allen (Chairman), Finnie and Mrs Temperton

In Attendance:

Simon Bull, Legal Adviser to the Panel
Amanda Roden, Democratic Services Officer
Richard Sherwin, Environmental Health Officer
Sue Walker, Licensing Officer

4. Declarations of Interest

There were no declarations of interest.

5. The Procedure for Hearings at Licensing Panels

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

6. Application for Variation of Premises Licence - The Wellington Arms, 203 Yorktown Road, Sandhurst. GU47 9BN

The Panel's decision was that the application for the variation of a premises licence in respect of The Wellington Arms, 203 Yorktown Road, Sandhurst. GU47 9BN shall be granted subject to additional conditions.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the applicant Mr Demko;
- the interested parties (1) and Richard Sherwin, Environmental Health Officer who submitted oral and written representations, and one other written representation.

together with reference to the appropriate Licensing Objective: The Prevention of Public Nuisance, particularly noise nuisance, the Council's own Licensing Policy and the Secretary of State's guidance. At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that there had been a representation made by Environmental Protection and that none of the other responsible authorities had objected.

The Panel noted that the sole concern was the noise of customers leaving the premises at the end of licensable activities late at night which had a detrimental impact on people living nearby, particularly next to or opposite the premises.

Previous monitoring of the premises in 2005 was undertaken in the short term but did not continue in the long term. It was alleged that customers from the premises would congregate outside after closing time and be noisy, for example, talking loudly and slamming car doors. The noise was said to be worse during fine weather, particularly during the summer months. However, noise did not occur on a nightly basis and otherwise the pub was said to be well run.

Some people living near to the premises were not aware of the application for a variation of the premises licence but it was confirmed that notification of the application had been displayed at the premises correctly. There was no requirement for neighbour notification under council legislation but in accordance with the Council's policy, the Licensing Team had written to neighbours adjacent or directly opposite the premises.

The Panel noted the reason for the application for variation of the premises licence which was that patrons of The Wellington Arms had requested longer opening hours at the premises as The Wellington Arms was well liked by local residents and some wished to remain longer rather than migrating to another licensed premises nearby at closing time. The noise of people migrating to another licensed premise (also in Sandhurst) which had a later terminal hour, could in itself be contributing to the noise experienced by neighbours and may lessen with longer opening hours at The Wellington Arms.

Extra staff were employed at the premises on Friday and Saturday nights to cope with the extra demand and customers were asked to leave quietly at closing time but the response to date by the applicant had been reactive. The central concern of the Panel was that the reactive approach meant that steps to stop noise nuisance would only be likely to occur once the noise was detected at which point those sleeping in the vicinity would be woken or disturbed. The Panel were keen to ensure that the applicant moved to a more proactive response which would require the applicant or his staff to monitor and patrol externally rather than monitor from the inside.

The Panel were unanimously concerned that the applicant's approach to monitoring noise nuisance was reactive. They wanted the applicant to be proactive in the future with much more external rather than just internal monitoring and sought to impose a condition to ensure that the applicant was more proactive in his noise reduction strategy.

The Panel noted that the interpretation of 'monitoring' as mentioned in the proposed licensing conditions could not be left solely to the discretion of the applicant and that additional conditions 29 to 31 were needed to clarify this further. External monitoring was felt to be needed at busy times such as Friday and Saturday nights, on special licensed occasions and during the summer months when patrons may linger and congregate either in the car park or on the grass verge, but on quieter evenings internal monitoring would be acceptable as customers left the premises at the conclusion of licensable activities. Monitoring should be undertaken by a minimum of one person and include external patrolling.

The Panel decided that granting the variation of the premises licence subject to the additional conditions would promote the four licensing objectives, and noted that the proposed licensing conditions addressed some of the concerns of local residents with regard to noise nuisance.

The Panel had to consider on the one hand the applicant's right to run his business free of unnecessary restrictions but that had to be balanced against the rights of those who live in the vicinity not to be woken or disturbed by the applicant's patrons when they leave the premises late at night. The Panel believed that the condition that they imposed would serve to ensure that the applicant was proactive in his noise management, whilst being granted the right to extend his licensable hours of opening and develop his business. At the same time it sought to provide a degree of protection for the interested parties to ensure that they are not disturbed by noise nuisance generally or have their sleep disturbed. If noise nuisance were to occur in the future the interested parties could seek a review of the licence and it could be varied.

Therefore the variation to the licence was granted subject to the additional conditions 29 to 31 below and the previously agreed conditions 32 to 35 below:

29) At the conclusion of licensable activities the external areas of the premises shall be monitored for 60 minutes by a suitable number of staff to ensure customers disperse quietly from the premises.

30) On Friday and Saturday and when there are any extended hours or when there is a risk of noise nuisance from customers, external monitoring shall be conducted by staff patrolling all external areas of the premises to ensure customers disperse quietly from the premises.

31) All monitoring of the external areas shall be recorded and made available to authorised officers of Bracknell Forest Council or Thames Valley Police on request.

32) There shall be no recorded music in the external areas after 21:00 on any day. The type and location of any speaker installed in the external areas is to be approved by an Environmental Health Officer.

33) All windows and doors to the public access areas shall remain closed, other than for access or egress, with the exception of the windows facing onto Yorktown Road, which shall be closed by 23:00.

34) The outside areas at the premises shall be closed to customers by 00:30 on Fridays and Saturdays and 00:00 at all other times, with the exception of the external smoking area which shall be open to smokers. This area shall be monitored by the DPS or a suitable member of staff to ensure noise is kept to a minimum so as not to cause nuisance to residents. Any incidents occurring in or around the premises during this time shall be recorded and made available to authorised officers of Bracknell Forest Council or Thames Valley Police on request.

35) External regulated entertainment shall only take place between the hours of 10:00 and 21:00.

The Panel were of the opinion based on the evidence advanced by both the applicant and the objectors that the four licensing objectives, specifically the avoidance of noise nuisance would be promoted by the granting of this licence, particularly as the licensing conditions accepted by the applicant would promote and safeguard the licensing objectives.

In summary, the Panel decided to agree the variation to the premises licence subject to the proposed licensing conditions 29 to 35 above.

CHAIRMAN