

# **LICENSING ACT 2003 SUB-COMMITTEE 1**

**13 AUGUST 2020**

**Present:**

Councillors Nutley (Chair), Bradford and Kerswell

**Officers in Attendance:**

Marie Downey, Solicitor

Debbie Rosenveldt, Licensing Officer

Trish Corns, Democratic Services Officer

Beth Tipton, Administrative Assistant

**1. APPOINTMENT OF CHAIRMAN**

It was proposed and seconded that Councillor Nutley be appointed Chair for the meeting.

RESOLVED

Unanimously agreed that Councillor Nutley be appointed Chair for the meeting.

**2. MINUTES**

The Minutes of the meeting held on 14 October 2019 were approved as a correct record and would be signed at a later date.

**3. DECLARATIONS OF INTEREST**

None.

**4. APPLICATION FOR A PREMISES LICENCE VARIATION - FINGLE GLEN GOLF HOTEL, TEDBURN ST MARY**

**4.1 Introductions**

The Chairman introduced the Members of the Sub Committee, Legal Adviser, Licensing Officer, Democratic Services Officer and explained their respective roles.

The Chairman advised that the Sub Committee would take into account the merits of the application against the four licensing objectives: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm, in addition to the Home Office Guidance and the Council's Licensing Policy.

#### 4.2 Procedure to be Followed

The Legal Adviser referred to the procedure to be followed for the Hearing and those present wishing to make verbal submissions. There had been no requests from any other party to speak at the hearing. The procedure was as previously circulated to all interested parties with the Notice of Hearing. All parties had been sent an agenda.

#### 4.3 The Council's Licensing Officer's Report

Changes to hours of regulated entertainment – live music, recorded music and performance of dance, supply of alcohol and inclusion of the provision of late night refreshment.

The operating schedule shows:-

Hours Premises Open to the Public:

Monday to Thursday	0700hrs to 2330hrs
Friday and Saturday	0700hrs to 0200hrs
Sunday	0700hrs to 2330hrs

Relevant licensable activities:

- Supply of alcohol.
- Provision of regulated entertainment: live music, recorded music and performance of dance.
- Provision of late night refreshment.

Hours of licensable activities:

Performance of Live Music (Indoors)	Sunday to Thursday 1200hrs to 2300hrs
	Friday and Saturday 1200hrs to 2400hrs

Playing of Recorded Music (Indoors)	Sunday to Thursday 0700hrs to 2300hrs
	Friday and Saturday 0700hrs to 0130hrs

Performance of Dance (Indoors)	Sunday to Thursday 0700hrs to 2300hrs
	Friday and Saturday 0700hrs to 0100hrs

Supply of Alcohol (on/off the premises)	Sunday to Thursday 0800hrs to 2300hrs
	Friday and Saturday 0800hrs to 0130hrs

Late Night Refreshment	Friday and Saturday 2300hrs to 0200hrs
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Seasonal variation:

Christmas Day 1100hrs to 1700hrs

Conditions had been agreed with the Police that on any day the premises are permitted to sell alcohol beyond midnight, the DPS must risk assess the requirement for employing SIA registered Door Supervisors based on the type of

function taking place. Should it be felt that Door Supervisors are required there will be a minimum of 2 on duty, commencing duty at 9pm.

The Council has received 11 representations of objection, on the grounds of public nuisance. 3 objectors including the Council's Environmental Health officer were present at the Hearing.

The Applicant was present at the hearing.

#### **4.4 Address by interested parties**

##### **4.4.1 Objectors**

We heard from the Environmental Health Officer who submitted objections on the grounds of Public Nuisance, specifically noise nuisance to the surrounding residential Pathfinder and Woodlands settlements. The Environmental Health Officer felt that for the application to be agreeable conditions would need to be added for example the licence only allowing for a specific season or events when these hours would be allowed. The Environmental Health Officer also stated that communication would be needed when events would happen so that sound monitoring could be arranged and until this was agreed the application could not be supported.

In response to questions the Environmental Health Officer stated that a similar establishment had a seasonal condition attached to its licence for the months of June to September. It may also be better if the applicant applied for a Temporary Event Notice (TEN) instead.

In response to questions the Environmental Health Officer agreed TEN's were limited in the amount of events one could have throughout the year and so they would be happy with conditions added to the licence.

We then heard from the public objector who submitted objections on the grounds of public nuisance, specifically noise nuisance at night. It is a very quiet, rural area with a more elderly population and there were fears that the golf club would become a party venue and move away from golf. There were concerns that management were not always around to be able to report concerns and incidents to when they occurred.

In response to questions the objector agreed that nothing in particular had been cause for concern over the last couple of months operating under the existing licence and they had not witnessed unruly behaviour personally.

##### **4.4.2 Applicant**

We also heard from the applicant, who submitted that the venue wanted golf to be their main business as this was their focus and indeed they were strengthening this side of the business. However, in order to survive they did also need to be able to put on other functions such as weddings. The club did not want to become a party venue and did not want to upset its neighbours, particularly those in close proximity such as the Pathfinder village.

In response to questions the applicant advised:

- Offering longer opening hours would allow the business to compete with others as over the years golf has struggled.
- Causing noise would affect their own staying guests, many of whom were families looking for a quiet break away.
- The application is purely for the clubhouse and not the lodges and as such can see no real increase in the level of noise or disturbance from the lodges.
- A 24 hour telephone system is being installed along with an email address so that complaints can be picked up by managers and dealt with immediately when necessary. Indeed, they would welcome dialogue with neighbours so that the business can continue to improve and ensure a quiet atmosphere for residents of the golf hotel as well as the surrounding villages.
- TENs notices were not necessarily suitable as this would not allow a full wedding season due to the limit of events that can be applied for during the year.
- The late night drinking would only be for staying guests and not everyone.
- There is a code of conduct that their staying guests must adhere to.
- There is always management on the site to deal with any problems.
- These events could be every weekend in theory but at the moment the golf hotel is losing out on bookings due to the limit of the current hours.
- The applicant had not received any formal complaints.

The Licensing Officer at this stage clarified that any planning application in process in respect of the lodges has no bearing on this application and any decision must be made purely on the licensing application for the clubhouse.

The Licensing Officer also made reference to the fact that there is a requirement to have door staff if needed.

The Legal Advisor also stated that Licensing and Planning are distinct and must be considered separately with focus only on applying the licensing objectives to the clubhouse and not the lodges.

In response to further questions the applicant confirmed that the telephone line was being installed the following day and the email address has already been set up. The telephone would redirect through the main number so that messages could be picked up from anywhere by managing staff. Guests leaving the clubhouse will generally be staying on site and the level of noise would be monitored. Most events would finish around midnight. There are only 18 guests able to stay in the hotel

#### **4.5 Summaries**

The objectors and applicant, summarised their points.

*At this juncture the committee adjourned to debate the decision. On reconvening the Chair announced the decision.*

#### **4.6 Decision**

“We have carefully considered all the written material and also the oral submissions on behalf of the applicant, and objectors.

In the circumstances we grant the application for variation as detailed in the report in part subject to the following amendments:

Agreed as applied apart from sale of alcohol on Friday until Midnight and Saturday until half Midnight. Regulated Entertainment and Late Night refreshment on Friday until half midnight and Saturday until 1am.

Seasonal variation:

Christmas Day 1100hrs to 1700hrs

In reaching this decision we have taken into account the impact on residents in the locality and the risk of public nuisance, specifically in respect of noise nuisance”.

#### **Rights of Appeal**

This decision does not take effect until the period for making an appeal has expired, or if an appeal is made, until that appeal has been determined. An appeal may be made by the applicant for the review, the licence holder or any person who made relevant representations in relation to the application.

If you wish to appeal you must give notice of appeal to the Clerk to the Justices at the South Devon Magistrates’ Court, 1<sup>st</sup> Floor, Riviera House, Nicholson Road, Torquay TQ2 7TT, within the period of 21 days beginning with the day on which you were notified of the decision.

Should there be problems associated with the event the Council’s Environmental and Safety Department has powers under the Environmental Protection Act 1990 to take action against statutory noise nuisances.

CLLR J NUTLEY  
Chairman