

## **LICENSING ACT 2003 SUB-COMMITTEE 2**

**20 JULY 2020**

**Present:**

Councillors Rollason (Chairman), Nuttall and Russell

**Officers in Attendance:**

Trish Corns, Democratic Services Officer  
Marie Downey, Solicitor  
Debbie Rosenveldt, Licensing Officer  
Beth Tipton, Administrative Assistant

**1. MINUTES**

The Minutes of the meeting held on 19 September, 2019 were approved as a correct record by the Chairman.

**2. DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**3. APPLICATION FOR A VARIATION OF THE PREMISES LICENCE - FERRY BOAT INN, 4 STRAND, SHALDON, TQ14 0EH**

**3.1 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.

**3.2 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.

### **3.3 The Council's Licensing Officer's Report**

The Sub-Committee considered an application for a premises licence variation for The Ferry Boat Inn to allow for:

- The removal of the following parts of Annex 2:
  - 1) On licence with supper hours – all parts 1 to 9.
  - 2) Public entertainments licence conditions – parts 1 to 42.
- Removal of the following part of Annex 3:
  - 1) No amplified music to be played in the beer garden.
- Addition of the following to Annex 2:
  - 1) That the performance of live amplified music be permitted up to 12 times per year in the outside beer garden.
  - 2) These performances must not commence weekly but will be allowed to commence bi weekly (every other week).

Conditions had been agreed with the Environmental Health Officer that a sound limiter would be set at a level agreed by Environmental Health, and that the applicant would also look at the live music bookings and put suitable entertainment in the garden, such as quieter duo's & trio's that don't use drum kits to help prevent any disturbances to local residents.

The Council has received 28 representations of objection, on the grounds of public nuisance, in particular loud music. An objector was present at the Hearing.

The Council has received 30 representations in support of the application on the grounds that the applicants had improved the pub and live music was a big part of the village which improved the area and made it one people wanted to visit. The applicant and a supporter were present at the hearing.

### **3.4 Address by interested parties**

#### **3.4.1 Objector**

The objector submitted objections on the grounds of public nuisance as a result of amplified music in the Beer Garden which would impact negatively on residents who live in close proximity to the premises and also further away too for example Ringmore, as the sound would travel. There were several factors which affected sound decibels such as air temperature and wind direction making monitoring sound level difficult. The objector stated that there were many suitable acts that did not amplify their music that the premises could engage for outside entertainment. Objectors did not oppose the playing of live music but purely that of amplified which they did not deem appropriate when taking the premises location in a residential area, into account. Residents recognise that

the applicant is a reputable licence holder and manages the premises very satisfactorily, however the premises is not in an appropriate location for the promotion of amplified music, and annexe 3 of the licence should not be revoked for the protection of residents health and wellbeing.

The Legal Adviser reported that the Live Music Act 2012 enabled the playing of amplified music between 8am to 11pm at premises authorised to sell alcohol, without needing a licence with audiences under 500 and as such constitutes a non-licensable activity. Enforcement of noise nuisance complaints is carried out by Environmental Health in accordance with the Environmental Protection Act.

In response to questions the objector confirmed that neighbouring residents had in the past reported their complaints about music nuisance from the beer garden to Environmental Health.

### **3.4.2 Supporter**

The supporter submitted that the applicant had improved the standard of the premises and made it one that was an asset to Shaldon, and one which people wanted to visit and enjoy again Live outdoor music was a big part of the entertainment for customers, particularly with the added benefit of being situated so close to the beach. Anything which helps businesses to survive during the current covid-19 situation should be supported,

### **3.4.3 Applicant**

The applicant submitted that he had no desire to upset the local residents. He wished to promote a family atmosphere, and the additional conditions would control this which would restrict how often and how loudly the music would be played. Not having amplified music in the beer garden has been a detriment to the business.

in response to questions the applicant advised that:

- It was not viable to hold unamplified music events in the beer garden because the music was not sufficiently audible to be heard by customers; the capacity of the beer garden was 45-50;
- It was a licenced area for alcohol sales; it was used as a BBQ area; and had enabled him to reopen his business during the Covid -19 situation. It was an important area for his business to survive.
- Other premises in the vicinity were able to have amplified music and that this is the normal course of action in most pubs and restaurants. His premises was the only one locally which currently was not playing amplified music outdoors.
- He confirmed that conditions had been agreed with the Environmental Health Officer that a sound limiter would be set at a level agreed by Environmental Health,
- They will also look at the live music bookings and put suitable entertainment in the garden, such as quieter duo's & trio's that don't use drum kits to help prevent any disturbances to local residents

- Music would not be played late at night.
- Training on all aspects would be given to all staff and challenge 21 was in place.

### **3.5 Summaries**

The objector, supporter and applicant, summarised their points.

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

### **3.6 Decision**

“We have carefully considered all the written material and also the oral submissions on behalf of the applicant, supporter and objector. We have also considered the implications of the Live Music Act 2012 and additional conditions agreed with the Environmental Health Officer.

We are satisfied that the applicant is experienced and responsible, and we are satisfied, on the balance of probability, that the application for variation to the licence will not cause an unreasonable nuisance to local residents. The applicant has agreed to limit both the hours during which amplified music will be played and also the type of music, in that it will be of a suitable nature to cause the least disturbance, for example quieter trios rather than large groups using drumkits.

In the circumstances we grant the application for variation as detailed in the report subject to the additional conditions agreed with the Environmental Health Officer”.

#### 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 D ROLLASON  
Chairman