

# **LICENSING AND REGULATORY SUB-COMMITTEE**

**WEDNESDAY, 14 OCTOBER 2020**

Present:

Councillors Austen (Chair), Bradford and Hayes

Officers in Attendance:

Marie Downey, Solicitor

Andrea Furness, Licensing Manager

Beth Tipton, Administrative Assistant

**1. APOLOGIES FOR ABSENCE**

None.

**2. DECLARATIONS OF INTEREST**

None.

**3. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC**

**4. APPLICATION FOR A PRIVATE HIRE VEHICLE EXTENSION FOR 12 MONTHS - S16 EXC**

Members noted that the application had been withdrawn.

**5. APPLICATION FOR A NEW PREMISES LICENCE - BEEFEATER AND PREMIER INN, BRUNSWICK STREET, TEIGNMOUTH, TQ14 8AF**

**5.1 Introductions**

The Chairman introduced the Members of the Sub Committee, Legal Adviser, Licensing Manager and Democratic Services Officers.

The Chair 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.

## 5.2 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.

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

The application is for a Premises Licence to be granted under the Licensing Act 2003 is to allow regulated entertainment (Films, Indoor Sporting Events, Live and Recorded Music, Performance of Dance), Late Night Refreshment and Supply of Alcohol

The operating schedule shows:-

Hours Premises Open to the Public:  
Monday to Sunday 0600hrs to 0100hrs  
24 hours for hotel residents

Relevant licensable activities:

- Provision of regulated entertainment: Films, Indoor Sporting Events, Live and Recorded Music, Performance of Dance
- Provision of late night refreshment
- Supply of alcohol.

Hours of licensable activities:

|  |  |
|--|--|
| Films (Indoors)<br>Midnight                      | Monday to Sunday 10am to half past<br>Midnight |
| Indoor Sporting Events<br>Midnight               | Monday to Sunday 10am to half past<br>Midnight |
| Live Music (Indoors)<br>Midnight                 | Monday to Sunday 10am to half past<br>Midnight |
| Recorded Music (Indoors)<br>Midnight             | Monday to Sunday 10am to half past<br>Midnight |
| Performance of Dance (Indoors)                   | Monday to Sunday 10am to half past<br>Midnight |
| Late Night Refreshment<br>(Indoors and Outdoors) | Monday to Sunday 11pm to half past<br>Midnight |
| Supply of Alcohol<br>(On and Off the premises)   | Monday to Sunday 10am to half past<br>Midnight |

Seasonal variation on all licensable activities

New Years Eve/Day 10am to half past Midnight on 2 January

The Applicant and the Applicant's representative was present at the hearing.

The Council had received two representations of objection on the grounds of Public Nuisance. One objector, the Council's Environmental Health officer, was present at the Hearing.

## **5.4 Address by interested parties**

### **5.4.1 Objectors**

We heard from the Environmental Health Officer who had submitted objections on the grounds of Public Nuisance, specifically noise nuisance to the surrounding residential area and wanting clarification on how often events would be held however, discussions before the meeting had served to remove these concerns. The Environmental Health Officer stated that it had been agreed that live music would be limited to 15 events per calendar year and it was proposed that this be added as a condition or that a TENS should be applied for. The Environmental Health Officer also stated that the wording of the application in regards to the supply and consumption of alcohol in hotel rooms was not sufficiently clear and so a condition could be applied to ensure compliance.

### **5.4.2 Applicant**

We then heard from the applicant's representative, who submitted that the hotel's reputation is paramount due to Premier Inn's 'Good Night Guarantee' and it is not in their interest to cause noise as this would then impact on their own business. The Applicant's representative highlighted the plan of the premises and explained that although there are residential buildings near the proposed site, it was a mixed use area and there were already plenty of licensed premises with later opening hours operating.

The Applicant's representative stated that the chain is not a discount retailer and the request for the off sales of alcohol is as any normal hotel would request and gives them the flexibility to operate and would be for residents only. The reception is also always supervised and only guests are able to enter the hotel after 11pm. Regulated entertainment is not a main part of their business and they were happy for a condition to limit the occasions as agreed with the Environmental Health Officer to be included.

The members of the committee did not feel that they needed to ask any further questions of the applicant.

## **5.5 Summaries**

The applicant summarised their points.

*The committee adjourned to debate the decision. On reconvening the Chair announced the decision.*

## **5.6 Decision**

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

The Sub Committee resolved that the application for a New Premises Licence in respect of the Beefeater and Premier Inn, Teignmouth be granted as set out in the report subject to the conditions agreed by the applicant and the Environmental Health Officer and that the off-sales of alcohol be limited to residents only for consumption in their rooms.

The reasons:

The Sub Committee are satisfied from the information presented that Whitbread Group Plc are an experienced and reputable company and that their method of operation is such that the Licensing Objectives will be upheld.

The Sub Committee, whilst understanding the concerns expressed by the local residents, do not consider that they are supported by fact but are based only on speculation as the premises have not yet been built.

The Sub Committee considered the fact that applicant company Whitbread offer their residents of Premier Inns, a “good night guarantee”, which allows for a customer to be refunded the cost of their accommodation if their night is disturbed. Therefore the Sub Committee believe that the applicant’s paramount concern is to avoid any public nuisance which could impact on this guarantee.

The Sub Committee gave particular weight to the Applicants Representative’s submission which stated that the operators are experienced in the running of family friendly licensed premises and have robust systems in place to ensure that their premises are run in accordance with the law and to ensure the avoidance of the commission of regulatory offences particularly in relation to public nuisance and crime and disorder.

Consideration was given to the Environmental Health Officer’s concern in respect of the frequency of live music events, however after hearing that the style of business is that of a family friendly hotel the committee are satisfied to allow the application as applied for in relation to live music.

#### 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.

## **6. APPLICATION FOR A NEW PREMISES LICENCE - THE CIDER HOUSE, TUCKETTS FARM, LOWER NETHERTON, NEWTON ABBOT, TQ12 4RL**

### **6.1 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.

### **6.2 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.

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

The application is for a Premises Licence to be granted under the Licensing Act 2003 is to allow the Supply of Alcohol. The operating schedule shows:-

Hours Premises Open to the Public:

Monday to Sunday                      10am to Midnight

Relevant licensable activities:

- Supply of alcohol.

Hours of licensable activities:

Supply of Alcohol                      10am to 11.30pm  
(on and off the premises)

Seasonal variation on all licensable activities

New Years Eve/Day                      Open of business on New Years Eve to close of  
business on New Years Day

Conditions had been agreed with the Environmental Health officer that there would be a restriction to the playing of live music to the inside of the building only and to limit the playing of live music to once per calendar month with at least 4 weeks between events. All other amplified music both inside and external to the premises to be played at a volume to be agreed with the Environmental Health Department

The Council has received four representations of objection, on the grounds of public nuisance. No objectors were present at the Hearing.

The Applicant and the Applicant's representative were present at the hearing.

## **6.4 Address by interested parties**

### **6.4.1 Applicant**

We heard from the applicant's representative, who submitted that this is a working farm and the owner has been licensed for a number of years and was looking to sell their own cider as they already sell eggs, meat etc. If there are no customers then the premises will be shut. There is also a limited amount of cider that can be made and once this is gone then they will not be selling any more. Consumers will be aware of the strength of alcohol.

The applicant's representative addressed the concerns from the written representations and stated that they did not expect there to be an increase in traffic and drink driving will not be encouraged. There was also no expectation that there would be anyone walking around the village at night. This is a working farm and the majority of customers are expected to make an appointment as they want an experience. Whilst people could turn up without an appointment it would depend on whether the applicant was available as to whether they would be able to buy the cider.

The Applicant's representative confirmed that planning permission is still to be agreed and they did not want the license to start until 1<sup>st</sup> March 2021. The applicant is hoping to have holiday lets and so it would not be in their interest to upset paying guests. It is likely that it is these customers who would be drinking later in the evening and therefore would be staying and not walking or driving around the village. The applicant does not wish to upset their neighbours and purely wants to provide an experience and not operate as a pub.

In response to questions the applicant and their representative advised:

- That the only alcohol on site would be what they made, no bought in alcohol.
- They wanted the license until midnight so that people could be there late on nice summer evenings and would negate the need to apply for a TEN and gives them flexibility, especially if they have the holiday lets.
- Visitors would probably be by appointment but of course people could just turn up but this is not expected to happen all of the time.

## 6.5 Summaries

The applicant's representative summarised their points.

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

## 6.6 Decision

Arising from consideration of the report, all the representations, the relevant provisions of the Licensing Act 2003 and delegated legislation made thereunder, the guidance given to licensing authorities and the Council's own Policy.

The Sub Committee resolved that the application for a New Premises Licence in respect of The Cider House, Netherton be granted as set out in the report subject to the licensable activities ending at 11pm 7 days a week.

The reasons:

The Sub Committee are satisfied from the information presented that the Applicant is seeking to sell cider produced at the farm and that their method of operation is such that the Licensing Objectives will be upheld.

The Sub Committee heard that the ethos behind the application is for people to enjoy the products that have been produced on this old working farm. It is intended that there will only be one or two tables from which customers can soak up the ambience of the farm whilst enjoying a cider which has been produced there. Customers visiting the farm may also wish to purchase cider to take away.

The Sub Committee, whilst understanding the concerns expressed by the local residents, do not consider that they are supported by fact but are based only on speculation. There is no evidence to suggest that granting a licence to sell alcohol will increase the volume of traffic that uses the lanes approaching the farm. The farm is already a working farm.

The Applicant's agent informed the Sub Committee that it was not the intention of the applicant to have large groups of people present at one time. Holiday accommodation is currently being constructed on the farm and there is a holiday cottage opposite the cider store, it is envisaged that it will be the guests staying in these that will be most likely to use the farm facilities in the evening. It was submitted that the applicant would not want anyone to cause a noise nuisance as this would be detrimental to his business as a whole.

In respect of the opening hours the Applicant's Agent informed the Sub Committee that the premises would not be open for all of the licensed hours, it will not be a regular drinking establishment, if there are no customers the premises will close,

there will be encouragement to make appointments as the farm is a working farm and it is likely that the applicant will look after customers himself rather than employing extra staff. There will only be a limited amount of cider produced from crop each year and once this has gone there will no more until the following year. Bearing all of this in mind the Sub Committee were happy to grant the application but stated that the sale of alcohol should terminate at 11pm

#### 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 B AUSTEN  
Chair