

MINUTES of a meeting of the LICENSING COMMITTEE held in the Board Room, Council Offices, Coalville on Wednesday, 17 SEPTEMBER 2003.

Present: Councillor R A Evans (Chairman) (In the Chair)

Councillors J Collins, J G Coxon, P Holland, D Howe and J T Male.

Officers: Mrs J Cotton, Miss M Greasly, Miss M Lister, Mr J R Kirkham and Mr J E Peters.

Representing the Whimsey Inn, High Street, Ibstock:

Mr H Richards, Licensing Consultant
Mr R Forryan, Licensee
Mr A R Bott of TTG Inns Ltd

Objectors to the Whimsey Inn application:

Mr S Page, 69 High Street, Ibstock.
Mr I Haydon and Mrs C Haydon, 79 High Street, Ibstock.
Mr D Brown and Mrs P Brown, 75 High Street, Ibstock.
Mr D Borthwick, 88 High Street, Ibstock.
Mr J Newman, 82 High Street, Ibstock.

Representing the Oak Public House, Talbot Street, Whitwick:

Mr and Mrs Vernon
Mr D Morrell, Regional Manager

Apologies for absence were received from Councillors R Blunt, P A Hyde, D J Stevenson, J B Webster and D H Wintle.

Councillor J T Male declared a personal interest in the Whimsey Inn application as ward member. He stood down from the group for the application but remained in the meeting to speak on the application, but left the room during the deliberation.

Councillor R A Evans declared a personal interest in the Oak Public House application as ward member. He left the meeting before the consideration of this application.

Councillor D Howe was elected to the chair for the Oak Public House application.

286. MINUTES

... Consideration was given to the minutes of the meeting held on 5 August 2003 (copy previously circulated and retained with the official copy of the minutes).

RESOLVED:

That the minutes of the meeting held on 5 August 2003 be approved and signed as a correct record.

Chairman's initials

287. THE WHIMSEY INN, HIGH STREET, IBSTOCK

Mr Kirkham reminded members that the Licensing Committee was a quasi judicial body and the effect of this meant that the rules of natural justice had to be observed and that the applicant must be treated fairly and be seen to be treated fairly. He requested members to restrict themselves to questions and to reserve their opinions until the process of deliberation.

Mr Kirkham introduced the application for a public entertainment licence in respect of The Whimsey Inn, High Street, Ibstock. Members noted that the application had been referred to the Licensing Committee for determination because several objections to the application had been made by members of the public and officers were not authorised to grant applications under delegated authority where objections had been made.

It was established that the objectors wished to speak individually on their objections.

Mr Richards was invited to present the case in support of the application.

He was asked by the Chairman if he was happy with the proposed procedure, a copy of which had been given to him prior to the start of the meeting. He confirmed that he was happy with the procedure.

On a preliminary point Mr Richards referred to documents which had been provided to him by officers in advance of the meeting and which were intended for circulation to members at the meeting. Mr Richards stated that he objected to the circulation of several of the prepared documents because the names and addresses of the objectors had been covered. He submitted that anonymous objections were contrary to the licensing and human rights legislation and against the principles of natural justice. In his opinion, they would prevent his client from having a fair hearing because it was difficult to address an objector's concerns if the applicant did not know where they lived. In the circumstances he asked that all documents not containing full names and addresses be withheld from consideration by the Licensing Committee. However he stressed that he had no objections to objectors speaking at the meeting and giving details of their addresses.

At 6.52pm the applicant, his representatives, Councillor Male, the objectors, Miss Greasley and Miss Lister were asked to leave the room whilst the Licensing Committee considered Mr Richards' submission. The parties were invited to return to the room at 7.01pm.

Councillor Evans stated that the committee had agreed to Mr Richards' request. No papers would be circulated for members to consider, however, it was possible that at the end of the application process members may refer to any objection letter where the objector was clearly identified by name and address.

Chairman's initials

Mr Richards, on behalf of the applicant, presented the case in support of the application. He started by making reference to Mr Forryan's licensing experience, the type of entertainment that the licensee wished to provide and the location and size of the premises. Mr Forryan was an experienced member of the licensing trade who wanted to hold public entertainment on a limited basis. The majority of the inn's custom came from local people and the licensee had no wish to cause any antagonism through his application. Meetings had taken place with Council officers and a representative of Leicestershire Fire and Rescue Service and the applicant was prepared to undertake any recommendations to reduce noise break out and improve emergency access.

The Chairman invited questions to the applicant from consultees.

Miss Greasley introduced herself to members and objectors. In response to questions from Miss Greasley the applicant and his representative clarified where entertainment would be performed in the building; the positioning of the Inn's amplification system and the expected frequency of entertainment at the premises. In addition, further questions were answered on car parking arrangements and preventative steps to prevent disturbance to local residents from customers leaving the premises at the end of an evening's entertainment.

Miss Greasley referred to a site meeting on Thursday, 4 September 2003 with the licensee, Mr Bott, Michelle Lister, Station Officer Bass and Matthew Hulley (Environmental Health Officer – Food, Health and Safety) concerning public noise outbreak from the premises and she asked the licensee to explain the measures that he had agreed at the meeting to prevent noise outbreak. Mr Forryan stated that in addition to keeping the front internal door and all other doors and windows closed during entertainment, he had agreed to the fitting of acoustic louvres on the outside of the building over the openings to the 3 extractor fans. The louvres would be constructed of $\frac{3}{4}$ inch plywood and be lined with Rockwool. The 'roof' to the louvre would protrude from the building's façade at a 45° angle and would be twice the length of the vertical side of the opening and the same width as the opening. The sides of the louvre would be triangular shaped and be constructed out of the same materials.

Members of the public were invited to ask questions to the applicant and his representative. The applicant and his representative answered questions from Mr Page, Mr Haydon, Councillor Male, Mr Borthwick and Mr Newman concerning the cessation time for entertainment at the pub; concerns at the potential for an increase in noise disturbance to local residents; air conditioning; compliance with the condition to keep windows closed during entertainment and the premises' capacity.

Members of the group then asked questions on the cessation time for entertainment at the premises, the fitting of air conditioning; the issue of adequate ventilation at the premises; the closing and opening direction of internal and external doors; the concern that customers would attempt to open windows during entertainment and the layout of the premises.

Chairman's initials

Members of the group considered a suggestion for a site meeting but after a request from the applicant's representative, they agreed to determine the application at the meeting.

The Chairman invited comments on the application from Miss Greasly, Miss Lister, the ward member and members of the public.

Miss Greasly replied that she had no objection in principle to the licence application provided that the works recommended by her, and agreed by the applicant, be undertaken and satisfactorily completed before the issue of the public entertainment licence. She also asked that the following condition be imposed on the licence:

The front internal door and all other doors and windows to remain closed during public entertainment.

Miss Lister also asked that the applicant address several matters raised at the meeting on 4 September 2003 before the grant of the entertainment licence. At the site meeting it had been agreed that the exit from the rear of the premises was not acceptable at present and that the side door leading from the pool room into the garden area would be more suitable. In order for this to be classed as an escape, Miss Lister and Station Officer Bass had asked that the following be satisfactorily addressed:

- The text fire exit sign indicating an exit at the rear of the premises must be removed.
- An additional emergency light and exit notice should be placed above the exit door leading from the pool room into the garden area.
- The door mentioned above should be re-hung to open outwards and therefore in the direction of travel. This would allow an occupancy of 100 persons. However leaving the door inward opening would limit the occupant capacity to 50 persons.
- The licensee or person in charge when the premises are open should be in possession of the key to open the external iron gates leading from the garden to the main road.

Miss Lister requested the Licensing Committee, if they were minded to grant the application, to delegate the grant of the licence to herself subject to the satisfactory completion of all recommended works to the building.

Mr Richards confirmed that the licensee was happy to agree to the recommendations of Station Officer Bass and Miss Lister.

Mr Haydon commented that he had no objections to an entertainment cessation time of 11.00pm but he was concerned at the potential for noise nuisance and for disturbance from daytime and late night entertainment.

Chairman's initials

Mr Brown also stressed his concern at noise from the premises. Previously there had been no need to complain or raise concerns because entertainment had been occasional and finished at 11.00pm but the potential for entertainment until midnight on every weekday would lead to an increase of nuisance to persons living in the neighbourhood.

Mr Richards understood the objectors' concerns and he asked them to contact the licensee at any time if there were any problems relating to the pub's operation. Miss Greasley advised local residents that if there was disturbance from the premises in the form of loud music, they should contact her so that she may conduct an investigation.

Councillor Evans and Councillor Howe advised the objectors that problems occurring on the street could be reported to the Council and referred to the Council's Partnership in Safer Communities scheme.

Mr Haydon also had concerns at the amount of parking available in Ibstock. He contended that daytime and evening entertainment events attracting up to 100 persons would create parking problems in the village and have possible adverse effects on other businesses. Mr Richards argued that there was sufficient parking nearby to accommodate all business and residential parking needs and that he had not encountered any parking problems on his visits to Ibstock.

At this point in the meeting Mr Richards referred to the letter of objection from Mr Borthwick dated 12 May 2003. He read out the letter to members and informed the committee of a visit made to Mr Borthwick's house to discuss the concerns detailed in his letter.

Mr Richards was invited to make a closing address to the Licensing Committee. He summed up by stating that the application was made by a licensee who was both reasonable and experienced in the licensing field and the application had been made to cover occasions where an entertainment licence was required. He stressed that the application was not made to upset members of the local community and he asked that if any objector had a concern with any public entertainment provided at the premises to contact the licensee direct. He finished his submission by reading from an internet document describing the policy and main provisions of the Licensing Act 2003 and how the legislation should be applied in the area of licensing control.

At 8.23pm the applicant, Mr Bott, Mr Richards, Councillor Male, Miss Greasley, Miss Lister and the objectors were asked to leave the room while the group deliberated. The parties were invited to return to the room at 8.32pm.

RESOLVED:

That the grant of a public entertainment licence in respect of the Whimsey Inn, 92 High Street, Ibstock to permit public entertainment on Mondays to Sundays from 9.00am until 12.00 midnight be delegated to the Council's senior licensing officer subject to the satisfactory completion of all works recommended by Station Officer Peter Bass of the Leicestershire Fire and Rescue Service, Miss Lister and Miss Greasley and that the licence be granted subject to the following condition:

Chairman's initials

- The front internal door and all other doors and windows to be closed during entertainment.

In reaching their decision the group had considered the human rights of both the applicant, particularly under Schedule 1, Protocol 1 and of the objectors, particularly under Article 8. On the evidence presented and having balanced these rights and considering the comments made by the consultees, the group had decided that it would not be proportionate to refuse the application. In addition Councillor Evans told the applicant and objectors that the group had had regard to the concerns of residents and felt that any concerns relating to noise nuisance and street disturbance could be addressed with the co-operation of the licensee, the current legislative controls open to the District Council or through the Council's Partnership in Safer Communities.

288. CINEMA LICENCE – CONDITIONS OF LICENCE

... Consideration was given to the report of the Manager of Central Support (copy circulated at the meeting and retained with the official copy of the minutes).

The report requested members to consider the extension of the District Council's standard conditions for theatres, places of public entertainment and indoor sporting entertainment licences to include cinema licences together with the adoption of additional conditions with specific application to film exhibitions.

RESOLVED:

- (a) That the standard conditions for theatres, places of public entertainment and indoor sports entertainment licences be extended to include cinema licences.
- (b) That the additional conditions with specific application to film exhibitions as detailed in appendix A of the report be adopted as standard for cinema licences.

289. THE OAK PUBLIC HOUSE, TALBOT STREET, WHITWICK

Councillor Evans stood down from the Chair for this item and left the meeting. Councillor D Howe was elected to the Chair.

Mr Kirkham introduced the application for a public entertainment licence for the Oak Public House, Talbot Street, Whitwick. He explained that the application was presented for members' determination following the submission of an objection to the application.

Members were provided with papers relating to the application. It was noted that neither the objector, J W Martin of Brooks Lane, Whitwick or any of the 4 signatories on the petition objecting to the licence were present to support their objections in person.

Chairman's initials

Mrs Vernon presented the case in support of her application. She gave members a brief history of her qualifications and licensing experience and details of the premises and her reason for applying for an entertainments licence. Mrs Vernon referred to the comments from the Council's environmental protection section and stated that she accepted the attachment of a condition to the entertainment licence requiring that any door which opened onto the areas covered by the entertainment licence remain closed during the specified hours of the licence.

Mr Morrell spoke in support of the application. He was the regional manager for the company owning the pub and backed the application fully. He stated that Mrs Vernon was committed to running a professional operation and religiously adhered to licensing legislation. He considered her an exemplary licensee.

In response to questions from members of the group, Mrs Vernon confirmed that windows could not be opened and the internal doors closed automatically. She also described the location of the objectors' houses in relation to the public house.

At 8.55pm the applicants and Miss Lister were asked to leave the room whilst the group deliberated. Mr and Mrs Vernon, Mr Morrell and Miss Lister were invited to return to the room at 9.00pm.

RESOLVED:

That the application for a public entertainment licence in respect of the Oak Public House, Talbot Street, Whitwick, to allow public entertainment on Mondays to Sundays from 9.00am to 12.00 midnight be granted subject to the following condition:

Any door which opens onto the areas which are covered by the entertainment licence to remain closed during the specified hours of the entertainment licence.

The group had considered the human rights of both the applicant, particularly under the first protocol Article 1 and local residents particularly under Article 8. On the evidence presented and having balanced these rights, the group had decided that it would not be proportionate to refuse the application.

Councillor R A Evans left the meeting at 8.40pm.

The meeting terminated at 9.00pm.

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Chairman's initials