

MINUTES of a meeting of the LICENSING SUB COMMITTEE held in the Remote Meeting using Microsoft Teams on MONDAY, 18 JANUARY 2021

Councillors E G C Allman, J Clarke and M D Hay

Officers: K Woollett, Mr P Dennis, Mrs C Hammond and Mr T Delaney

1 ELECTION OF CHAIRMAN

It was moved by Councillor E Allman, seconded by Councillor M Hay and

RESOLVED THAT:

Councillor J Clarke take the chair for the remainder of the meeting.

2 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

3 DECLARATION OF INTERESTS

Councillor E Allman declared a non-pecuniary interest in the matter before the Hearing as his father is the Mayor of Ashby Town Council, adding that he was not pre-determined.

4 APPLICATION FOR VARIATION OF A PREMISES LICENSE

The Chairman introduced the parties and outlined the procedure to be followed.

The Hearing Regulations 2005 state that the Authority must allow parties an equal period of time in which to present their evidence. He advised that he was minded to allow a maximum time limit for each presentation of ten minutes. Mr Brian Everitt advised that he was speaking on behalf of a number of local residents and he anticipated that he would require an approximate time of fifteen minutes. There being no objections from the floor, the Chairman agreed this subject to all parties present being given the same opportunity to extend their maximum time limit to fifteen minutes, should they require it.

The Licensing Enforcement Officer presented the report to members, highlighting background information and representations received.

In response to a question from Councillor E Allman, the Licensing Enforcement Officer confirmed that, should the applicant wish to extend the hours of opening at some time in the future, an application would be required which would follow the same process as this one. In response to questions from Councillor M Hay, the Licensing Enforcement Officer confirmed that no lengthy conversations had been held with the applicant in relation to door security or off sales.

The Chairman asked for details of the capacity of the premises to which the Licensing Enforcement Officer advised he did not have the number to hand; and he asked if there was an 'Ashby Pub Watch Scheme' to which he advised that there was.

Mr Brian Everitt sought clarification on the implementation of the terms of the Live Music Act and the imposition of conditions on the licence in the event of noise nuisance and it was confirmed that if there were issues with the premises, the licence can be placed

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under review and the Licensing Sub-Committee can overrule the Live Music Act and revoke any permissions relating to it.

Mr Andrew Thomas considered that the plans did not accurately show the premises in question and asked the Committee if they were familiar with the location of nearby premises in relation to the application site. Members confirmed that they were familiar with the area by virtue of either living nearby or having undertaken a site visit. Mr Thomas also sought clarification on the extent of the licensed premises in terms of whether these related to the building only, the building and the garden. i.e. the designated area, or the whole of the area of land on which the building occupies. It was confirmed that the sale of alcohol related to the plan as on the premises licence set out in the report. In relation to live and recorded music this was both inside and out covering the entire premises in accordance with the Live Music Act.

Mr Frank Bedford sought clarification on the above point and asked what was meant by the whole premises. The Licensing Enforcement Officer reaffirmed that this was set out in the plan within the licence and confirmed that there were no changes to the plan. Mr Bedford sought assurances the area in question would be made clear and less ambiguous.

Mr Brian Everitt sought further clarification on the term 'off premises' when considering the sale of alcohol as it was his view that this related not so much with the sale of alcohol for taking away from the site but the provision of a bar outside the premises. The Licensing Enforcement Officer confirmed that this related to the sale of alcohol for people to take away and drink at another address.

The Chairman sought confirmation that there had been no complaints made to the police or the Licensing Authority since the licence was granted in 2012. The Licensing Enforcement Officer confirmed that this was the case.

The Legal Advisor sought confirmation whether the application was to remove the limit to the number of live events that could be held in a year; and she was advised that it would. She also received confirmation that this was not a review of the licence but an application for a variation and also that ordinarily a person could purchase a drink from within the building and consume it within the premises site which would include the stadium, however, in this case condition 1 in Annex 3 of the licence prevented this and required drinks to be consumed within the designated area. Finally it was confirmed that the application was for off sales which if granted would also allow persons to take drinks home if they so wished.

These questions prompted Mr Thomas to come back for further clarification. He asked if, even though this was a not a review but a variation, it would still be possible to impose a range of conditions relating to noise, such as those set out in the Council's standard conditions. He also asked if there were any conditions which could be imposed which prevented a person from purchasing a drink to take away and then consuming it in the nearby residential area. The Licensing Enforcement Officer confirmed that once a customer had left the premises it is no longer the applicant's responsibility and conditions relating to noise could be imposed, as stated in the report.

Councillor E Allman asked if there were any restrictions on the means of transporting drinks to take home as, in his experience in his ward, it is clear that some people do consume these on the way home and then dispose of the drinking vessels in neighbouring properties. He was advised that drinks purchased in this way should be in sealed containers such as a bottle or a can and not consumed on the way home but this is out of the premises holder's control.

The applicant's representative, Mr Neil Johnson was invited to ask questions of the Licensing Enforcement Officer but there were none.

Mr Johnson was invited to address the meeting to present the application.

The Committee was advised that when the club was taken on 9 years ago, it was a derelict site and a premises licence was applied for and subsequently granted in 2012. There were some conditions imposed to protect the surrounding neighbourhood and since this time they have operated without any complaint. The bar is fundamental to the survival of the club as it generates funds which have enabled the regeneration of the site. The site is leased at present and very recently went up for sale and the ongoing future of the site needs to be sustainable to ensure it remains an asset to the town. The variation being sought is to allow a degree of flexibility and it was noted that during the past nine years, the premises has very rarely been open past 10.00pm other than those events which have been held following an application for a Temporary Event Notice (TEN). No objections to this application have been received from the Local Authority, Highways Authority, Police or Fire Service but it is accepted that there is considerable concern from neighbouring residents. Mr Johnson stated that, whilst the application was requesting a 12.00am close, he would be happy with an extended time of 11.00pm with anything beyond that being subject to the TENs process. The later time will just give the added flexibility when there is a late game but more often than not it will be closed by 10.00pm. There is no intention to provide live music until they can be certain it would not cause a noise nuisance. If it is deemed unacceptable, then they wouldn't do it as they would not wish to have a negative impact on all the good work they do. The extended hours would enable the premises to open on days other than those where there is a match, which will help significantly in terms of revenue.

Members of the Committee were invited to ask questions.

Councillor Hay suggested that Mr Johnson's presentation indicated there was not an intention for the club to be always be open for all of the days and hours as stated on the license. In response to questions from Councillor Hay about what an ideal week might look like in terms of the club's operating hours on days where there was no match being played, Mr Johnson advised that on such occasions, the likely opening hours would be from 4.00pm until 10.00pm with Sundays perhaps opening from noon. Match days would potentially be a little later to accommodate those who have been involved in the games when they have had a late kick off time. In answer to a question about the likely maximum number of attendees at any one time, Mr Johnson advised that they operate at present with a maximum indoor capacity of 60 with a further 60 outside. In response to further questions from Councillor M Hay, it was noted that the extension from six to twelve metres now encompasses an enclosed artificially grassed patio area at the front of the premises which they would now like to be included in the licence in order to make use of it. The intention of the 'off sales' is to enable a person to purchase a drink in a plastic container and take it to the stands where they can watch the game whilst having a drink. It is not their intention to sell drinks in sealed containers for taking away from the premises for the reasons expressed earlier. Reference to door supervision was in relation to any larger events or football games which may attract a larger crowd. Mr Johnson specifically referenced an FA Cup game approximately four years ago that had attracted a crowd of 800. Should a similar size event be planned then the District Council, the police and local residents would be consulted.

In response to questions from Councillor E Allman, Mr Johnson advised that he is happy to take suggestions for environmentally friendly products for use in off sales, traffic management, to work with surrounding landowners, with whom he had a good relationship, regarding the use of their land for additional parking arrangements, although this would only be necessary should there be a large scale event, and advice would be

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sought from the Highways Authority. He also has a very good working relationship with the adjoining landowner with regard to the livestock and they would not do anything which might compromise the wellbeing of any animal. When out of season, with no matches being played, it is intended to open during the hours previously mentioned to help the income stream such as on a Saturday afternoon. Events may include perhaps a Friday night disco once a month, or perhaps a live music event but this largely depends on the local appetite for this.

The Chairman advised that sound levels can be tested by the Local Authority and they can offer support with this and was pleased to see that the hours being requested were flexible.

In response to a question from the Legal Advisor, it was noted that the anticipated level of attendance at a Friday night event was 40 to 50 people.

The Chairman invited the objectors present at the meeting to ask any questions. In response to questions asked at this stage of the hearing, Mr Johnson advised that the 1500 capacity stadium reference which had been mooted came from the Football Association's ground grading system for non-league football grounds but this is not realistic and more likely to be a maximum of 120. There is no intention to set up an outside bar. All events are intended to be a variety of fundraising events and additional funding will be secured by grants and commercial borrowing. It could not be confirmed that the maximum capacity of 60 had been derived at by a health and safety risk assessment. The marquee was erected to ensure abidance with the Covid restrictions and the extension from 6 metres would need to extend further than 12 metres if it were to encompass the stadium.

The Chairman invited the objectors to make their representations.

Town Councillor Geraint Jones of Ashby Town Council advised that there was a local by-law in Ashby which restricts the consumption of alcohol in public places outside licenced premises so if this was to occur it would be a matter for the police and not the football club. He added that Ashby Town Council had received a number of representations on this matter and, without exception, they were united in their opposition to the application as it stands. Issues raised included traffic management, indiscriminate parking due to insufficient parking at the ground, which constitutes noise and pollution. The Town Council recognises the efforts made by the football club to put necessary measures in place to alleviate any issues and the club should be recognised for its ambition and hard work and acknowledged that sporting and leisure facilities such as these should be supported to help foster activity and the growth of young people in the town. The Town Council would therefore like to see some flexibility and compromise in the proposed hours of operation to ensure that cordial relations between the club and local residents remain.

Councillor M Hay sought clarification in the level of the parking problem and whether this would continue regardless of the application given the location of the football club. Town Councillor Jones advised that arguably the parking issues would still remain due to the success of the football club and not because of the licence.

Councillor E Allman asked whether the Town Council had a figure in mind as to how many live events should be held in any given year. Town Councillor Jones replied that he could only speak for himself and he mooted the idea of 20 per year.

The Chairman invited all parties present to ask questions of Town Councillor Jones.

There were no further questions.

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The Chairman invited objectors, in turn, to speak to the application.

Brian Everitt advised that he was speaking on behalf of a number of residents. He stated that the applicant had not taken any steps to consult with the local residents before making this application or when developing their future plans. The scope of the objections relate to all four of the licensing objectives due to large gatherings and indiscriminate drinking, parking and noise nuisance. It was considered that existing problems would be exacerbated if the application were to be approved unless any such approval was appropriately conditioned. It was felt that the strength of the opposition to this application demonstrated the concern of residents that it would result in a significant change to the nature of the premises.

Frank Bedford reiterated a number of concerns which had already been raised with particular reference to the plans showing the extent of the premises and the specific terms of the licence and licencing policy; and he sought confirmation that these had been complied with and asked the Committee to appropriately condition any approval and not just those put forward by the applicant. He asked that if the Committee accepted that conditions could not be imposed in relation to live events given the rules of the Live Music Act, then any decision should be deferred until this matter is clarified and a legal opinion sought. Mr Bedford questioned the applicant's intention to abide by conditions of the licence given that there had been an undertaking as part of the planning application to improve the access to the premises which had still not been completed despite other refurbishment works having been done. He understood that this had been raised as a planning enforcement issue and again asked for a deferral until this had been investigated.

David Howarth advised that his property was less than 100 metres from the application site and his main concern was the use of amplified music which prevents him from enjoying his garden. Extending the permitted times would cause further nuisance.

Andrew Lesson echoed the concerns already raised and advised that he too resided within 100 metres of the club and had not been consulted. His main concerns were the music, what the club could be used for in the future and the poor parking in the area.

Andrew Thomas advised that most of his points had been raised already and echoed those concerns and urged the Committee to make the right decision at this time. Following comments by other objectors, he noted that the lack of complaints against the club could be due to the tolerance of local residents and that the current events and general levels of activity were below those the club would be able to hold should the license be granted. His major concern was that the types of fundraising activities would likely generate a much higher footfall and, as a consequence an increase to the issues already being experienced. He also urged that appropriate conditions be applied should the application be approved but added that he would request that it be refused for the reasons already stated.

Vincent Aleman advised that his back garden was approximately 30 yards from the first team pitch so he was adversely affected. He supports all the comments made and reiterated the concerns about music being played on a match day so asked that the time for permitting this not be extended. Mr Aleman supports the existence of the club and their current activities but the variation is a completely different matter and urged that it not be approved.

Martyn Haslewood advised that his primary concern is the playing of amplified music on potentially every day of the week, every week of the year. He questioned how the volume of the music would be controlled.

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The Chairman invited closing speeches.

The Licensing Enforcement Officer clarified an earlier point where he had stated that the condition which stated 'casual hirings being no more than 50 such events in any 12 month period' was part of the application with the effect of removing this condition, whereas in fact it was not part of the application.

The applicant's representative gave a brief closing statement reiterating comments made previously in the meeting and offered to run a test event to establish and address any issues.

At 5.00pm the Sub Committee adjourned to consider its decision. It reconvened at 6.06pm and the Chairman advised that the decision would be communicated to all parties within 5 days as there were a number of issues which it wanted to consider further.

The meeting commenced at 2.30 pm

The Chairman closed the meeting at 6.07 pm