

MINUTES of a meeting of the LICENSING SUB COMMITTEE held in the Council Chamber – The public are encouraged to attend remotely and contact the officer named for further details on THURSDAY, 13 MAY 2021

Present: Councillors J Clarke, M D Hay and C A Sewell

Officers: Mr P Dennis, Woollett, Mr T Delaney, Mrs R Wallace and Terence Olaf

Interested Parties: Charles Griffin and Rob Jephcote

1 ELECTION OF CHAIRMAN

It was moved by Councillor J Clarke, seconded by Councillor C Sewell and

RESOLVED THAT:

Councillor M Hay take the chair for the remainder of the meeting.

2 APOLOGIES FOR ABSENCE

There were no apologies for absence.

3 DECLARATION OF INTERESTS

Councillor J Clarke declared a non-disclosable interest in the matter before the Hearing having met and spoken to the applicant earlier in the day whilst viewing the site.

4 APPLICATION FOR A NEW PREMISES LICENCE

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

The Hearing Regulations 2005 stated that the Authority must allow parties an equal period of time in which to present their evidence. It was agreed that the maximum time limit for each presentation would be ten minutes.

Paul Dennis, Licensing Enforcement Officer, presented the report and additional papers to members, highlighting that as the premises had not been open at the time of writing there had been no complaints concerning public nuisance. Furthermore, there had also been no complaints to date regarding the premises since it's opening through several Temporary Event Notices on 30 April 2021, it was later clarified that this meant the premises had been open for approximately 10 days.

In response to questions from the Chairman and Councillor Clarke, the Licensing Enforcement Officer confirmed that there had only been one complaint to Licensing relating to public nuisance in the area throughout his eight years working for the Council which concerned the Rawdon Arms which was situated opposite Eden Bistro.

In response to a question from Councillor Sewell, the Licensing Enforcement Officer clarified that the nearby Conkers site only held a small number of late night events every year, that Conkers were permitted to play live and recorded music until 23:00, and there had been no complaints regarding these events.

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Responding to the points made by the Licensing Enforcement Officer, the Applicant clarified to the Sub-Committee that in his position as a Parish Councillor he was only aware of a single complaint of anti-social behaviour at the Rawdon Arms relating to a single family. And that anti-social behaviour in Ashby Woulds was normally associated with the Bath Grounds which were not in the immediate vicinity of Eden Bistro.

Rob Jephcote, agent for the applicant then presented the application. In doing so he highlighted that the site was currently considered derelict and had partially been renovated into offices with Eden Bistro intended to similarly be a source of local employment and an asset to the community. It was also highlighted that the Police had made no representations to the application and previous comments on the lack of complaints in the area regarding other premises were reiterated. In response to concerns raised in written objections regarding parking it was explained that there would be 33 car parking spaces and two disabled spaces at the venue in addition to an additional car park opposite available if required, and double yellow lines preventing the parking of customers on the road outside the venue. It was also explained that a double door seal at the main entrance and lack of windows would mitigate against the likelihood of noise escaping the venue. Referencing the Moira Placecheck document submitted in support of the application, it was noted that recommendations to redevelop unused sites, encourage visitors to the town, and improve the eating out options in Moira were all met by the proposed application.

The applicant, Charles Griffin then addressed the committee and explained that having invested into the area through the provision of offices in the area, and as a local resident and Parish Councillor, he saw Eden Bistro as an opportunity to provide a venue to complement the village and bring the community together.

The applicant also emphasised that the intention was not to create a nightclub or wine bar with loud events, but to create a relaxed environment appropriate for families and tourists to enjoy the area and as a local resident himself wanted to avoid creating the issues of noise as raised in the representations.

In response to questions from Councillor Clarke, the applicant confirmed that his existing office premises employed 45 people and based on staffing during the period of the Temporary Event Notices, Eden Bistro would employ 20-25 people of whom the majority would be expected to be from Moira.

It was then clarified that the current requirements for indoor ventilation under COVID guidelines would be met through the existing air conditioning system and opening of doors. It was also clarified that since the publication of the Moira Placecheck document in 2014 there had been no new eating establishments opened.

In response to a question from Councillor Sewell, it was clarified that the usual capacity internally was approximately circa 50 people with 80 seats outdoors. With ongoing COVID-19 restrictions, this was expected to be restricted to 25-30 indoors. In response to a further question, the applicant stated that as a Parish Councillor he believed Ashby Woulds Parish Council was in support of the application and he had been contacted by local residents also supporting his ventures.

Councillor Hay questioned the types of events planned and the measures in place to mitigate noise on the outside of the premises if the intention was to 'create an ambience'. In response, comparison was made to the style of the Moira Canal Festival, and the intention on most nights was for customers to have somewhere nice to eat and drink accompanied by ambient music, with the occasional use of live entertainment on Fridays or Saturdays. It was re-stated that this was not intended to be a disturbance to local residents with the applicant himself a neighbour of the site and to some of those who had

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submitted objections. The applicant then confirmed that having referenced "school nights" in his response he would be open to differing operating schedules for licensable activities on different days of the week should the license be granted. It was also confirmed that a reason for the rejection of the conditions suggested by the Council's Environmental Protection team had been the inclusion of a sound-limiting device due to the costs and likely impact on the ambiance of any events.

In response to a question from the Environmental Health Officer, the applicant clarified that there would be some acoustics involved in the proposed events but the intention was not to do so in a way that upset neighbours and gave assurances that music would be turned down in the event of any complaints.

Terence Olaf, an Environmental Health Officer from the Council's Environmental Protection team, then made representations, highlighting that his representations to the application concerned the licensing objective of preventing public nuisance. This was due to the location of the premises at a four-road junction in a close vicinity of residential properties, unlike the other licensed premises in the area. The proposed licensable activity to play live and recorded music outside the venue with little mitigation measures in close proximity to these properties were areas of concern. He also highlighted residual concerns about the impact on these properties of sound energy emanating from inside the venue at the times in the proposed operating schedule.

In response to questions from Councillor Clarke, the Environmental Health Officer acknowledged that area was also subject to high levels of road traffic noise but observed that in the late hours of the evening this background noise would diminish thus leaving the premises as the primary source of noise. It was explained the proposal from Environmental Protection for a sound limiting device was considered an effective way of ensuring sound levels did not exceed a certain level. It was observed that the playing of music before 23:00 was not a licensable activity and therefore could not be controlled by the Sub-Committee in any event.

In response to questions from Councillor Sewell, the Environmental Health Officer explained he would be satisfied with the playing of recorded music at the premises in the background as opposed to live music but stated that the playing of music should not be used as the primary use of the premises.

In response to questions from the agent, the Environmental Health Officer explained that he could only comment on the application and its particular proximity to residential properties and could not comment on the current licensable activities taking place at other venues such as Conkers and was unable to confirm whether there had been any noise complaints. In response to a question from the applicant, the Environmental Health Officer could not confirm with an evidence backed answer on whether music being played on the Rawdon Road side of the premises would create sufficient distance and a physical barrier against sound nuisance for neighbours on Ashby Road. He observed that the building was not insulated or designed to contain the acoustics created from the playing of music.

All parties were then given the opportunity to make short closing speeches. The applicant took an opportunity to re-state that he considered the application to be supported by local residents with the exception of those who had submitted representations and that all buildings have some inherent sound-limiting properties.

At 7.30pm the Sub Committee adjourned to consider its decision. It reconvened at 8.51pm

REOLVED THAT

The license be granted subject to following conditions:

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- 1) The sale by retail of alcohol be limited to the hours of 08:00-23:30 from Sunday to Thursday, and 08:00-00:30 on Fridays, Saturdays, and Sundays on Bank Holiday weekends.
- 2) The playing of live music (indoors and outdoors) be permitted from 23:00-00:00 on Fridays, Saturdays, and Sundays on Bank Holiday weekends, on the basis that the playing of music from 08:00-23:00 is not a licensable activity and is therefore not subject to the decision of the Sub-Committee.
- 3) The playing of recorded music (indoors and outdoors) be permitted from 23:00-00:00 on Fridays, Saturdays, and Sundays on Bank Holiday weekends, on the basis that the playing of music from 08:00-23:00 is not a licensable activity and is therefore not subject to the decision of the Sub-Committee.
- 4) The provision of performance of dance (indoors and outdoors) indoors and outdoors be permitted from 23:00-00:00 on Fridays, Saturdays, and Sundays on Bank Holiday weekends, on the basis that the provision of dance from 08:00-23:00 is not a licensable activity and therefore not subject to the decision of the Sub-Committee.
- 5) The provision of late night refreshment be permitted from 23:00—23:30 from Sunday to Thursday, and from 23:00-00:30 on Fridays, Saturdays and Sundays on Bank Holiday weekends, on the basis that the provision of late night refreshment from 08:00-23:00 is not a licensable activity and therefore not subject to the decision of the Sub-Committee.
- 6) The conditions in the operating schedule provided by the Applicant will apply, save for the following amendments:
 - a) "I" will be changed to "the Licence Holder"
 - b) Under the heading "General" the first condition "Ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder asks for a photo ID proof of age where they have reason to suspect that the individual may be under 18 years of age" will be changed to "Ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder asks for a photo ID proof of age where they have reason to suspect that the individual may be under 25 years of age" to be consistent with a later condition that the premises will operate a challenge 25 policy.
- 7) A further condition be added to the License as follows "Disposal of waste bottles into external receptacles where the noise will be audible to neighbouring properties must only occur between 07:30 hours and 21:00 hours."

It was then noted to the applicant that the Sub-Committee had considered his intention to only play music at a volume that would not cause a nuisance to neighbours and that if a neighbour complained, the music would be turned down. The Applicant was advised to adhere to this as should there be any issues with the premises, a review of the license could be triggered by any member of the public.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 8.54 pm

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