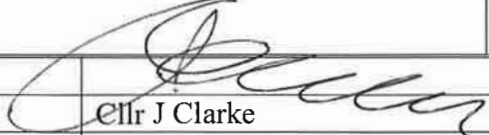


DECISION: conditions added


NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING ACT 2003 SUB-COMMITTEE

RECORD OF PROCEEDINGS/MEMBERS NOTES

1.	Date of Hearing	14 August 2019
2.	<ul style="list-style-type: none"> • Panel/Committee members present • Members/officers observing 	Cllr Clarke (Chair) Cllr Everitt Cllr Merrie MBE Minna Scott Clare Proudfoot
3.	Legal Advisor	Louise Arnold
4.	Declarations of interests by members or officers	None
5.	Applicant	Leicestershire Fire and Rescue Service (Responsible Authority)
6.	Premises	The Chequered Flag 32 Borough Street Castle Donington
7.	Nature of Application(s)	Review of Premises Licence over concerns that the Premises is undermining the licensing objective of Public Safety
8.	Parties/Representatives and Witnesses present <u>For the Applicant</u> <u>Witnesses given permission to speak</u> <u>Witnessesses refused permission to speak and reason why</u>	Cyril Abadie (Fire Safety Inspecting Officer) Cyril Abadie n/a
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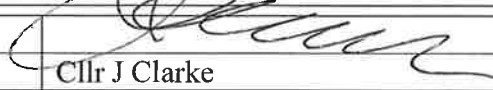
	<p><u>For the Licence Holder</u></p> <p><u>Witnesses given permission to speak</u></p> <p><u>Witnesses refused permission to speak and reason why</u></p> <p><u>For the Responsible Authorities</u></p> <p><u>Witnesses given permission to speak</u></p> <p><u>Witnesses refused permission to speak and reason why</u></p> <p><u>Interested Parties</u></p>	<p>Lisa Richardson-Lewty (representative) Robert Sandham (licence holder)</p> <p>Lisa Richardson-Lewty</p> <p>n/a</p> <p>Dean Flower (Planning) Anisa Badani (Environmental Protection)</p> <p>Dean Flower Anisa Badani</p> <p>n/a</p> <p>None</p>
9.	Parties/witnesses not present and reason why	Marc Orton (Environmental Protection) – represented by team member Anisa Badani
10.	Applications and Decisions on ancillary issues, e.g. requests for adjournments; determinations whether to proceed in absence; directions, etc.	<p>It was resolved that Cllr Clarke take the chair for the remainder of the meeting.</p> <p>In accordance with regulations it was agreed each party would be given an equal time to make their representation</p>
11.	Written Representations and supplementary material taken into consideration	Agenda pack and supplementary documents (x10 Appendix) submitted in advance by the licence holder
12.	Agreed Facts	The Chequered Flag is a micropub situated on Borough Street in Castle Donington
13.	Facts/Issues	<p>Issues</p> <p>The fire authority have not been able to ascertain whether the Responsible Person (Mr Sandham) has been complying with his duties under the</p>

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	<p>current fire safety legislation, i.e. taking general fire precautions.</p> <p>Planning raised concerns regarding seating and tables being placed on the public highway.</p> <p>Environmental Protection raised concerns regarding the rear fire exit being partially blocked with barrels making escape from the premises difficult in the event of a fire. In addition there were issues with waste and noise.</p>
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14	<p>Findings of Fact <i>(ie the relevant facts accepted from the evidence available)</i></p> <p>The application for review was made by the Fire Service (as a responsible authority), two other Responsible Authorities made representations. No other representations were received.</p> <p>The application had been made, and served in accordance with the Licensing Act 2003.</p> <p>The panel members considered all items in the agenda pack, the further documents circulated by the licence holder prior to the sub-committee and the verbal representations made during the meeting.</p> <p>The panel acknowledged the issues raised in the representations received but felt that with the additional and amended conditions attached to the licence the promotion of the licensing objectives could be upheld.</p>
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15.	<p>Full text of decision on the application</p> <p>MINUTES of a meeting of the LICENSING SUB COMMITTEE held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 14 AUGUST 2019</p> <p>Councillors J Clarke, D Everitt and K Merrie MBE</p> <p>Officers: Mrs M Scott, Mrs L Arnold, Mr P Dennis, Mr D Flower, Ms C Proudfoot, Mrs R Wallace Wallace and Ms A Badani</p> <p>ELECTION OF CHAIRMAN</p> <p>It was moved by Councillor K Merrie, seconded by Councillor D Everitt and</p> <p>RESOLVED THAT:</p> <p>Councillor Clarke take the chair for the remainder of the meeting.</p>
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APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATION OF INTERESTS

There were no declarations of interest.

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

The Chairman introduced the parties 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 be ten minutes.

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

There were no questions for the Licensing Enforcement Officer.


The applicant, Mr C Abadie had nothing further to add than what was included within the report or the Licensing Enforcement Officer's presentation.

In response to a question from Councillor K Merrie, Mr C Abadie could not comment on the other premises in Castle Donington as he had not undertaken any other fire safety inspections.

Ms L Richardson-Lewty addressed the Sub Committee on behalf of Mr R Sandham, the premises licence holder. She explained that the premises was very small with a very welcoming atmosphere, which generally attracted older clientele. It was reported that until the current review, there had been no incidents of crime and disorder in the five years that Mr R Sandham had owned the business and the police had only been called twice due to a troublesome customer. She confirmed that Mr R Sandham was well aware of the reasons why the review had been instigated, and had worked very hard in the past week to address each issue raised within the report. Ms L Richardson-Lewty expressed her concerns that the notice of the hearing had not been served as a hard copy, only electronically and was disappointed that the report pack had only been received in paper format the previous week. Mr R Sandham had received the emails of both but was not very computer literate and therefore was expecting hard copies sooner.

Ms L Richardson-Lewty commented that Mr R Sandham regarded public safety with the upmost importance and listed the following things undertaken to address the fire safety concerns:

- The bushes at the rear of the premises had been cleared.

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- Walls had been painted white to clearly show where the escape route was with more signs erected.
- All barrels and rubbish had been removed from the rear of the premises and a permanent lockable store for the barrels installed.
- Fire equipment on the premises had been tested and certified.
- The first of many fire safety training sessions for staff had been delivered and logged.

Ms L Richardson-Lewty apologised for the missed appointments on behalf of Mr R Sandham, she explained that he was on holiday at the time and had not seen the email notifications; she reiterated her earlier comment regarding Mr R Sandham's lack of computer skills. She added that Mr R Sandham recognised the need to spend more time on his administrative duties, especially in relation to letter and email correspondence.

Regarding issues with waste, Mr R Sandham previously had a commercial waste contract but unfortunately, it had to be terminated as they failed to collect it for six weeks. It was confirmed that a contract with North West Leicestershire Waste Services had now been set up. The rubbish in the communal area was not solely from the premises and Mr R Sandham had evidence on his mobile phone of his complaints to the landlord on this matter.

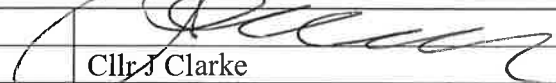
Ms L Richardson-Lewty assured members that the furniture outside the premises had been removed and the correct café licence would be applied for in the near future. She also offered a new condition to be added to the licence regarding the installation of CCTV on the premises.

To conclude, Ms Richardson-Lewty proposed that the licensable activity hours be reduced to the following to allow Mr R Sandham time to deal with his administrative duties:

Monday to Friday	16:00 – 22:30hrs
Saturday	12:00 – 22:30hrs
Sunday	12:00 – 21:00hrs

In response to a number of questions from Councillor K Merrie, Ms L Richardson-Lewty stated the following:

- Mr R Sandham agreed that he had failed in regards to the communication with all parties concerned and he now understood the importance of carrying out all parts of the administration required for the business. Ms L Richardson-Lewty admitted that Mr R Sandham 'had his head stuck in the sand' and was letting everything get on top of him. With the guidance and advice of Ms L Richardson-Lewty, Mr R Sandham would not get in the same situation again.
- Mr R Sandham was fully aware of the conditions of his licence and recognised his failures as highlighted in the report. He confirmed he understood the consequences and was truly sorry, he had learnt a lot during this process.

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- Mr R Sandham confirmed that he enjoyed his job very much and understood the importance of adhering to the conditions of his licence.
- Regarding the waste collections, Mr R Sandham was planning on keeping his daily waste in the lockable store at the rear of the premises and then taking it back to his nearby property where the bins would be kept. North West Leicestershire Waste Services would be collecting the waste from his property. The Planning Enforcement Officer commented that this may not be possible and advised further discussions outside of the meeting.

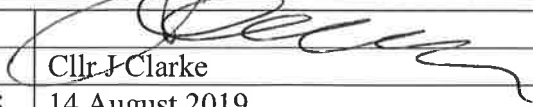
Following a further question from Councillor K Merrie regarding the fire safety documents provided by the premises licence holder, the Fire Safety Inspection Officer stated that the fire certificate and risk assessment were not satisfactory due to missing information. Also, the logbooks were not suitable as there was not enough information in the current format. He was willing to work with the premises licence holder to make improvements on the documents to enable a positive audit test. He added that in relation to the notice of the hearing, he had evidence that it was hand delivered as it was sent recorded delivery via Royal Mail and had been signed for.

In response to a question from Councillor D Everitt, Mr R Sandham acknowledged that there could have been dire circumstances if a fire were to occur at the premises before the current action was taken and he would adhere to the conditions in future.

The Planning Enforcement Officer reminded the premises licence holder that he would not only need a café licence to allow seating outside the front of the premises but also planning permission. Ms L Richardson-Lewty confirmed that they were aware.

Mr D Flower, Planning Enforcement Officer, addressed the Sub Committee. He stated that the premises was operating outside its licence by having tables and chairs on the pavement in front of the building. He explained that Mr R Sandham attended a meeting in 2018 regarding advice for a café licence, which was followed up by an email. Following the meeting, a number of chasing emails and phone calls were made with no response. Mr D Flower pointed out that although Mr R Sandham claimed to not be computer literate; he successfully emailed photographic evidence regarding other breaches of conditions when required. Mr D Flower visited the premises in April 2019, spoke at length with Mr Sandham, and sent written correspondence on many occasions, all of which was ignored. Mr D Flower felt the issue in this case was very poor communication as many of the problems with the premises could have been addressed sooner if Mr R Sandham was to follow the advice given.

Ms A Badani, Environmental Health Officer, addressed the Sub Committee. She stated that Mr R Sandham had failed to produce a waste carrier licence for the disposal of his waste and investigations on this matter was ongoing. There was also an issue at the premises with storage of waste and barrels in the communal area, which was a fire risk, members were referred to the photographs within the report. Ms A Badani informed members of an ongoing noise complaint from a

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neighbour to the premises. A noise assessment has indicated that there was an issue with noise from the patrons using the footpath outside the premises. Investigations regarding the noise emitting from inside the premises were still being undertaken.

In response to a question from Councillor J Clarke, the Environmental Health Officer confirmed that there had also been noise complaints regarding the neighbouring licensed premises in the past but improvements had been made and they had always complied with conditions.

In response to a question from Ms L Richardson-Lewty, the Environmental Health Officer confirmed that she was aware that the neighbouring licensed premises had motorcycle groups visiting on Thursday evenings, which created noise, but investigations concluded the noise in relation to the complaint was emitted from the Chequered Flag.

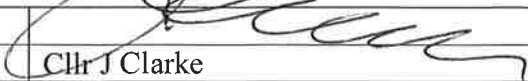
All parties gave a brief closing statement, reiterating comments made previously in the meeting.

At 7.22pm the Sub Committee adjourned to consider its decision. It reconvened at 7.50pm.

RESOLVED THAT:

In order to promote the licensing objectives this Sub Committee **added the following conditions** to the premises licence:

1. Upon receipt of fire safety audit reports all recommendations/actions therein shall be complied with within 60 days of receipt
2. All staff shall receive 6monthly training on fire safety legislation and on their responsibilities with regard to licensing legislation. This training is to be documented and presented to a member of a responsible authority upon request
3. CCTV shall be installed (by no later than 1/11/2019) and maintained at the premises:-
 - i. The CCTV shall cover the entry and exit points of the premises and all areas where alcohol/money is served/taken and all areas where the public have access and the immediate vicinity outside the premises
 - ii. The images/recordings are to be downloadable in a suitable format and provided to any member of a responsible authority upon request and without undue delay
 - iii. Images and recordings must be of evidential quality and must indicate the correct time and date, and be kept for at least 31 days
 - iv. All staff are to be trained in the use of the CCTV system and at least one member of staff must be on duty who is trained to download the

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systems images should any member of a responsible authority make a request for the footage

The sub-committee also **amended the licensable activity hours** under Part 1 of the licence to:

Monday to Friday 16:00 – 22:30hrs
Saturday 12:00 – 22:30hrs
Sunday 12:00 – 21:00hrs

(New Years Eve remains unchanged).

The sub-committee also recommended that the premises work with the Council to ensure all appropriate notices, licences and permissions were in place as soon as possible.

16. Reasons for decision

(An explanation of why:

- *When applying the findings of fact to the statutory provisions and law; a particular conclusion is reached to grant, grant with conditions other than standard conditions, or refuse the application.*
- *If facts were in dispute and it is not clear from the 'Findings of Fact' box above, which facts were disputed and, in coming to the finding of fact, the extent to which the parties and witnesses were believed or disbelieved and the information on which the Panel relied in reaching its decision.*

Also, state any legal authorities cited by the parties)

The panel members took into account all the representations received.

The panel members also took into account the additional papers submitted by the licence holder and the conditions proposed and suggested amendments to the licensable hours.

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Chairman:

Date of Hearing:

Clr J Clarke

14 August 2019

17.

DECISION:

The sub-committee noted the Licence Holder's suggestions in respect of conditions.

In reaching its decision the sub-committee has had regard to the evidence and representations of the applicant, premises and responsible authorities present, the Council's Statement of Licensing Policy and Guidance issued under s182 of the Licensing Act 2003.

In attaching the additional, and amending some conditions the sub-committee has had particular regard to the representations.

In order to promote the licensing objectives this sub-committee **added the following conditions** to the premises licence:

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