

any responsible authorities during the consultation period, three representations had been received from residents - two in objection and one in support - and these were attached at Appendix E to the report. The Sub-Committee was asked to determine the application either by granting the application as requested; modifying the conditions of the licence; or rejecting all, or part, of the application.

- 4.3 A Member queried whether a noise assessment had been undertaken and was advised that this was a condition of the original licence and had been carried out in January 2019. No concerns had been raised and the Environmental Health Manager indicated that there was a close-boarded fence and a three metre acoustic barrier which is what he would expect to see. The Member went on to question whether there had been any complaints about noise at the premises and was advised that complaints had been made by a resident in proximity to the boundary of the establishment but they could not be substantiated. The Environmental Health Manager understood that people went out into the pub garden to have a drink and, whilst a certain level of noise was to be expected as a result of that, a number of different mitigation measures had been put in place to minimise disruption including moving the benches closer to the establishment and erecting signage etc. Discussions had also taken place with the applicant about the provision of a noise management plan which could be shared with staff. The original complainant had not requested a specific noise assessment but there was an open offer for one to be carried out if and when that was required in the future.
- 4.4 The applicant was invited to present his case. He explained that the application had originally been submitted some time ago but had been resubmitted for technical reasons on 14 June. He confirmed that the application had been submitted correctly and had been publicised in accordance with the law. He advised that he was experiencing problems with a neighbouring resident who did not want a pub next door despite the fact that his house had not even been built when the pub had started trading so he had purchased the property in the knowledge that would be the case. He stressed that the pub was primarily a food establishment and was often closed by 2200 hours. It generated very little noise as the majority of patrons were over 60 and there was no late night music with the exception of a disco on New Year's Eve which ceased at 0030 hours. He pointed out that the neighbour had complained about numerous things including a light on the chimney breast which had been moved to the bottom and tilted as a result but could not be removed entirely for health and safety reasons. The applicant felt he had done everything he could to address the concerns and indicated that he had been trading for 30 years without any other issues. He had moved the location of the benches in the garden area but he could not stop people from having a conversation there. In terms of smoking – which had also been raised as an issue by the complainant – on the rare occasion people did smoke in the garden, the direction of the winds meant that smoke would not even reach the garden of the neighbouring property. He stressed that if there was a problem, he would address it straight away but he did not feel that was the case.
- 4.5 A Member sought clarification as to whether there was a designated smoking area and was advised that people tended to congregate at the front door where there were two or three benches and vary rarely moved into the garden area – when they did they only popped outside and then came straight back in. This area was 20 or 30 feet away from the neighbour's garden so it should not cause a problem. A Member noted that the garden area would be vacated by 2200 hours and he queried where people would smoke after that time. In response, the applicant confirmed that he had offered to limit the use of the garden area as a concession, as such, nobody would be allowed in that area beyond 2200 hours and any smokers would need to go just outside the door. He indicated that there was rarely anyone outside at that time anyway, even in the recent hot weather. A Member questioned how this was policed and was advised that the applicant or his wife, or

the pub manager or their staff, were in and out of the garden all of the time and everyone was fully briefed on the arrangements – on one occasion when there had been a couple in the garden there had been no problem whatsoever when staff had asked them to move inside. A Member suggested that the area could be chained off and the applicant indicated that he had already erected signs saying “respect the neighbours” etc. but he also intended to put up additional signage to state that the grassed area must be vacated by 2200 hours – these signs had been ordered so it would just be a case of erecting them. He reiterated that the tables had been moved to within five metres of the side of the pub building.

- 4.6 The local Ward Councillor indicated that Norton was very lucky to have the establishment and the village had fought hard for it. At the last Parish Council meeting he had attended, comments had been made about noise from the road but nothing about the pub. The pub car park was always full when he drove past in the evenings and was of a very high standard which should be welcomed in his opinion. The applicant clarified that the premises licence did not allow the pub to open all day; it opened at 1100 hours, with food served from 1200 hours to 1500 hours when it closed before re-opening at 1730 hours, serving food until 2100 hours - the pub was generally empty by around 2130 hours, or 2230 hours on a Saturday night.
- 4.7 The Senior Licensing Officer reminded those present that anyone could apply for a review of the premises should any problems occur; the fact that a decision would be made by the Sub-Committee today did not preclude residents from applying for a review or contacting the Environmental Health department to investigate any future noise complaints. In response to a query as to whether it was possible for the same person to complain, the Senior Licensing Officer reiterated that anyone could apply for a review at any time and anyone could make a complaint but they would not be accepted if they were frivolous or vexatious. The Environmental Health Manager explained that, in terms of the outstanding complaint, the applicant had put in place mitigation measures to address this and there was an open offer for Environmental Health to go back and carry out an assessment. If a statutory nuisance was established then a noise abatement notice could be served but there was no evidence that was the case at this stage.
- 4.8 The Chair invited the applicant to make any final comments. The applicant indicated that, as well as being the owner of the premises, he was also a Norton parishioner and wanted the pub to be successful for that reason.
- 4.9 The Chair indicated that the Sub-Committee would retire to make its decision.
- 4.10 When the meeting reconvened, the Chair advised that, having considered the application, all of the evidence presented, the representations made by all parties, the licensing objectives, the national guidance and the Council’s own licensing policy, it was

RESOLVED That the variation of the premises licence be **GRANTED** as set out in the attached Decision Notice.

The meeting closed at 11:02 am

DECISION NOTICE

COMMITTEE: Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)

DATE: Monday, 5 August 2019

Premises: The New Dawn Inn, Tewkesbury Road, Norton, Gloucester, GL2 9LR.

Applicant: Martin John Hand

Application for the variation of a premises licence under Section 34 of the Licensing Act 2003.

Present: Councillors G J Bocking (Chair), J W Murphy and R J G Smith.

Other parties addressing the Sub-Committee: Councillor M J Williams – Ward Councillor.

SUMMARY OF REPRESENTATIONS

1. No responsible authorities made representations in relation to the application.
2. Three representations were made by other persons in relation to the application – one in support of the application and two in objection.

THE APPLICATION

The applicant had not applied to change any of the licensable activities or times from those on the existing licence but new conditions were proposed as follows:

1. An incident book shall be maintained at the premises in which shall be recorded the time, date and circumstances of all refusals of entry, refusals of sale or removal of persons from the premises, along with the name or a description of the individual.
2. All windows and doors at the premises shall be kept closed, other than for normal or emergency access and egress, for the duration of any period in which live music or recorded music (other than incidental, background music) is being played.
3. A CCTV system will be maintained at the premises operating throughout the opening times of the premises and with a facility to digitally download footage. Recordings will be kept for a minimum of 14 days and will be available to authorised officers upon reasonable request.
4. A Challenge 25 policy shall be operated at the premises at all times. All staff shall require identification of all customers who appear to be less than 25 years old and wish to purchase alcohol. Acceptable proof of age will be a PASS approved proof of age card, passport or a photographic driving licence.
5. The licence holder will submit and maintain a noise management plan (NMP) setting out how noise from the premises and customers will be mitigated. The plan shall be maintained thereafter and updated as necessary to reflect any changes likely to impact on the acoustic environment.
6. All fixed external lighting should be positioned in such a way as to not cause nuisance to neighbours.

7. In relation to the outside area marked on the plan as GRASSED AREA AT THE FRONT OF THE PREMISES:

- This area will be vacated by 22:00 hours.
- Clear and legible notices will be displayed in this area reminding customers to keep noise to a minimum and to respect the neighbours.
- A maximum of 5 tables and 20 chairs will be positioned in this grassed area. Where a picnic-style bench table is being used, this shall count as 1 table and 4 chairs. Furniture in this area will be positioned within a distance of 4.2 metres from the wall of the premises.

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the four licensing objectives; the national guidance; and the Council's Statement of Licensing Policy, it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to the following additional condition:

1. The noise management plan must be agreed with the Environmental Health department and this plan must be made available to neighbours, if they wish to see a copy.

REASON

The Sub-Committee was satisfied that all of the conditions attached to the licence would promote the licensing objectives.

All interested parties were reminded that, should the applicant fail to meet the licensing objectives, any interested party could report matters to the licensing authority and the applicant and the licence could be the subject of a review. Further, any noise complaints should be communicated to the Environmental Health department for them to investigate. There was a right of appeal to the local Magistrates Court within 21 days of the decision.