

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 28 July 2022 commencing at 2:30 pm

Present:

Chair

Councillor G F Blackwell

and Councillors:

J W Murphy and R J Stanley (Substitute for P W Ockelton)

LSB/A.1 ELECTION OF CHAIR

1.1 It was proposed, seconded and

RESOLVED That Councillor G F Blackwell be appointed as Chair for the meeting.

LSB/A.2 ANNOUNCEMENTS

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/A.3 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations of interest made on this occasion.

LSB/A.4 PREMISES LICENCE APPLICATION - REF: 22/00773/LIQPRM - THE COURT, TITHE BARN, BROCKWORTH COURT, COURT ROAD, BROCKWORTH, GL3 4QU

4.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 1-73, outlined an application for a premises licence in respect of The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth, GL3 4QU. The Licensing Sub-Committee was asked to determine the application by either granting the application as applied for; granting the application but with modifications to times or conditions appropriate to promote the licensing objectives; or, rejecting all or part of the application.

4.2 The Chair asked all parties present to identify themselves and explained the procedure that would be followed by the Sub-Committee. The Environmental Health Manager advised that an application had been received under the Licensing Act 2003 for a premises licence for The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth. The application sought authorisation for the sale of alcohol, live music (indoors only) and recorded music (indoors only) between the hours of 1100-2330 on Wednesday and Saturday. As part of the application process, the applicant had provided an operating schedule which set out the steps they intended to take to

promote the four licensing objectives: prevention of crime and disorder; prevention of public nuisance; protection of children from harm; and public safety. During the consultation period, comments had been received from the Environmental Health Authority and the Chief of Police and a number of conditions had subsequently been agreed with the applicant, as set out at Pages No. 2-4, Paragraphs 2.2-2.3 of the report. No comments had been received from any of the other statutory consultees but five representations were received from other persons in relation to the application and they were set out at Appendix D to the report. The Sub-Committee was asked to determine the application either by granting the application as applied for; granting the application but with modification to times or conditions appropriate to promote the licensing objectives; or rejecting all, or part, of the application.

- 4.3 The Chair invited questions for the Environmental Health Authority as the responsible authority present at the meeting. A Member noted that the hours applied for were 1100-2330 and she asked whether the doors would actually close at 2330 hours. In response, the Environmental Health Manager confirmed that the cessation of the licensable activities would be at 2330 hours rather than that being the time when people exited the building. The Member observed that the application was for Wednesdays and Saturdays and queried whether a further application would be required if the applicant wanted to extend the licensable activities to other days of the week. The Environmental Health Manager clarified that another application would be required to vary the licence in that scenario. It would also be possible to apply for a Temporary Events Notice (TEN); it was noted that, if a premises licence was in place, the Police or Environmental Health could submit an objection requesting that licence conditions be applied to the TEN.
- 4.4 In questioning the responsible authorities, a Member asked what measures would be put in place as part of the noise management plan. In response, the Environmental Health Officer advised that a full noise management plan was awaited from the venue and would include those items which had been agreed as conditions, for instance, ensuring all external windows and doors were kept shut when regulated entertainment was being provided; displaying prominent, clear and legible notices at all exits requesting patrons to vacate the premises quietly, installation of a tamper-proof noise limiting device – it was noted that Environmental Health would work with the applicant to set the levels and there would be a requirement for at least one noise check to be conducted by the Premises Licence Holder, or a responsible person nominated by them, after 2230 hours outside the premises close to the nearest noise sensitive receptors when regulated entertainment was taking place. A Member asked whether the noise limiting device was set to a standard decibel level and the Environmental Health Officer advised that an assessment was made based on what was reasonable taking into account the applicant's needs and the impact on neighbours – it did not need to be set to a standard decibel level. Another Member asked how long Environmental Health would continue to visit the site and was advised that the initial setting-up of equipment involved an Officer going out on site – once it had been set to an agreed level that was where it would stay unless there were any significant changes to the licence in future. A Member noted that the equipment was required to be tamper-proof and asked what prevented it from being altered. The Environmental Health Officer advised that a limited number of specified people should have access to the equipment; it should not be accessible to members of the public – how the access was limited depended on the type of system used. A Member raised concern that, although it was intended to keep windows and doors closed at the venue, people would inevitably be going in and out for cigarettes etc. which would impact on local residents and he asked if it was possible to set the noise limiter based on a more realistic scenario when the doors/windows were open. In response, the Environmental Health Officer confirmed that the system would be set with the doors and windows closed as they would only be expected to be open momentarily for exit

and egress when music was being played. In response to a query, the Environmental Health Officer confirmed that, should the licence be granted, it could not be used until the noise management plan had been agreed.

- 4.5 A Member noted that the venue had hosted a number of permitted events under TENs and she asked how many of the proposed licence conditions were already in place for TEN events. In response, the Environmental Health Officer clarified there were no strict conditions to follow for TENs which were based on more informal agreements. Having a premises licence in place would provide an opportunity for mitigation over and above the statutory noise regime. A Member understood it was possible to buy directional speakers and he asked if that was something which could be considered. The Environmental Health Officer confirmed they were available but whether they were beneficial depended on the layout of the venue; however, he provided assurance that it did not matter what direction the speakers faced as it would be captured by the noise limiter so that was the crucial element. Another Member drew attention to Page No. 6, Paragraph 5.4.3 of the report which stated that more sophisticated measures, like the installation of rubber curtains or rubber speaker mounts, to mitigate sound escape may be appropriate and she asked whether it would be possible to require further measures to be put in place if those initially agreed proved not to be adequate. The Environmental Health Officer advised that the paragraph referred to related guidance and it was considered that the conditions proposed would be sufficient to mitigate any substantial concern – it was very rare to have to go back and ask for additional measures, although that was potentially something which could be considered if there did prove to be an issue once the licence had been granted and was in operation.
- 4.6 The Chair invited the local resident present at the meeting to address the Sub-Committee. The local resident explained that the 20 months she had been living at the property had been miserable due to the high levels of disturbance caused by noise functions at the Tithe Barn and she had been reduced to tears many times. She had complained to the Council on 13 July and had noise monitoring equipment installed in her house as events had gone on until 2330, 2345 and 0015 hours. She indicated that her house was a three storey building and the noise travelled incredibly far – she had been forced to move her son's nursery from the back of the house to the front as a result. Whilst she appreciated this was a business opportunity for the applicant and she did not want to stand in the way of that, it was very tough for residents and she pointed out that her neighbours felt the same sense of dread when they saw a sign for a wedding at the venue. It was not just the noise from music which was a problem but the disturbance from guests singing and leaving the venue – the car park was almost directly behind her property. She indicated that she had attended the meeting as she wanted to put a human voice to her representation and convey what an incredibly difficult year it had been due to the number of events and their frequency. She had particular concerns about the reference to 'summer months' and which months that actually covered and what would happen if the noise conditions imposed were not met, for instance, if doors were left open due to extremely hot weather as had been experienced recently – she could not stop the event as that would be ruining someone's wedding day and she could not go to the venue and say it was a problem. One of her neighbours had echoed these concerns in a written representation.
- 4.7 The Chair invited the applicant's representative to make their case. The applicant's representative advised that she was the applicant's business partner and sister. The premises had been a wedding venue for over 11 years and was a much-needed resource for the local economy, creating work for local suppliers such as caterers etc. Their bars had been operating for seven years, serving around 250 events, and had never had any problems. Currently, the TENs applied for required licensable activities to cease at 2330 hours and, whilst she could not speak for other bars using the venue, she confirmed they had adhered to that. She explained that, going

forward, if the licence was granted, theirs would be the only bar working from the venue so she could say with confidence that the music and bar would stop at 2330 hours. She indicated that she would welcome the introduction of a noise limiter as that would avoid them having to turn the microphone down.

- 4.8 In response to a query regarding the other bars using the venue, the applicant's representative explained that currently any bar could apply to use the venue under a TEN so it was not always their bar in the venue; however, she clarified that the owner of the venue would like them to be the only bar working from there so, if the premises licence was granted, it would only be them working from the venue going forward. A Member asked how many TENs the applicant had applied for this year and the applicant's representative indicated that she was unsure of the exact number but thought it was around four. A Member asked whether any formal complaints had been received in relation to those events and the applicant's representative confirmed she was not aware of any. Another Member asked if the Environmental Health team knew of any complaints being made at times the applicant had been using the venue and the Environmental Health Officer advised that they were not necessarily made aware of which bar was at the venue at a particular time. The Licensing Officer indicated that the Tithe Barn was a popular venue for weddings and engagement parties so there was a lot of rotation from various people. A TEN was a notification to the Licensing Authority which was not able to refuse them although the Police or Environmental Health did have the option to make representations against them with an option for a counter-notice to be served, although that was very rare. The Licensing Officer went on to advise that it was the premises which was granted the licence and Members were required to make a decision based on how the noise impacted residents and the surrounding area so it was irrelevant if it was the applicant holding the TENs at the time of any complaints or someone else. A Member noted there was a lot of residential development within the area surrounding the venue over the last couple of years so a greater number of properties were potentially being impacted by functions at the venue so he asked whether any additional measures had been put in place to mitigate noise impacts as a result of that. The Environmental Health Officer confirmed this was outside of the licensing regime; whilst there was an ongoing investigation within Environmental Health, no statutory nuisance had been established up to this point so it was not in a position to ask for further action to be taken. The Member recognised it may not be possible to compel any action but the owners must be aware of the complaints from residents so he asked if they had put in place any measures as a result. The Licensing Officer indicated that was not something she was able to answer; however, she pointed out that, if there was a premises licence in place, it would allow better management of the premises if any complaints were received as the Licensing Authority would be able to step in and take enforcement action for breach of condition. A Member asked what the impact would be if the premises licence was granted and the Environmental Health investigation subsequently established a statutory nuisance and the Environmental Health Officer explained that situation should not arise as the Licensing team would be involved before it reached that stage; nevertheless, it was a possibility and he pointed out that the more mitigation measures added as conditions, the less likely it was that a statutory nuisance would be established.
- 4.9 A Member noted that the application form referred to the 'summer wedding season' and she asked if it was intended to hold weddings at the venue outside of that period. The applicant's representative explained that May to September tended to be the key time for weddings. She explained that they had been operating on Wednesdays and Saturdays to try to catch up with some of the COVID backlog but the applicant would be happy to drop Wednesdays and for the premises licence to apply to Saturdays only as they did not want to be a nuisance to anyone. A Member raised concern that people often placed large orders at the bar just before it closed

so they may still be drinking beyond 2330. The applicant's representative confirmed that did happen and there was no rule preventing that; however, music would stop and the bar would close at 2330 hours when the staff would start to close down; they were last to leave and would normally be in the van and ready to go by 0000-0015 hours. Another Member indicated that, in his experience, people would carry on for as long as the music lasted so he asked if the applicant would have any objection to the licensable activities stopping earlier than 2330 hours in order to ensure that people had all left the venue before midnight. The applicant's representative reiterated there had never been an issue with getting people out of the venue and she pointed out that there tended to be a lot fewer guests at 2330 hours compared to 1900 hours, some of whom were staying in the bed and breakfast accommodation which was available at the venue. It would be a less attractive venue to book if the licensable activities were required to stop before 2330 hours. The Licensing Officer pointed out that the Live Music Act 2012 permitted live music until 2300 hours so it was more about the dispersal of guests as noise could be caused by people leaving the premises. The Legal Adviser clarified that the venue could have live music until 2300 hours without a licence – the application was seeking an additional 30 minutes.

- 4.10 In response to a query about what action was taken by the applicant to prevent disturbance which may result in complaints, the applicant's representative advised that they did not serve anyone who was drunk and kept doors closed – the bar was in a separate hall from the music and they made sure the doors between the two were kept shut as much as possible, although there would always be people going in and out. The applicant's representative indicated that, should the premises licence be granted, they would be the only bar using the venue, therefore any complaints received could confidently be attributed to them in future.
- 4.11 The Legal Adviser asked the local resident whether the applicant's offer to restrict the licence to Saturdays only had changed their objection in any way. The local resident confirmed that it would certainly be preferable - she was a teacher so being kept awake on weeknights was a problem. She welcomed the discussion about stopping the licensable activities earlier than 2330 but indicated that she was not here to ruin a business opportunity and, ultimately, granting the premises licence seemed to offer greater control than a TEN. The Licensing Officer clarified that granting the premises licence would not prevent TENs for events on other nights of the week. A Member noted that the owner had stated they only wanted the applicant to work from the venue so they would be the only bar there; however, she asked whether other events which did not require a bar would be able to go ahead. The applicant's representative explained that the Tithe Barn was used solely as a wedding venue and not for any other events. The Member understood it had previously been used as a village hall and the applicant's representative confirmed that was no longer the case. In response to a query as to whether the applicant had signed a contract with the owners, the applicant's representative advised it was a verbal contract but they had a very good relationship with the owners so were happy it was a concrete offer and she was sure they would be very happy to put it in writing. A Member asked whether planning permission was required for change of use if the premises licence application was successful and the applicant's representative confirmed that was correct.
- 4.12 A Member noted that some of the written representations from other persons stated that the statutory notice put up by the Licensing Authority was inaccessible due to being on a private driveway and one posted on the gate had been removed within 24 hours so she asked how that had been addressed to ensure the application had been properly advertised. The Licensing Officer explained that she had spoken to the applicant during the consultation process and asked him to put up the notice and requested photographic evidence of that. Given that the notice had been displayed off-road and was not visible to the public, she had asked for a duplicate notice to be displayed on the gate at the front and photographic evidence had been provided of

that showing the area and where it was displayed so she was satisfied that met the Licensing Authority's requirements. She pointed out that the application had also been advertised in the local newspapers, which was another requirement of the application process, and it was available on the Council's website.

- 4.13 The Chair invited the applicant's representative to make any final comments. In summing up, the applicant's representative indicated that they were willing to work with the Licensing Authority to meet its requirements and she hoped that removing Wednesdays from the application would help to alleviate some of the concerns of the local residents.
- 4.14 The Chair indicated that the Sub-Committee would retire to make its decision.
- 4.15 When the meeting reconvened, the Chair advised that, having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was

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

The meeting closed at 4:15 pm

DECISION NOTICE

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

DATE: Thursday, 28 July 2022

Premises: The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth, GL3 4QU.

Applicant: Carl Richardson

Application for a premises licence under the Licensing Act 2003.

Present: Councillors G F Blackwell (Chair), J W Murphy and R J Stanley.

Representatives of applicant: Applicant's business partner.

Responsible Authorities: Environmental Health Officer, Tewkesbury Borough Council.

Other parties addressing the Sub-Committee: One resident of Plough Close.

SUMMARY OF REPRESENTATIONS

1. Three responsible authorities had made representations in relation to the application: Environmental Health Authority, Gloucestershire Constabulary and the Local Planning Authority.
2. The Environmental Health Authority and Gloucestershire Constabulary subsequently agreed conditions for inclusion within the Operating Schedule.
3. Five representations had been received from other persons in relation to the application all objecting to the application.

THE APPLICATION

Relevant licensable activities and hours applied for:

Sale by retail of alcohol	Wednesday and Saturday	11:00 – 23:30 (on sales)
Live music	Wednesday and Saturday	11:00 – 23:30 (indoors only)
Recorded music	Wednesday and Saturday	11:00 – 23:30 (indoors only)

AMENDMENT TO THE APPLICATION BY THE APPLICANT

Sale by retail of alcohol	Saturday	11:00 – 23:30 (on sales)
Live music	Saturday	11:00 – 23:30 (indoors only)
Recorded music	Saturday	11:00 – 23:30 (indoors only)

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to the following amendments and conditions:

AMENDMENTS AND ADDITIONAL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AS AMENDED BY THE SUB-COMMTTEE

1. All mandatory conditions to be added to the licence.
2. The licence will run from 1 May to 30 September in every year.
3. The licence will be for Saturdays only.
4. A noise management plan is to be produced in writing and must be agreed with the Environmental Health Authority prior to licensable activity taking place.
5. The Premises Licence Holder will ensure that notices are displayed at all exits requesting persons leaving the premises do so quietly and do not cause unnecessary disturbance to the neighbourhood.

CONDITIONS CONSISTENT WITH THOSE RECOMMENDED BY THE RESPONSIBLE AUTHORITIES AND AGREED WITH THE APPLICANT

1. All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.
2. The location and orientation of loudspeakers must be as specified on the attached premises plan.
3. Prominent, clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to vacate the premises quietly.
4. There shall be no deliveries or collections relating to licensable activities at the premises will take place between the hours of 2100 and 0800 on any day.
5. There shall be no emptying of recycling (Inc bottle bins) or waste bins between the hours of 2000 and 0800 on any day.
6. The Premises Licence Holder (PLH) or a responsible person nominated by the PLH shall maintain a log of complaints in respect to nuisance. The log should be kept for a continuous 12 month period and be made available for inspection by officers of Tewkesbury Borough Council. (The complaint log shall include name and address of complainant, date/ time, nature of complaint and action to remedy, where applicable).

7. A tamper-proof noise limiting device must be installed and must operate at all times regulated entertainment takes place at the premises and set to levels agreed in writing with the Environmental Health Department of Tewkesbury Borough Council. All musical entertainment (live and recorded) will need to use the noise-limiting device.
8. The Premises Licence Holder (PLH) shall provide a Noise Management Plan which will need to be agreed in writing with Environmental Health Department of Tewkesbury Borough Council.
9. When regulated entertainment is taking place, the Premises Licence Holder (PLH) or a responsible person nominated by PLH shall conduct at least one noise check after 2230 hours outside the premises close to the nearest noise sensitive receptors (houses). Noise checks shall be logged and kept for a minimum of 12 months. (The noise check log shall include staff member, exact location, date/time, weather conditions, noise levels observed and corrective actions if applicable).
10. The Premises Licence Holder shall ensure that a notice shall be displayed at all times requesting customers leave quietly and avoid causing nuisance to local neighbours.
11. Doors and windows at the premises are to remain closed after 2300 hours, save for access and egress.
12. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID and cards bearing the 'PASS' hologram.
13. The Premises Licence Holder shall operate and maintain an up to date 'Register of Refusals' of Sale of Alcohol / Incident Book indicating the date, time and reason(s) for refusal / incident that has taken place. The Designated Premises Supervisor (DPS) shall check the book once a month ensuring that it is up to date. The DPS will sign and date the book each time it is checked. The book shall be made available for inspection upon the request of a duly authorised officer of the Licensing Authority or Police.
14. The Designated Premises Supervisor (DPS) shall ensure that all staff concerned in the sale of alcohol are trained in their responsibilities under the Licensing Act 2003, particularly concerning drunk sales, underage sales and proxy sales. Training will include challenging every individual who appears to be under 25 years of age, and to refuse service where individuals cannot produce acceptable means of identification, and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every twelve/six/three months. The training log shall be made available for inspection by Police and "authorised persons" immediately upon request.
15. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in force.
16. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.
17. The premises will have adequate safety and firefighting equipment and such equipment will be maintained in good operational order.
18. Staff will be trained on matters of safety, evacuation and use of emergency equipment as required.
19. The DPS shall ensure there is a well-stocked First Aid box available on the premises at all times and all staff shall be informed of its location.

REASON

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the Licensing Act 2003. The Sub-Committee could not take into account representations which did not relate to one or more of those licensing objectives and it was acknowledged that any representations received must be relevant and evidenced-based.

Other Persons' Objections

In making oral representations to the Sub-Committee, the Other Persons highlighted a number of concerns, including:

1. The fears of a detrimental impact on the neighbours if the application was to be granted.
2. The potential impact of noise and disorder in connection with business.
3. The potential adverse impacts on local residents from late night opening of the premises.
4. The potential anti-social behaviour of attendees near the homes of the residents because of the close proximity of the premises.

Applicant's Submissions

The applicant's business partner informed the Sub-Committee that the applicant had been running weddings from this premises for the last seven years without any issue and stated that "summer months" referred to May – September.

The applicant had operated many successful events under Temporary Event Notices (TENs) and there has been no evidence of any of the licensing objectives being undermined at any point.

Consideration

In determining the application, the Licensing Sub-Committee considered the fact that no Responsible Authorities had objected to the application. It also considered the steps put forward by the applicant to promote the licensing objectives, both in the application and in the compromise with the Environmental Health Authority in respect of a noise management plan being put in place to alleviate concerns raised in the objections.

Furthermore, the Sub-Committee could see there was no substantial evidence at this time to show that the applicant had not run the premises in accordance with the licensing legislation or that this was going to change in the future.

The Sub-Committee recognised the concerns expressed by objectors and offered its sympathies to them but hoped the fact that a Wednesday night was no longer part of the application and the implementation of a noise management plan would alleviate some of their concerns.

APPEAL

All parties were reminded of their rights of appeal against the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the authority's decision.

REVIEW

All parties were reminded of the procedures contained within the Licensing Act 2003 relating to the potential review of a premises licence. This provision allowed the public, businesses or Responsible Authorities to apply for a review of a premises licence where problems arose, in relation to the licensing objectives: crime and disorder, risks to public safety, public nuisance or failure to protect children from harm.

The Licensing Authority respectfully reminded all parties that, for any review to be successful in restricting a licence, evidence would need to be collected of incidents occurring that demonstrated that the licensing objectives were not being adequately promoted.