

**MINUTES**

of the

**LICENSING COMMITTEE HEARING**

held on 17<sup>th</sup> December 2024 at 11am

Present:

Councillor R. Lee (Chair of Hearing)

Councillors H. Clark and A. Davidson

1. **Apologies for Absence**

Apologies for absence were received from Cllr D Clark.

2. **Declaration of Interests**

All Members were reminded to declare any interests where appropriate in any items of business on the meeting's agenda. None were made.

3. **Minutes**

The minutes of the hearings held on 22<sup>nd</sup> and 26<sup>th</sup> November 2024, were approved as a correct record.

4. **Licensing Act 2003 – Application for a Full Variation of a Premises Licence – Kings Arms, 295 Broomfield Road, Chelmsford, CM1 7AU**

The Committee considered an application for a full variation of a premises licence made under Section 34 of the Licensing Act 2003 and had regard to the representations made during the consultation period. These related to the promotion of the below Licensing objectives.

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

The Committee noted the main changes that the new application had requested, were additional hours to all licensable activities, resulting in activities starting at 9am every day and ending at 1am Monday to Saturday and midnight on Sundays. The application had also applied for the provision of off sales and late night refreshment.

It was noted by the Committee that there were three options namely;

- Grant the application, on the terms and conditions applied for
- Grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the licensing objectives.

- Refuse the application in whole or in part.

The below parties attended and took part in the hearing:

- Mr Dermott – Applicant’s Agent
- Mr Wood – Manager
- Mrs Mason – Designated Premises Supervisor
- Members of the public

Officers informed the Committee that in response to the application, twelve representations had been received from local residents. It was also noted that conditions had been agreed by the applicant with Essex Police.

The applicant’s agent introduced their application to the Committee. They reminded the Committee of the importance of the role that Responsible Authorities had in providing relevant information to Licensing Committee and that the Committee needed to take note of the fact that no responsible authorities had submitted representations. They also gave their view that some of the matters raised in the representations from the public were either invalid or had been submitted out of context. They informed the Committee that they accepted residents’ concerns but stated that representations needed to be evidence based and reminded the Committee of the *Thwaites* ruling. The Committee heard that the applicant had no intention to turn the venue into a nightclub or sports bar. The Committee were also informed that no crime had been recorded at the venue and that furthermore no noise complaints had been made about the venue. (This fact had been checked and established by the applicant via a freedom of information request.) The Committee heard that representations referring to the suitability of the venue were not valid, previous issues before 2024 (i.e. prior to the issue of the current premises licence) were not an issue, and that the premises would not open for all of the licensable hours applied for. The Committee were also informed that the mobile phone videos provided by an objector were questionable and could not be relied upon. They also stated that the hearing was not a review hearing, they would co-operate with residents, that events held so far had been run successfully and that they were happy to keep doors and windows closed after 11pm. The Committee were also informed that the desired later hours could not be achieved via Temporary Event Notices, that they would not encourage new customers after 11pm and that the review process always existed for any problematic issues relating to one or more of the licensing objectives that might arise in the future.

The Committee heard from local residents who had objected to the variation and the following points were amplified from their representations;

- They preferred to resolve issues informally, hence why no formal complaints had been made to the Council.
- Noise past 11pm was simply unacceptable in a village location.
- Live music had recently been heard past 11pm from the pub.
- The hours applied for would be suitable in a City Centre location instead.
- The extended consumption of alcohol could lead to noise issues, litter issues and other anti social behaviours.

The Committee also viewed three videos that had been filmed by an objector detailing noise concerns after 11pm at a recent event.

In response to the points amplified by objectors and the videos, the applicant's agent stated that they had to follow the guidance and concerns had to be evidence based. They reemphasised that they wouldn't always wish to stay open past 11pm and that noise or parking concerns arising from taxis picking up patrons late at night were not the responsibility of the venue. With regard to the videos, the Committee heard that there was some noise after 11pm, but that it had been recorded rather than live music up to then, the singer was just saying thank you and it had only been 5 minutes after 11pm.

In response to questions from members of the Committee, the applicant's agent stated that;

- They had contacted their waste contractors to seek later collection times and would be able to achieve this and were happy for it to be conditioned accordingly so collections had to be after 8am.
- They were happy for a condition detailing that windows and doors needed to be closed by 11pm to be added if granted.
- They were happy for use of the outside areas to stop at 11pm and for them to be vacated by that point and for that to also be conditioned if granted.
- They were happy to only have the extended hours to 1am on Thursdays to Saturdays and to have until 11pm Sundays to Wednesday's for licensable activities.
- They were happy to refuse entry to new patrons after 11pm.
- They did not envisage any future need for extra hours after 1am.
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The Committee thanked the attendees and officers for their input and advised that the decision would be made during the deliberation after the meeting. It was noted that due to the remote nature of the meeting, the decision would be circulated to all parties within a few working days via email.

The Committee gave careful consideration to the relevant representations both written and made during the remote hearing.

**RESOLVED** that the Director of Public Places be authorised to grant the variation application on the terms applied SUBJECT to (i) the conditions agreed with Essex Police (as set out in Appendix F of the Committee report) and (ii) the following limitations and additional conditions.

#### **A. Limitations**

1. Except for New Year's Eve/New Year's Day, the variation insofar as it relates to the extended terminal hours to apply to Thursdays, Fridays, Saturdays, and Sundays only and to be limited further as set out below. (This means that there are no extended terminal hours Mondays to Wednesdays.)
2. Except for New Year's Eve/New Year's Day, on Thursdays, Fridays, and Saturdays all licensable activities to cease by 01:00 hrs.

3. Except for New Year's Eve/New Year's Day, on Sundays all licensable activities to cease by 23:00 hrs.

## **B. Conditions**

1. The external bar/garden area and any other outside drinking areas to be cleared of all patrons by 23:00 hrs. (Patrons to either re-locate to inside the premises or disperse.)
2. No new patrons shall be admitted to the premises after 23:00 hrs.
3. All windows and external doors of the premises shall be kept closed after 23:00 hrs except for the immediate access and egress of persons.
5. No trade refuse collection of bottles from the premises shall take place on any day of the week before 08:00 hrs.
6. The external high level floodlights on the two rear facing gables of ends of premises (which, when in operation, floodlight the Church Green area) shall be switched off after 23.00 hrs.

## **Reasons for Decision**

1. In reaching its decision the Committee gave careful consideration to the application and the relevant representations both written and made in the course of the remote hearing. The Committee also had regard to the current statutory guidance issued under section 182 and Chelmsford City Council's licensing policy.
2. All decisions on licensing applications must be evidence based. This principle had been emphasised and reinforced by the court's judgment in the *Thwaites* case, which Mr Dermott had made reference to in his opening statement on behalf of the applicant.
3. The Committee had given due weight to the fact that there were no objections to the application from any of the Responsible Authorities, whether on the grounds of crime and disorder, public nuisance, public safety or otherwise. (The Committee took into account the fact that Essex Police had agreed certain conditions with the applicant and these were set out in Appendix F.)
4. The Committee agreed with Mr Dermott that some of the objections included matters or concerns (e.g. conservation issues, behaviour of taxi drivers collecting patrons) which were not relevant because they did not relate to any of the four licensing objectives. The Committee could not take these matters into account and, indeed, was expressly required to disregard

them by virtue of regulation 19 of The Licensing Act 2003 (Hearings) Regulations.

5. At this point in time there was no evidence before the Committee on which it could properly conclude that, if the variation application were to be granted on the terms applied for, the prevention of crime and disorder or the public safety or protection of children from harm licensing objectives would be undermined.
6. The Committee did, however, have concerns about the potential for public nuisance and especially noise nuisance. Although the Committee was required to have due regard to the fact that Environmental Health had not raised any objections to the application, this did not preclude the Committee from assessing the potential for prospective harm and reaching its own conclusions, based on the evidence available and local knowledge. The application sought (among other things) a significant extension of licensable hours in respect of the supply of alcohol (including an external bar), the playing of recorded music, and the performance of live (amplified and unamplified) music.
7. The Committee had given careful consideration to the concerns about the potential for late night noise nuisance which had been raised by local residents. Although these were speculative concerns the Committee considered that they were well founded. The Kings Arms is located in close proximity to residential properties, with one side of premises also abutting the Church Green, with residential properties located directly across that part of the Green. Although the Committee was required to adopt an evidence based approach it was not a court of law bound by formal rules as to admissibility of evidence. It was entitled to draw appropriate inferences from, among other things, the close proximity of the premises to these residential properties and to objectors' accounts of being able to hear live/recorded music etc from their properties on occasions when the premises has been operating in the evening under its current licence. The Committee took the view that residents who choose to live in close proximity to an historic and long established village public house must be prepared to tolerate a fair amount of noise (including live/recorded music) emanating from such premises during evenings up to a certain point in time, which might be later at weekends. However, having regard to all the circumstances, the Committee concluded that if the application were to be granted in the terms originally applied for then there would be the likelihood (dependent, to a degree, on the nature and size of any given event) of local residents experiencing public nuisance, in the form of noise nuisance in the late evening and/or early hours of the following morning. Such public nuisance could impact on sleep and be an aggravating feature for local residents where the following day was a normal work day.
8. The Committee was not minded to accept Mr Dermott's submission that in terms of what was being applied for, The Kings Arms PH was comparable to

The Angel PH. The two premises differed significantly in terms of their locations and proximity to local residential properties. Furthermore, it had transpired that The Angel's existing permitted licensing hours did not mirror exactly the extension sought by the applicant.

9. The Committee took the view that in the context of the extended licensing hours the early morning trade collection of empty bottles was capable of amounting to a public (noise) nuisance for nearby residents.
10. In the course of the hearing, the applicant had offered up a reduction in the extended terminal hours sought and for the variation to apply to Thursdays, Fridays, Saturdays, and Sundays only. These are set out in A above. The applicant had also offered up the conditions which are set out at 1 – 5 in B above. The Committee considered that it was appropriate for the promotion of the relevant licensing objective (i.e. prevention of public nuisance) that these limitations and conditions be imposed on the grant of the variation.
11. The Committee also considered that it was appropriate for the prevention of public nuisance that the external high level floodlights on the two rear facing gables of ends of premises be switched off after 23.00 hrs. Otherwise, residents fronting the Church Green were liable to be disturbed or distracted by these high intensity lights at a time when it is reasonable to assume that many of them would be looking to retire for the night and sleep.

The meeting closed at 12:19pm

Chair