

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Monday, 9 September 2013

COUNCILLORS PRESENT: Councillors Malpas (Chair); Councillors Ford and Stone.

OFFICERS: Mohammed Rahman (LGSS Law Solicitor)
Louise Faulkner (Senior Licensing Officer)

FOR THE APPLICANT: Mr Nigel Connor (Head of Legal Department, J D Wetherspoon Ltd), Mr Gardner (manager, Cordwainer) and Mr Ricketts (Area Manager, J D Wetherspoon Ltd).

FOR THE REPRESENTORS: Neil Polden (NBC Senior Environmental Health Officer).

1. VARIATION APPLICATION: CORDWAINER, THE RIDINGS, NORTHAMPTON NN1 2AW

The Chair introduced the Members of the Sub Committee and welcomed everyone to the hearing.

The Senior Licensing Officer outlined the purpose of the hearing, which was to request an extension of the terminal hour for the sale of alcohol, regulated entertainment and late night refreshment from midnight until 02:00 hours Sunday – Wednesday and from 01:00 hours to 03:00 hours on Thursdays plus an additional thirty minutes after the permitted licensable hours on those days. This would bring the licensable hours and closing times in line with those already permitted on Fridays and Saturdays. The application for the variation had been received on 18 July 2013.

The Sub-Committee were informed that objections to the requested variation had been received from Mr Neil Polden, NBC Senior Environmental Health Officer, on the grounds of the Prevention of Public Nuisance and from an interested party, who did not wish to attend and speak at the meeting but had requested that their objection be considered in their absence.

One page from the Senior Environmental Health Officer's objection had not been submitted with the agenda and a revised version of the report, including that page, was circulated to members of the Sub-Committee and the parties present at the meeting.

Application for Variation to a Premises License

The applicant, Mr Connor, stated that the premises had been operated by J D Wetherspoon Ltd since July 2009 and before that had been operated by Yates Ltd and were a well established part of the town's night time economy. The premises operated as a traditional Wetherspoons pub during the day, without music, with background music played in the evening and becoming an entertainment venue as the night progressed. The application was to extend the opening hours to 02:30 on Sunday-Wednesday and to 03:30 on Thursday. It was intended to run student

nights on Wednesdays and Thursdays. The reason for the application was that people tended to arrive later at venues now (the premises often only became busy at approximately 23:00 or 23:30 hours, but not always then) and customers tended to leave the Cordwainer to move on to establishments with later opening hours. The premises currently used TENS for later hours on Bank Holidays and extending the hours of the premises would remove the necessity of applying for TENS. Mr Connor stated that there were advantages in extending the opening hours of the premises in that this prevented the migration of customers between premises with varying opening hours and allowed a more gradual dispersal.

Mr Connor referred to the Council's policy statement for licensed premises, which sought greater flexibility in opening times for premises and stated that the Cordwainer was a well run premise with an experienced manager and had measures in place to meet the licensing objectives. The premises had been accredited each year since J D Wetherspoon Ltd had taken over their operation. There was a high ratio of staff to customers, with two or three managers on duty each night and door management when required. No irresponsible promotions were undertaken and food and soft drinks were sold at the premises. External noise levels were monitored on Friday and Saturday evenings. Smokers were directed to the garden of the premises to reduce noise at the front of the premises and speakers were provided in the garden. No noise complaints had been received from residents regarding the current hours, which were until 03:30 hours on Fridays and Saturdays currently.

There had been no objection to the application from the police, even though the objection from an interested party referred to the police attending the premises regularly and stating that the premises attracted trouble. Mr Connor stated that the management had a good relationship with the police.

Mr Connor also referred to the statement by the interested party that extending the opening hours might encourage anti-social behaviour from customers leaving the premises when delivery wagons were arriving at the Tesco shop outside the premises. Mr Connor stated that the delivery wagons tended to arrive between 04:00 and 05:00 hours, after customers had left the premises, so this should not present an issue. He also referred to the good liaison between the management of the premises and Tesco.

Mr Connor stated that he considered that the premises were upholding the licensing objectives on the basis of the current management.

Questions to the Applicant

In response to questions asked by the representor and the Sub-Committee the applicants stated that:

- Door supervisors were employed from 21:00 hours in the winter months and 22:00 in the spring/summer months. There were usually 6-8 door supervisors in place at peak times, reducing to approximately 4 as customers left at closing time. All door supervisors were SIA trained;
- It was not expected that trade would increase significantly with the proposed student nights on Wednesdays and Thursdays, although it was anticipated that trade would gradually build up. These nights would not be limited to students but the drinks offered would be oriented towards students. The presence of door supervisors would be considered for these events;

- There was no policy in place regarding the sale of drinks at the end of licensable hours, although customers were only allowed to buy two drinks each at that time so they could consume them in the thirty minutes prior to closing time;
- There was no cut off time for customers entering the premises during opening hours. Well behaved customers were welcome at any time during licensing hours;
- Staff were regularly in the garden collecting glasses and asked any noisy customers to lower the level of noise they made. DJs playing music in the premises were also made aware of the appropriate level of music to be played. Live music was not played on the premises;
- The manager had checked the level of noise from the extractor equipment and it was possible to hold a conversation at a reasonable level in close proximity to the equipment;
- Only one complaint had been received regarding the garden area in the four years J D Wetherspoon Ltd had been operating the premises and this related to barrels being moved at 6:30am. No complaints had been received regarding customers in the garden or the playing of music;
- Noise levels had been checked at the premises with a view to considering the installation of a noise limiter but the levels had not been sufficiently high to require a limiter being installed;
- The clientele of the premises consisted of workers, shoppers and families during the daytime, which increased at weekends and during school holidays, and young couples on weekday nights. Food was served from 08:00 to 22:00 hours, in line with the premises licence;
- There were a number of other licensed premises in the immediate vicinity, the opening hours of which varied. Some premises had shorter opening hours and others had longer hours. The clientele and offering also varied between premises. It was not believed that there were issues similar to those which arose in some other areas where licensed premises were concentrated, such as Bridge Street;
- The premises had had a TEN for every Bank Holiday except one over the previous 2.5-3 years, until either 02:00 or 03:00 hours. No complaints had been received;
- Police had not been called to any incidents at the premises although police often called in at licensed premises in the town centre as a matter of course to check that there were no issues which needed to be addressed. It was noted that the police had not objected to the application.

Representations by the Objector

Before the representor presented his case the Chair referred to two of the documents which made reference to noise assessments carried out as part of the investigation undertaken into whether or not there should be an EMRO in the town centre. The Chair asked if the information was related solely to the EMRO, which the Council had resolved not to pursue. He stated that he had undertaken the noise assessments in compiling information so that an EMRO could be considered but the assessment results could be used for assessing noise levels in other cases. It was made clear that this objection had no relationship with any decision about an EMRO.

The representor stated that the application, if granted, would allow the premises to remain open for an extra two hours on all days except Saturday and Sunday, where they were already open until 03:30 hours. He was concerned regarding the

proximity of residential properties to the premises, including a property next door. No objections had been received from residents regarding noise but he was concerned regarding issues which might be caused by people leaving the premises at the later hours if the application was approved. One objection had been made by a resident but generally residents were accepting of the status quo regarding the premises.

The representor referred to the noise assessment in his objection and expressed concerns regarding any increase in opening hours for the premises on weekdays. He referred to noise from the garden and at the front of the premises, which were overlooked by neighbouring residents. He stated that the Cordwainer was the only licensed premises directly accessed from The Ridings, which was overlooked by residential properties, and this was the only means of dispersal for customers leaving the premises. The objector referred to the WHO guidelines in his report of a background level of 30-35dB(A) and considered that noise outside the premises could be obtrusive in the spring and summer months when windows were likely to be open. He referred to the general increase in the noise environment over the forty minute period during which licensed premises closed and customers left the premises. This noise related to customers conversing and joking as they left licensed premises.

Questions to the Representor

In response to questions asked by the Sub-Committee (the applicants had no questions), the representor stated that:

- Only one complaint had been received in relation to the premises, as mentioned earlier in the meeting;
- There were residents living in City Buildings, which were immediately adjacent to the premises, as indicated on the map in the agenda papers. Some residents overlooked The Ridings and others overlooked the premises' garden;
- Although there were other licensed premises in the vicinity, such as The Goose, the Cordwainer had access only to and from The Ridings, which was a closed street which created issues regarding noise at dispersal times.

Summing up the Applicants

Mr Connor stated that:

- there had been no complaints from residents in the four years that the premises had been open until 03:30 hours and that if there were noise issues they would have arisen by now. The letter from the interested party had referred to noise as a more general issue;
- The application had been discussed with Police Sergeant Worthington, who had no objections to the application;
- The police did not attend licenced premises regarding noise issues, although noise was often a sign of a badly managed licensed premise where noise was allowed to escalate;
- There was a need to balance the various interest in considering the application but Mr Connor believed that the evidence tipped the balance in favour of the applicant;
- The premises were managed responsibly and issues which arose should the application be granted would be addressed. Any issues which were not

addressed could be dealt with by a review if necessary.

It was confirmed that there were four Personal Licence holders at the premises.

Summing up by the Representor

The representor stated that “prevention was better than cure”. There some issues once customers left the premises. The application, if approved, would increase the weekday opening hours of the premises, which would affect local residents and have some impact on those people who had 09:00-17:00 hours working patterns and would have some impact on them.

There being no further questions, the Sub Committee adjourned at 2:45pm to make a decision. The Solicitor was called for advice.

The Sub-Committee resumed at 3:05pm

The Determination.

The Sub-Committee considered the application to vary a Premises Licence for The Cordwainer, The Ridings, Northampton made by Mr Connor on behalf of the Applicants, JD Wetherspoon PLC.

Representations were received from the Environmental Health Department of Northampton Borough Council, represented by Mr Neil Polden. A written representation was also received from a member of the public who made reference to noise, police attendance and issues with other businesses in the area.

The objection raised was in relation to public nuisance.

The Sub-Committee also noted that no objections were raised by the Police or any other authority. The Sub-Committee therefore had to accept that there were no concerns from other authorities.

In light of the lack of actual evidence of complaints in the local area, the Sub-Committee decided to grant the application as requested.

The Licence is therefore GRANTED as per the application.

The Sub Committee felt on a balance of probabilities, with all the measures in place and the lack of complaints, the current premises licence holders would continue to uphold and promote the Licensing objectives.

The Sub-Committee would like to remind everyone that if there were concerns that the Licence was not being adhered to and they had actual evidence in relation to this premises, then they had the option to apply for a Review of the Premises Licence.

All parties had the right to appeal the Sub-Committee’s decision to the Magistrates Court within 21 days of the date of decision.

The meeting concluded at 3:07 pm.