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Date: 31 January 2011

SPELTHORNE BOROUGH COUNCIL DECISION NOTICE

in accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee:	27 January 2011
Application of:	Angelport Ltd.
In respect of:	Wheatsheaf and Pigeon Public House Penton Road, Staines, TW18 2LL

**REASON(S) FOR
HEARING:**

Relevant representations received from local residents concerning: -

- 1) Crime and Disorder – Anti-social behaviour.
- 2) Public Nuisance – noise from cars, noise and disturbance later at night from customers using smoking shelter and leaving premises

DECISION

GRANTED with modification by addition of conditions

With effect from 27 January 2011

1. The Sub-Committee has before it an application to vary the premises licence of The Wheatsheaf and Pigeon Public House, Penton Road, Staines TW18 2LL

Attendance

2. Five people attended the Sub-Committee hearing this morning to make representations. They were:
 - a. Sgt I. Scott, Spelthorne Community Safety Sergeant, Surrey Police
 - b. Mr D. & Mrs. S. Collier - Interested Parties
 - c. Dawn Morrison, Licensing Manager, Environmental Health
 - d. Natalie Kane, Environmental Health Officer

In addition further written representations were received from another 4 local residents.

Application

3. The application is to permit extensions to midnight for the sale of alcohol on a maximum of 12 occasions per calendar year, with prior notification to the Police and Licensing authority, and to permit regulated entertainment (live and recorded music) on these evenings. These extensions are proposed to be only held on Fridays, Saturdays or any other day which is not followed by a working day.
4. The current hours and permissions will therefore apply otherwise than on these 12 occasions. The opening hours of the premises will be 30 minutes later than the times for licensable activities. The current hours are as follows:

Sale of alcohol: Monday to Saturday 10.00 to 23.00
Sunday noon to 22.30
5. The Licensing Manager gave the Sub-Committee details of the numbers of regulated entertainment events held under Temporary Event Notices during the past year and the terminal time as follows:

2 had a terminal time of 23.00
4 had a terminal time of 00.00
4 had a terminal time of 00.30
6. The Licensing Manager explained that the Licensing Act 2003 provides for Temporary Event Notices (TENS) to be given for up to a maximum of 12 events in a calendar year with a maximum total duration of the events of 15 days. Under the current legislation, only the police may object to an application for a TENS and if there are no objections, the event may take place without any additional conditions imposed upon the licence.

Evidence

7. The Sub-Committee has considered all the relevant evidence made available to it this morning, and in doing so has taken into account the regulations and national guidance, under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Responsible Authorities

8. On behalf of Surrey Police, representation was made to suggest that the applicant be subject to an additional condition relating to regulated entertainment events, to restrict the number allowed in the smoking shelter after 2300hrs to ten people, in order to reduce crime and disorder.
9. No representations have been made by any other responsible authority.

Interested parties

10. The Sub-Committee received 5 written representations from interested parties. In summary these representations concerned:

Crime and Disorder

- Anti social behaviour at a later hour from customers using smoking shelter and inebriated persons leaving premises

Public Nuisance

- Noise nuisance from music later at night
- Disturbance later at night from customers leaving and/or using smoking shelter and/or waiting for transport home
- Irresponsible and inconsiderate behaviour from customers including bad language
- Disturbance later at night from children using garden area
- Bottles emptied into skip later at night

Premises Licence Holder

11. The premises licence holder had notified the Council in advance that he would be unable to attend the Licensing Sub-Committee hearing. He submitted a written response to the representations for consideration by the Sub-Committee and further responses to points of clarification regarding additional staff during regulated entertainment.
12. In accordance with the rules and procedure for licensing sub-committees hearing a premises application, paragraph 11.1, the Sub-Committee agreed to proceed in the absence of the premises licence holder.
13. The applicant 's written response (as set out in his email of the 24th January 2011) is as follows:-

We acknowledge the response's to our application for variations to our premises license. We would first like to say that we take all the points aforementioned seriously.

The main point that has been made about noise from the pub after hours, especially when we are having an Event with an extension until midnight or

beyond. We can only apologise if this is a problem with the households who have raised this issue. We will be more aware in the future and try and make sure the customers leave more quietly. We will also put a sign up advising them to respect the neighbours.

We notice some of the neighbours in question have mentioned it is a Residential Area. Just to remind everyone the Pub was here long before the houses. The houses have been built around the Pub. I personally would not buy a house next to a pub, but we must all get on together and try and live in harmony. We do need to have events to help pay for our overheads eg. Rent Council Tax etc

In regards to children playing outside the Pub and in the garden: I have never seen children playing football in the street outside our pub. I am not aware of children being in the garden unattended for up to two hours in the cold. Surely someone should have let the pub know this as anything could have happened to those children.

In regards to Smoking Hut and cigarette ends: We provide ash trays outside and we have a wall mounted ash tray adjacent to the shelter. We also clean outside every morning. We can put a sign up requesting 'cigarette ends to be put in ashtrays' if requested.

We will be taking down the play equipment this year before summer arrives to eliminate children climbing onto the roof of the slide and looking into gardens. We will try and make the garden more attractive with more plants and grassed areas.

In regards to our August Bank Holiday Fun Day: It only happens once a year and donations go to the Shooting Star Hospice. The event does not go past closing time. We do have egg throwing and each throw is £1.00 this also goes to the charity. We also raise money for the Princess Alice Hospice. And on Sunday Evenings we have a quiz for charity as well. You are all welcome to come into the pub.

And the letters we have received in regards to customers staggering out of our pub and into their cars: most of our customers are local and walk to the pub. Our bar staff will not serve anybody who has in our opinion had too much to drink. And we would certainly stop someone using their car if they are under the influence of alcohol if we were aware they have a car with them.

In regards to no one being informed about Events. We have an Events board outside and information inside. We also put the Events on our web site thewheatsheafandpigeon.co.uk But if you wish we can post them through your doors?

In regards to people talking late into the night outside our Pub. We do get people coming back from town after the pubs and clubs close and sit down on our benches. We also have to pick up cans of beer or cider which they bring with them (we do not sell cans of beer/cider). We do chase them away if we hear them.

But the main point I would like to make is that we all get on together. There is a lot of people local who have not objected to our application. But we respect the few people who have objected to the application.

14. The applicant's response to a question of clarification sought by the Licensing Manager was that during times of regulated entertainment there would be 3 members of staff on duty behind the bar and the manager would "float" to supervise the smoking shelter. It was not known how many staff were usually employed.
15. The applicant stated in his operating schedule that:
 - dates of planned extensions will be notified to the police licensing officer and licensing authority at least two weeks before an event is held.
 - regulated entertainment will be held on a maximum of 12 occasions per year, on a Friday or Saturday or any day not followed by a working day.
 - regulated entertainment would take place indoors only with windows and doors shut. Ventilation units would be used during events.
 - Additional staff will be employed during events to ensure adequate supervision, including customers who are going outside to smoke.

Responsible Authorities

16. Sgt Scott requested that notification of regulated entertainment be put to the police in writing.
17. Further, he requested that the number of persons in the smoking shelter be restricted to 10 after 23:00hrs.
18. Sgt Scott advised the Sub-Committee that there had been 6 incidents reported to the police in the last year, all of which were received by Mr & Mrs. Collier. These occurred on 23 March 2010, 31 March 2010, 4 April 2010, 14 April 2010, 25 July 2010 and 31 July 2010.
19. Sgt Scott advised that the police had not been required to attend the premises or received any reports or complaints in respect of crime and disorder.

Interested parties

20. Mr. Collier provided representations further to his written representations as included in the Report. He stated that his cottage had an adjoining wall with the pub and made the point that the pub was situated within a residential area. He felt that Mr. Cornish had demonstrated no consideration for the residents when holding regulated entertainment.
21. Mr. Collier explained that during live music events, a thumping noise could be heard through his adjoining wall and mentioned that the windows of the pub were left open. He said that he had reported and complained about noise to the police and the Licensing Authority.

22. Mr. Collier complained that obscene language was heard late at night from people walking outside the pub.
23. At the Sub-Committee's request, Dawn Morrison and Natalie Kane assisted in clarifying the complaints made to the Council by Mr and Mrs Collier.
24. Natalie Kane advised that two complaints were made in 2009 and two in 2010. The complaints related to evenings of regulated entertainment events. In 2009, Ms Kane mediated a meeting between the pub's owner, John Cornish and Mr and Mrs Collier, during which Mr Cornish was asked to reduce the noise levels of regulated entertainment events. In 2010, following further disturbances, the Mr and Mrs. Collier took up the Council's offer of using noise monitoring equipment for an event at the pub but no data was recorded due to incorrect use of the equipment.
25. Mr. Collier stated that he had also been disturbed by the noise from a recent comedy act held at the pub. Dawn Morrison explained to the Sub-Committee that such entertainment was not defined as regulated entertainment under the Licensing Act 2003.

Findings

26. The Sub-Committee has considered the written representations made by the applicant, responsible authority and the interested parties and those made by Mr & Mrs. Collier, Sgt Scott, Dawn Morrison and Natalie Kane at the hearing and finds as follows:
27. This is a pub located in a residential area with its garden bordered on two sides by residents' back gardens. There is a smoking area at the front of the building adjoining the highway.
28. The Sub-Committee notes that the applicant has previously held ten regulated entertainment events during the year under TENS and has applied for up to 12 such events a year on the licence.
29. On occasion and particularly during events for regulated entertainment there has been noise, nuisance and anti-social behaviour emanating from the premises. Residents described noise nuisance from music later at night, disturbances later at night from customers leaving the premises and waiting for transport home, and children using the garden area unsupervised and irresponsible and inconsiderate behaviour from customers including bad language.
30. The Sub-Committee finds that residents have experienced problems with these premises in the past. Notwithstanding the fact that the pub existed on the site before many of the houses, it remains a fact that it is a busy and popular pub in a residential area. The Sub-Committee understands how a pub in such close proximity to residential properties will have difficulty in creating the right balance between entertainments for customers (and a service to the community) and preventing nuisance to its neighbours. Nevertheless it is the role of the Sub-Committee to balance these interests.
31. The Sub-Committee was disappointed that it was not able to ask the premises licence holder about staffing, training or how they intended to

address residents' concerns relating to the licensing objectives of prevention of crime and disorder and prevention of public nuisance during regulated entertainment, given the past incidences of nuisance and anti-social behaviour.

32. The Sub-Committee considers it will be helpful for the premises licence holder or designated premises supervisor to meet regularly with residents to address any concerns they may have as a result of the licensable activities taking place at the premises.
33. The Sub-Committee is satisfied that against the backdrop of evidence further measures are required to promote the licensing objectives. It is further persuaded of this in the fact that the operating schedule does not propose any additional measures to mitigate the effects of either noise from patrons using the smoking shelter during the additional hour or customers leaving the premises later at night on up to 12 occasions a calendar year.
34. The Sub-Committee noted the representation from Surrey Police and finds that it is necessary for the prevention of crime and disorder to impose a condition restricting the number of customers using the smoking shelter after 23.00hrs during regulated entertainment events.
35. The Sub-Committee considered that it was appropriate for the premises to appoint a dedicated member of staff to supervise customers using the smoking shelter during regulated entertainment events, both in terms of numbers and noise, in order to address the licensing objective on the prevention of public nuisance.
36. The Sub-Committee was not persuaded that the applicant had proposed sufficient measures to control rowdy behaviour as customers leave the premises on nights when there was regulated entertainment.
37. The Sub-Committee considered that a dedicated member of staff appointed to see customers off the premises and out of the immediate vicinity at closing time could help prevent public nuisance. It was sure that this would assist in not only reducing noise and trouble but also in setting good standards of behaviour.

Licensing Objectives

38. Taking each of the licensing objectives in turn, the Sub-Committee having considered the matters set before it make the following decisions on each of the four licensing objectives.

Crime and Disorder

39. The Sub-Committee is persuaded that extension of the hours for the sale of alcohol and regulated entertainment has led to later incidences of anti-social behaviour in the neighbourhood during events held under TENS. The Sub-Committee recognises that if it was minded to refuse this application, this problem would not be addressed as the premises could continue to apply for TENS to hold the regulated entertainment events.

Public safety

40. The Sub-Committee has not received representations relating to public safety, which relates to safety within the premises and it is not necessary for the Sub-Committee to make a decision in this regard.

Public nuisance

41. The Sub-Committee is not satisfied that the applicant has put forward sufficient measures in its operating schedule or in its written statement to control noise and other disturbance emanating from the premises. The Sub-Committee is convinced that it should not give a free hand to the pub to introduce additional hours or entertainments without some control to ensure that the interests of the pub are balanced with the interests of the wider community.

Child protection

42. The Sub-Committee has not received representations relating to Protection of Children from Harm and it is not necessary for the Sub-Committee to make a decision in this regard.

Legal position

43. By virtue of the Licensing Act 2003 the Sub-Committee is entitled to consider on an application for a premises licence whether it should:
 - Grant the application
 - Modify the conditions of the licence, by alteration, addition or omission
 - Reject the whole or part of the application

Decision

44. The Sub-Committee confirms that the application for the variation of the licence is granted, and the application is to be modified as follows:

Sale of alcohol

45. Monday to Saturday 10.00 to 23.00; Sunday noon to 22.30
46. Sale of alcohol extended to midnight once per calendar month either on a Friday or Saturday, or any other day which is not followed by a working day, on a maximum of 12 occasions per calendar year.

Provision of live or recorded music

47. Once per calendar month either on a Friday or Saturday or any other day which is not followed by a working day, to finish by midnight (i.e. no more than 12 occasions in a calendar year).

Provision of late night refreshment

48. Friday and Saturday, or any other day which is not followed by a working day, on no more than 12 occasions from 23.00 – midnight.

Opening hours

49. Friday and Saturday, or any other day which is not followed by a working day, on no more than 12 occasions from 10.00 – 00.30

Conditions

50. In accordance with the operating schedule and as further amended by the police at this hearing we impose the following conditions:
- ⇒ Dates of proposed extensions to sale of alcohol and regulated entertainment will be notified to the police licensing officer, the licensing authority, in writing, at least two weeks before an event is held.
 - ⇒ Regulated entertainment to take place indoors only with doors and windows closed except for access and egress.
51. In addition we now impose (as proportionate measures necessary to achieve the licensing objectives on the prevention of public nuisance) the following conditions in relation to regulated entertainment events which are set out below:
- ⇒ Dates of proposed extensions to sale of alcohol and regulated entertainment will be notified to residents in the vicinity of the premises, in writing, at least two weeks before an event is held.
 - ⇒ A dedicated member of staff to see customers off the premises and out of the immediate vicinity at the terminal time
 - ⇒ The numbers of customers using the smoking shelter after 23.00 to be a maximum of ten persons.
 - ⇒ A dedicated member of staff to supervise the use of the smoking shelter by customers during regulated entertainment events.

In addition we now also impose (as proportionate measures necessary to achieve the licensing objectives on the prevention of public nuisance) the following conditions:

- ⇒ Premises licence holder to place a sign at all exits of the pub asking patrons to leave the premises quietly to respect the amenity of neighbours
- ⇒ Premises Licence Holder or the DPS to meet with residents on a monthly basis or other agreed frequency if monthly meetings are not required.

Informatives

The Sub-Committee would suggest that, whilst it is unable to impose any conditions in this regard it has noted that the applicant has offered to remove children's play equipment before the summer of 2011 and to put up a sign requesting "cigarette ends to be put in ashtrays"

The Sub-Committee would suggest that during entertainments which are not regulated by the Licensing Act 2003, doors and windows should be kept closed except for access and egress. This is suggested as a measure for the applicant to show their willingness to be a good neighbour.

Conclusions

52. That is the decision of the Sub-Committee.
53. The Sub-Committee has decided to include the above conditions on this premises licence as being proportionate and necessary for the promotion of the four licensing objectives. In seeking to attach conditions to the licence the Sub-Committee has considered the direct impact of the activities taking place at the licensed premises on members of the public, living working, or engaged in normal activity in the area concerned.
54. The Sub-Committee has considerable sympathy with residents and recognises concerns regarding potential noise and nuisance. In addition the Sub-Committee would like to remind interested parties that if they have concerns about the running of the premises then these ought to be brought promptly to the attention of the designated premises supervisor, and the responsible authorities (Police and Environmental Health), since otherwise it is impossible for resident's concerns to be properly considered and dealt with.

RIGHT TO APPEAL

You have a right to appeal against this decision, which must be made to the Justices Chief Executive at the Magistrates court for the area in which the licensing authority is situated and within 21 days of receipt of this decision notice.

181 Appeals against decisions of licensing authorities

(1) Schedule 5 (which makes provision for appeals against decisions of licensing authorities) has effect.

(2) On an appeal in accordance with that Schedule against a decision of a licensing authority, a magistrates' court may-

(a) dismiss the appeal,

(b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or

(c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Cllr S.E.W. Budd

Cllr D.L. McShane

Cllr Robin Sider - Chairman

Date of Decision: 27 January 2011

Date of Issue: 31 January 2011