

LICENSING AND APPEALS SUB-COMMITTEE

12 February 2024 at 10.00 hours

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillor S Bambrick (Chair) and Councillor G Andrew (Liberal Democrats) and Councillor A Tilley (Labour Group)

District Council Representatives

Eleanor Harrison – Senior Legal Officer (Non-Contentious)
Emma McHugh – Senior Licensing Officer
Patricia Hill – Democratic Services Officer
Elisabeth Page – Legal and Democratic Services Manager

LAS/36 **APPOINTMENT OF CHAIR**

It was confirmed that Councillor Bambrick was appointed as Chair for the Sub-Committee hearing.

LAS/37 **APOLOGIES**

The Sub-Committee was informed that no apologies have been received.

LAS/38 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

MATTERS DELEGATED TO SUB-COMMITTEE

LAS/39 **HEARING FOR THE DETERMINATION OF AN OBJECTION AGAINST A TEMPORARY EVENT NOTICE – FORESTER'S ARMS, SWADLINCOTE**

1. The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.
2. The Chairman then outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.
3. This was a hearing to determine the application for five Temporary Event Notices under the Licensing Act 2003 for the Forester's Arms. The application was for extended trading hours across various dates in 2024.

4. Documentation being relied upon by the Council's Licensing Representative had been exchanged at least 5 days before the hearing. Copies had been provided to the Applicant and all Members of the Sub-Committee.
5. The Applicant did not attend the hearing in person.
6. The Chairman invited the Council's Licensing Representative to present the facts of the matter. Emma McHugh outlined the application.
7. The Sub-Committee had opportunity to ask questions of the Council's Licensing Representative.
8. The Sub-Committee retired from the Council Chamber to deliberate.
9. In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.
10. The Sub-Committee also had regard to the four 'Licensing Objectives' namely:
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
11. The Sub-Committee considered in detail the representations of the Council's Licensing Representative, Derbyshire Constabulary and the Applicant.

DECISION

The Sub-Committee granted the application for Temporary Event Notices as follows:

Sale by retail of alcohol for consumption on and off the premises, the provision of regulated entertainment and late night refreshment on the following dates and times:

- 16th -17th March 2024
 - Midnight to 2am each day
- 30th March – 1st April 2024
 - Midnight to 2am on 30th and 31st March
 - 11pm to 2am on 1st April
- 4th – 6th May 2024
 - Midnight to 2am on 4th and 5th May
 - 11pm to 2am on 6th May

- 25th to 27th May 2024
 - Midnight to 2am on 25th and 26th May
 - 11pm to 2am on 27th May
- 24th to 26th August 2024
 - Midnight to 2am on 24th and 25th August
 - 11pm to 2am on 26th August

The grant of the application for Temporary Event Notices is subject to the following conditions, in addition to the mandatory conditions contained within the Licensing Act 2003, and the conditions contained within the TENs applications and the current premises licence:

1. Full training shall be provided to all staff on commencement of employment relating to all age restricted products sold and any system or procedures they are expected to follow in the course of dealing with these goods
 - a. Refresher training shall be provided at regular intervals – at least every 6 months.
 - b. Records detailing the training provided shall be kept on the premises for production upon request of a Police Officer or other authorised person.
 - c. All records must be written and shall be retained on the premises for a minimum of 12 months.
2. A challenge 25 Proof of age scheme shall be operated at all times
 - a. Anyone attempting to purchase alcohol (or other age restricted product) that appears under the age of 25 years shall be asked to produce a proof of age.
 - b. The only acceptable forms of identification shall be:
 - PASS – accreditation proof of age card
 - Photo Driving Licence
 - Current passport
 - c. Clear, prominent and unobstructed signage informing customers of the proof of age scheme in operation, shall be displayed within the premises
 - d. A system of recording sales refused under the proof of age scheme shall be operated at all times
 - e. The refusal book/log shall be kept on the premises for production upon request of a Police Officer or other authorised person as detailed within Section 13 of the Licensing Act 2003.

- f. The records relating to the refusal book/log shall be retained on the premises for a minimum of 12 months
3. The DPS shall ensure that a written incident log is maintained within the premises and details of all incidents are recorded within the log. This log shall be kept on the premises for a period of not less than 12 months and shall be produced upon request of a Police Officer or other authorised person.
4. The DPS shall ensure that a written Refusals log is maintained within the premises and details of all challenges and refusals are recorded within the log. This log shall be kept on the premises for a period of not less than 12 months and shall be produced upon request of a Police Officer or other authorised person.
5. The Premises Licence Holder or nominated person shall ensure that clear, prominent and legible notices are displayed internally at all exits, requesting customers and other users to leave the premises and the area local to the premises, quietly and in an orderly manner respecting the needs of local residents.
6. A CCTV system shall be always installed and the recording system must be maintained in good working order and any faults repaired as soon as possible. (It is recommended that all maintenance paperwork be kept to show that the retailer has shown all due diligence in maintaining the system).
 - a. The CCTV recording system must be operating at all times when the premises are open for licensable activities
 - b. All CCTV recordings must be retained for a minimum of 28 days. These images must be available for viewing at any reasonable time upon request of a Police Officer or other authorised person as detailed within Section 13 of the Licensing Act 2003.
 - c. The Premises Licence Holder, Designated Premises Supervisor or person in charge of the premises must be able to retrieve and copy any recording/images at the time of asking or within 48 hours if so required. (The police will not meet the cost for a recording or materials used for a reproduction of the image in respect of any crime and disorder; all costs are to be met by the owner of the system. If the incident was unrelated to the premises, the retrieval, if a cost incurred, would be met between the agencies requiring the image).
 - d. The CCTV recording unit is to be kept secure, to be opened only by the Premises Licence Holder, Designated Premises Supervisor, or authorised, designated member of staff.

- e. Installed CCTV cameras are to be positioned so as to ensure that all parts of the premises to which the public has access are sufficiently covered (save for any toilet areas)
 - f. All cameras installed will be of a standard that will offer optimum image quality in low light.
 - g. All digital recordings to be made in real time (time lapse not to be used).
7. No customer shall be allowed to remove any alcoholic or other drinks from the licensed area of the premises in an open container (e.g. glasses and open bottles) unless to an external area set aside for consumption indicated on a plan.
8. Anyone under the age of 16 must be off the Premises by 20:00 hrs. Unless at a pre-arranged function.

REASON FOR THE DECISION

Having taken into account the four Licensing Objectives, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and Derbyshire Constabulary.

The Sub-Committee felt that it was reasonable and proportionate to grant the Temporary Event Notices, subject to the conditions specified, which are imposed to specifically address the concerns raised.

All parties may appeal to the Magistrates' Court against this Decision. Guidance on this process is attached to the Decision Notice.

LAS/40 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

The Meeting terminated at 10:05hours.

COUNCILLOR S BAMBRICK

CHAIR