



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE
(MICROSOFT TEAMS VIRTUAL MEETING)

Held: TUESDAY, 18 AUGUST 2020 at 10:00 am

P R E S E N T:

Councillor Pickering - Chair

Councillor Fonseca

Councillor Shelton

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13. APPOINTMENT OF CHAIR

RESOLVED:

That Councillor Pickering be appointed as Chair for the meeting.

The Chair outlined the procedure for the meeting to be followed and led on instructions.

14. APOLOGIES FOR ABSENCE

There were no apologies for absence.

15. DECLARATIONS OF INTEREST

Members were asked to declare any interests they may have in the business on the agenda.

There were no declarations of interest made.

16. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held 2 July 2020 be confirmed as an accurate record.

**17. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE:
DOVER CASTLE, 34 DOVER STREET, LEICESTER, LE1 6PT**

The Chair confirmed with the Sub-Committee Members that the reports and additional information circulated prior to the meeting had been read.

The Director of Neighbourhood and Environmental Services submitted a report requiring the Sub-Committee to determine an application for the variation of an existing Premises Licence for Dover Castle, 34 Dover Street, Leicester, LE1 6PT.

Members noted that representations had been received which necessitated that the application for a variation of an existing Premises Licence had to be considered by the Sub-Committee.

The applicant Mr James Cockerill (Premise Manager) was present as was his representative Mr George Domleo (Legal Representative). Councillor Patrick Kitterick (Ward Councillor for Castle Ward), Mr Andrew Sansome (Environmental Health Officer, Noise Team), Licensing Team Manager (Policy and Applications) and Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that a representation was received on 9 July 2020 from Councillor Patrick Kitterick which related to the licensing objective of the Prevention of Public Nuisance. Councillor Kitterick was concerned that the premise was looking to become more of a nightclub venue, which would not be appropriate for the growing residential population surrounding the premise.

It was further noted that a representation was received on 24 July 2020 from the Noise Team which related to the licensing objective of the Prevention of Public Nuisance. The Noise Team were concerned that it would be difficult to control the noise from customers leaving the premise at a late hour, which would cause disruption to the nearby residents.

Councillor Kitterick was given the opportunity to outline the reasons for his representation and responded to questions from the Sub-Committee. Councillor Kitterick was concerned that the nature of the pub would change with the new hours and that the staff of the Premise would be unable to control noisy customers once they had left the Premise and would cause disruption for nearby residents.

Mr Sansome from the Noise Team was given the opportunity to outline the reasons for the representation and responded to questions from the Sub-Committee. Mr Sansome argued that the proposed conditions for the Premises Licence were not appropriate for the area the premise was in.

Mr Cockerill and Mr Domleo outlined the reasons for the application and answered questions from the Sub-Committee, Councillor Kitterick, and Mr Sansome of the Noise Team.

All parties were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making a decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, the Sub-Committee felt they should deliberate in private on the basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be publicly announced and confirmed in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called to give advice on the wording of the decision.

The Chair then asked all but the Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Legal Adviser to the Sub-Committee was called back into the meeting to give advice on the wording on the decision.

RESOLVED:

That the Application for the variation of an existing Premises Licence for Dover Castle, 34 Dover Street, Leicester, LE1 6PT be REFUSED.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales)(Regulations) 2020 (The 2020 Regulations) and in accordance with the Council's own Remote Procedure Rules.

Members of the Sub-Committee were asked to determine an application made under Section 34 of the Licensing Act 2003, to vary the premises licence at Dover Castle, 34 Dover Street, Leicester.

In reaching their decision, the Sub-Committee Members carefully considered the committee report presented by the Licensing Team Manager (Policy and Applications), the representations made by the Ward Councillor and the Noise and Pollution Control Team at Leicester City Council, representations made by the Applicant and the Applicant's representative and the legal advice given during the hearing.

The Sub-Committee Members considered the licensing objectives to be of paramount concern. They had considered the application on its own merits and in accordance with the licensing authority's Statement of Licensing Policy

and guidance issued under Section 182 of the Licensing Act 2003.

Members of the Sub-Committee had considered the concerns raised in the representations from the Ward Councillor and the Noise and Pollution Control Team at Leicester City Council namely that the variation would cause a public nuisance for the following reasons:

1. That the extension of opening hours would change the concept of the premises from a neighbourhood public house to a nightclub;
2. That the premises were located in an area with a lot of residential premises close by; and
3. That the later terminal hours and disturbance from customers leaving the premises would cause a disruption to nearby residents and the Applicant would be unable to prevent or control this.

Members of the Sub-Committee had also considered the representations made by the Applicant and the Representative for the Applicant who have stated, amongst other things, the following:

1. That the Applicant was a very experienced operator of late-night venues and that the last noise complaint made against the premises was in 2017;
2. That the concept of the premises would not change in that it will not turn into a nightclub but will instead provide greater flexibility in trading;
3. That CCTV and Door Supervisors employed on a Friday and Saturday night, and, if required, on other evenings the premises were open would assist in alleviating the concerns raised; and
4. That the number of customers visiting the premises Sunday to Thursday was limited i.e. large groups of people did not frequent the premises during these times and in fact the premises was currently closed on a Monday and Tuesday evening.

The Sub-Committee Members' overriding consideration was the protection of the public and as such they had spent a great deal of time scrutinising the information before them and had considered each of the options available.

As a result of what they had heard they were satisfied that the representations by the Ward Councillor and the Noise and Pollution Control Team, engaged with one of the four licensing objectives, namely the prevention of public nuisance.

The decision of the Sub-Committee was that it was appropriate and proportionate in light of the licensing objectives to reject the whole application.

REASON FOR THE DECISION

Having carefully evaluated all the information and evidence before them, the Sub-Committee accepted the submissions put forward by both the Ward Councillor and the Noise and Pollution Control Team that the premises was situated within a highly populated residential area and that it would be difficult if

not impossible for the Applicant to control the noise and behaviour of customers once they had dispersed from the immediate vicinity of the premises and as such prevent a public nuisance.

Although an article that was published in the Leicester Mercury in relation to the premises was discussed in the hearing, the Sub-Committee did not take this into consideration when reaching their decision.

The Sub-Committee did not believe that any modification to the licence conditions which were justifiable and appropriate could be made to prevent the concerns raised by the Ward Councillor and the Noise and Pollution Control Team from occurring. The Sub-Committee also had concerns that due to the limited number of customers visiting the premises on a weekday evening the only reason for the application to extend the opening hours was to facilitate late night drinking. As such, in relation to the application to extend the opening hours to allow the premises to open Sunday to Thursday until 02:30 the following day the decision of the Sub-Committee was to reject this element of the application.

The Sub-Committee also did not agree to remove all existing conditions in Annex 2 of the Premises Licence and replace them with updated conditions as the Applicant did not stipulate during the hearing what the updated conditions they required were and as such the Committee Members were unable to give this element of the application full consideration.

The Applicant would have 21 days to appeal this decision to the Magistrates' Court should he wish to do so.

18. ANY OTHER URGENT BUSINESS

There being no further business the meeting closed at 11:50am.