



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE

Held: WEDNESDAY, 8 JANUARY 2025 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Adatia

Councillor Cank

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16. APPOINTMENT OF CHAIR

Councillor Pickering was appointed as Chair of the meeting.

17. APOLOGIES FOR ABSENCE

There were no apologies for absence.

18. DECLARATIONS OF INTEREST

There were no declarations of interest.

19. MINUTES OF PREVIOUS MEETING

The minutes of the previous meeting held on 11 December 2024 were recorded as a true and accurate record.

**20. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE -
DONKEY, 203 WELFORD ROAD, LEICESTER, LE2 6BH**

Councillor Pickering, as Chair led on introductions and outlined the procedure the hearing would follow.

The Director of Neighbourhood and Environmental Services submitted a report on an application for a variation to an existing premises licence for Donkey, 203 Welford Road, Leicester, LE2 6BH.

Mr Simon Beal was present on behalf of the applicant Star Pubs and Bars Limited. Mr Sam Okwudili Okafor, Designated Premises Supervisor, and Mr George Domleo, solicitor, were also present. Also in attendance was Vandana

Lad, Noise and Pollution team, Elizabeth Arculus, Licensing Enforcement team, and Councillor Patrick Kitterick, Castle Ward. Mr Ian Brown on behalf of the Friends of Clarendon Park and Ms Sally Williams were residents from the neighbourhood present having made representations. In addition Ms Alphina Gordon and Mr Brendan Gordon were present on behalf of a family member resident in the area. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application.

A first representation was received on 6 December 2024 from the Noise team. The representation related to the prevention of public nuisance. The Noise Team were concerned that sound from regulated entertainment may travel across a wide area and customers at the premises may cause disruption to surrounding properties.

A second representation was received on 4 December 2024 from the Licensing Enforcement team. The representation related to the prevention of crime and disorder and the protection of children from harm. The Licensing Enforcement Team was concerned that the conditions on the application may not be sufficient to uphold these licensing objectives.

A third representation was received on 9 December 2024 from a Castle ward councillor. The representation related to the prevention of crime and disorder and the prevention of public nuisance. The representee was concerned that opening later would cause nuisance to residents.

Fifty-six representations were received throughout the representation period from members of the public. The representations related to one or more of the licensing objectives. The representees were concerned that the hours proposed were not appropriate in a residential area and they had previously been disturbed by music emanating from the premises. Many were also concerned that later timings could result in more anti-social and criminal behaviour in the vicinity of the premises.

Ms Arculus, Licensing Officer was given the opportunity to outline the details of their representation and answered questions from Members.

Ms Lad, Noise and Pollution Control Officer was given the opportunity to outline the details of their representation and answered questions from Members and Objectors.

Cllr Kitterick, Mr Brown, Ms Williams, and Mr Gordon were given the opportunity to outline the details of their representation and answered questions from Members. Cllr Kitterick left the meeting due to other commitments after his presentation.

Mr Domleo, Mr Beal and Mr Okafor were given the opportunity to address the Sub-Committee and answered questions from Members, Officers and

Objectors.

ClIr Kitterick returned to the meeting.

All parties present 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 their 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, Members 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 announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

The Sub-Committee's decision is that it is appropriate for the promotion of the licensing objectives to **REJECT** the application.

REASONS

In considering the application by Star Pubs & Bars Ltd for variation of the Premises Licence it holds for Donkey, 203 Welford Road, Leicester, the Sub-Committee has considered the Licensing Officer's Report and all the relevant representations, both written and oral. The Sub-Committee has taken account of all relevant legislation, the Statutory Guidance, the Regulators' Code, and the Council's Licensing Policy. The Sub-Committee has had regard in its deliberations to the steps appropriate to promote the licensing objectives in the overall interest of the local community and has decided the matter on its merits on the evidence presented to it. The Sub-Committee has had regard to the public sector equality duty detailed in section 149 the Equality Act 2010 and has taken a risk-based approach to its decision which has been made on the balance of probability. The Sub-Committee has, as it is required to do, limited its deliberation to the promotion of the licensing objectives (with each licensing objective being of equal importance) and nothing outside of those parameters.

The Donkey sits in a residential area with a varied demographic where families with young children and older residents, including pensioners, live alongside a relatively large student population. Star Pubs & Bars Ltd holds the Premises

Licence. The Company was incorporated on 11 June 2003. Significant control of the Company is held by Heineken UK Ltd. The Designated Premises Supervisor is Sam Okafor.

The Premises Licence, which has been held by the Applicant for approximately 10 years, authorises the performance of live music (Indoors), the playing of recorded music (Indoors), the provision of late night refreshment (Indoors & Outdoors) and the supply of alcohol (for consumption ON and OFF the premises). Licensed activities commence at 9am daily and conclude at 12.30am on Sunday, 1am on Monday to Wednesday and 2am on Thursday to Saturday. The premises close 30 minutes after the end of licensed activities.

There are non-standard timings on Christmas Eve, Boxing Day and New Years Eve. The Donkey's beer garden is not licensed under the Premises Licence.

There has been no application to vary the daily start time of licensed activities at 9am, the licensed hours on a Sunday, or the licensed hours for the provision of late night refreshment. At the hearing, the Applicant amended the originally submitted application and removed a request to extend the licensed hours on Monday and Tuesday.

The variation considered by the Sub-Committee was the Applicant's request to extend the terminal hours for live music (Indoors), recorded indoor music (Indoors) and supply of alcohol (for consumption ON and OFF the premises) to 3am on Wednesday (this being an additional 2 ½ hours for live music and an additional 2 hours for recorded music and alcohol), 4am on Thursday (this being an additional 2 ½ hours for live music and an additional 2 hours for recorded music and alcohol) and 5am on Friday and Saturday (this being an additional 3 ½ hours for live music and an additional 3 hours for recorded music and alcohol). The intention was that the premises would continue to close 30 minutes after the end of licensed activities. As originally notified, the Applicant also sought to replace the existing non-standard timings and proposed a new set of conditions for the Licence

Representations were initially received in opposition to the application from the Council's Licensing Enforcement Team, the Council's Noise and Pollution Control Team, a Ward Councillor and 56 members of the public.

The Licensing Team made their representation based on the prevention of crime and disorder and the protection of children from harm. They had originally been concerned that some of the new conditions proposed by the Applicant were inadequate. They had subsequently agreed alternative conditions with the Applicant. Their view was that those amendments and additions would promote the licensing objectives in line with the Applicant conducting its business in a safe manner. On that basis The Licensing Team no longer opposed the variation.

The Noise Team made their representation based on the prevention of the public nuisance. They remained opposed to the application. They acknowledged that they had not witnessed noise nuisance at the premises

since 2019 (although they had received initial complaints from residents) but they were concerned that playing live and recorded music into the early hours of the morning together with the noise from patrons on the street with increased hours could affect the health of not only nearby residents but also those living further afield. Loud music and raised voices could cause sleep deprivation. They were concerned at the lack of available noise mitigation and sound insulation. They viewed the proposal to give residents on request a direct telephone number for the premises and signage asking patrons to leave quietly as being of limited assistance. They indicated it is very difficult to control the noise level from on street activities. A proactive measure to reduce impact from internal noise levels would be to instal a noise limiting device and to run all regulated entertainment including live music through this device at a noise level set by the Noise Team. The Applicant had agreed to this and other conditions suggested by the Noise Team in the event the Sub-Committee granted the variation. However, to be clear, the recommendation from the Noise Team was that the application should be refused.

The Ward Councillor made his representation based primarily on the prevention of public nuisance with the prevention of crime and disorder as a subsidiary consideration. He believes the late hours requested are inappropriate given what he described as the residential noise sensitive nature of the area. Local residents would be disturbed by noise from the premises itself and noise from the coming and going of patrons on foot and by vehicle. Once patrons leave the premises there would be no control on the noise they make with the additional possibility thereafter of crime and disorder. He genuinely wishes the Applicant well but feels the noise the variation would create could not be controlled.

The Sub-Committee heard from two residents who spoke on their own behalf and on behalf of the Friends of Clarendon Park. The Sub-Committee also heard from two family members speaking on behalf of an elderly resident. Their representations related to existing noise from the premises which was the subject of regular complaint on social media platforms in the area. They also referred to noise from patrons which would be magnified in the event the variation was granted. They believed the requested hours were similar to those of a nightclub and inappropriate for a residential area. There was an element of residents building tolerance to the noise which is not beneficial to their health. They believe the Donkey should operate similar hours to neighbouring licensed premises which in the main cease licensed activities at 11pm albeit they are licensed beyond that hour. The Donkey does not make use of its existing licensed hours which authorise licensed activities to 12.30am on Sunday, 1am on Monday to Wednesday and 2am on Thursday to Saturday. It was suggested by one resident that perhaps the Applicant could work within those hours to test / demonstrate its noise mitigation procedures and allow measurements to be taken and acted upon.

The Legal Advisor provided the hearing with a summary of the written representations submitted by residents which the Sub-Committee feels it appropriate to repeat here:

- (i) The residents refer to current noise nuisance from the premises. The nuisance and anti-social behaviour currently adversely affects residents and their families in a number of ways. They say there are regular complaints about the noise from the premises when they have music indoors and even more complaints when they have music outdoors, which can be heard across Clarendon Park and Victoria Park. Some can hear music very clearly from their gardens and some inside their houses. This affects their enjoyment of their own homes and gardens and causes problems in summer months when they want to have their windows open.
- (ii) The Donkey was not built as a music venue and it has no sound insulation. One resident indicates that sounds 'bleed out'.
- (iii) In addition to music from the premises itself there is also disturbance from the noise of patrons arriving and departing the venue during the night on foot and by vehicle. Some patrons are noisy and boisterous and there are incidents of drunkenness, urination and vomiting in the street, and vandalism including damage to vehicles such as keying, and damage to wing mirrors and wiper blades. There are littering issues and there are also existing parking congestion issues in the area with residents finding it difficult to find parking spaces.
- (iv) Some residents view the presently licensed hours as excessive and where their representations have been submitted on the Council's online form, there is a question: "Please explain what changes you think would help". Several have responded suggesting there should be a reduction in the existing licensed hours.
- (v) The residents agree that the extended hours requested by the variation are unacceptable. They refer to the proposed hours as being wholly incompatible with a residential neighbourhood and use adjectives such as disproportionate, extreme, unreasonable, ridiculous, preposterous, absurd and outrageous.
- (vi) They believe the proposed hours are more suitable for a night club and are not the hours which should be in operation in a local pub in a residential area. They suggest the nature of the venue would potentially shift from that of a Pub to a Nightclub with customers coming into the area attracted to the premises by the extended hours unavailable elsewhere other than in the City Centre. This would involve a severe increase in footfall at highly unsociable hours.
- (vii) Residents believe the existing licensed hours allow the premises to open more than late enough for a pub in a residential area. Those hours already exceed the hours of nearby licensed premises. If granted, the variation would allow the premises to open later than many city centre pubs, clubs and music venues which are in non-residential areas.

- (viii) The residents emphasise that this is a heavily populated residential area and the application therefore has huge potential to disrupt the local community. To quote:

“This is a residential area. People need to have a decent sleep undisturbed by noise in order to get up and go to work early in the morning. People have to get up to tend to their babies if they are woken in the night by noise. People who are sick or elderly struggle to get back to sleep if they are woken by noise. The welfare of all of us residents and the necessity of sleep to health, welfare and productivity should not be put at risk by a reckless extension of hours at the Donkey.”

“Clarendon park is a residential area, housing working families with children, older, long-term residents, and in many cases people with disabilities. There are residential properties all around this venue whose occupants will be distressed at having to live next to a nightclub.”.

- (ix) Extending the licensed hours is also likely to lead to an increase in noise from patrons in the area and an increase in crime and disorder with more alcohol being consumed increasing the risk of loud or disruptive behaviour in the early hours. This noise disturbance wakens families and can contribute to a sense of insecurity within the community.
- (x) Residents believe extending the hours will adversely impact on their health and wellbeing due to increased noise, disruption of sleep, and potential anxiety related to safety concerns. The existing problems will be magnified in the early hours of the morning in what should otherwise be a quiet residential area.
- (xi) The proposed extension includes weeknights when children have to get up early for school and people go to work. Residents leaving home early for work or for any purpose would potentially meet patrons who had spent the night at the premises walking through the streets. Residents would find alcohol related detritus such as bottles and broken glasses in the streets and front gardens. School children leaving home early would be faced with the same issues.
- (xii) Extending the licensed hours would be likely to exacerbate the existing parking congestion issues. Patrons will take the already limited parking spaces to park vehicles into the early hours, and residents coming home late from work or going out and returning home of an evening will be unable to park near their homes.
- (xiii) The residents emphasize that there would be no respite to the licensed activities with the existing unaffected licensed hours being additional to the proposed extended hours. This would be unacceptably stressful for residents.

The solicitor for the Applicant (assisted by the DPS and the Business Development Manager from Heineken UK Ltd) addressed the Sub-Committee. The solicitor provided background detail regarding the Donkey's licensed history and details of the licensing experience of the DPS which included his continuing involvement as DPS at two other licensed premises. He indicated the premises capacity is 200. He indicated that the current licensed hours do not work for the Applicant's operating model for the Donkey so to make it viable and continue as a heritage site the application has been made but in acknowledging that licensing is a balancing exercise, safeguards have been put in place. He explained that the Applicant wanted to work with the community and the Applicant was heartened by the genuine expressions of goodwill which had been made regarding the Donkey's position in the community. There had been a meeting with residents in December 2024 and their representations had been carefully taken into account and actions had been taken. It was as a result of that meeting (and the representations made by the Responsible Authorities) that the reduction in the originally requested extended hours had been made. CCTV had not been in place prior to the application. This had now been installed at a cost of approximately £6,000. A noise limiter had been installed. Speakers had been repositioned and sound proofing to door surrounds had been fitted (which the Noise Team acknowledged as good steps). Provision had been made for the use of SIA security staff in the event the variation was granted. A Noise Management Plan and Dispersal Policy had been introduced. No representations had been received from the Police who the Sub-Committee should look to as the main source of advice on crime and disorder. The Applicant had agreed conditions with the Licensing Enforcement team who did not now oppose the application. The Applicant had also accepted the conditions proposed by the Noise Team in the event the variation was granted. Questions had been raised by one resident at the hearing regarding the use of the beer garden area for the provision of deregulated entertainment which permits amplified live music in the beer garden between 8am and 11pm providing the audience does not exceed 500. If the variation was to be granted the new conditions would not apply to this deregulated entertainment during the hours of 8am and 11pm but it was good practice to employ the Noise Management Plan throughout the day so the Applicant intended to operate the Plan and the noise limiter during that period. In addition, the original condition on the Licence that 'No food or drink shall be consumed outside of the premises after 23.00 hours' would remain on the Licence. The Applicant was also happy when asked to add a condition to the Licence limiting the last entry time of patrons should the variation be granted.

In reaching its decision, the Sub-Committee has taken into account that no representations have been received from the Police and that the Licensing Enforcement Team has agreed the application can be granted. The Sub-Committee has disregarded commercial considerations including potential decreases in property values in the area and any general decline in the number of public houses as these issues do not relate to one or more of the licensing objectives and are therefore not relevant considerations for the Sub-Committee. The premises are obviously not purpose built as a music venue and they are not sound proofed (save for the limited sound proofing undertaken

by the Applicant since the residents' meeting). The Sub-Committee acknowledges the difficulties in sound proofing the premises because of its heritage nature. The Sub-Committee also acknowledges that some of the existing complaints of noise nuisance may arise from the provision of deregulated entertainment in the beer garden (in which event it is for the Noise Team to monitor from the perspective of statutory nuisance if appropriate).

Members of the Sub-Committee are well acquainted with the area in which the Donkey sits. The Sub-Committee accepts the Noise Team's recommendation that the application should be refused. There is ample evidence in the residents' representations of existing issues (particularly noise from the premises and noise from patrons) which would clearly be magnified if the variation was to be granted. It is clear that the extensive extended hours requested by the Applicant are simply inappropriate for this residential area. This would affect residents' health and wellbeing and as suggested in the written representations there would be no respite to the disturbance to their lives.

The Sub-Committee was pleased to see the Applicant's engagement with the community in connection with the application and similarly pleased to see the actions which had been taken following the meeting with residents and in light of the representations made by the Responsible Authorities. The conditions on the Premises Licence remain light in detail and the steps taken by the Applicant will continue to enhance the operation of the premises within the community.

The Sub-Committee's decision has been made to promote the licensing objectives in the overall interest of the local community.

Any appeal against the decision must be made within 21 days to the Magistrates Court.

21. ANY OTHER URGENT BUSINESS

With there being no further business, the meeting closed at 12.30pm.