

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 10 January 2024 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor S Hill

Councillors: M F Hibbert
H M Williams (as substitute for Councillor P M Brivio)

Officers:

Legal Adviser: Principal Lawyer - Litigation and Regulatory

Licensing Officer: Licensing Manager
Licensing Officer
Licensing Officer

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2024/0001V).

22 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor P M Brivio.

23 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor H M Williams was appointed substitute for Councillor P M Brivio.

24 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

25 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT THE CROWN INN, THE STREET, FINGLESHAM

The Sub-Committee considered an application for the variation of the current premises licence at The Crown Inn, The Street, Finglesham, Kent CT14 0NA. The application sought to:

- **Amend the timings for licensable activities:**

Alcohol Sale (for consumption ON and OFF the premises)

Monday – Thursday	11:00 – 00:00 hrs
Friday – Saturday	11:00 – 00:30 hrs
Sunday	11:00 – 00:00 hrs

Live Music and Recorded Music (Indoor and Outdoor)

Monday – Thursday	23:00 – 00:30 hrs
Friday – Sunday	23:00 – 01:00 hrs

Plays

Every day	08:30 – 23:00 hrs
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Films (Indoor and Outdoor)

Every day	18:30 – 23:00 hrs
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Indoor Sporting Event

Every day	08:30 – 23:00 hrs
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Boxing or Wrestling Entertainments (Indoor and Outdoor)

Monday	08:30 – 23:00 hrs
Thursday – Sunday	08:30 – 23:00 hrs

Late Night Refreshment

Monday – Thursday	23:00 – 00:30 hrs
Friday – Sunday	23:00 – 01:00 hrs

Opening Hours

Monday – Thursday	11:00 – 00:30 hrs
Friday – Sunday	11:00 – 01:00 hrs

- **to remove some of the outdated conditions on the current premises licence:**

- Photographic identification will be required from any person attempting to purchase alcohol who appears to be under the age of 18 years.
- A current fire safety certificate will be in force and renewed annually.
- A current electrical safety certificate will be in force and renewed annually.
- The Premises Supervisor will ensure that during live and recorded music events speakers are located to face open countryside.
- Annex 3 – Live & Recorded Music – Outside functions for weddings & special occasions only in marquee.

- **to add some conditions to the current premises licence:**

- Additional conditions as proposed within the Operating Schedule.
- Those agreed with Environmental Health.

AND

- to increase the licensable area to include the whole site

The following documentary evidence and/or other information was taken into account by the Sub-Committee:

- (i) The Licensing Manager's report including the options available to the Sub-Committee
- (ii) Application from The Crown Inn to vary the premises licence (appendix A of the agenda)
- (iii) Existing premises licence (appendix B of the agenda)
- (iv) Map of the area (appendix C of the agenda)
- (v) Email thread from Environmental Health (appendix D of the agenda)
- (vi) Representations (appendix E of the agenda)

On the basis of the representations of the applicant (and their witnesses) and the oral and written representations from Other Persons, the Sub-Committee found the following facts to be established:

- (i) At the Hearing, the variation application made by The Crown Inn at Finglesham Ltd (represented by Amy Beaney) was presented by David Beaney.
- (ii) In respect of the witnesses called at the Hearing by the applicant, those who had not made their own representation were reminded they could not make representations as to the likely effect of a grant of variation application on the promotion of the licensing objectives; their evidence was limited to factual matters.
- (iii) It was noted that the representation at page 49 of the agenda papers had been withdrawn therefore not a relevant representation and would not be considered. As such, there were 6 representations – 3 in objection and 3 in support.
- (iv) The Licensing Manager drew attention to pages 46-48 of the agenda papers, firstly, identifying conditions that had been agreed between the applicant and Environmental Health for the Sub-Committee's consideration:
 - Regulated entertainment in the form of live and/or recorded music outdoors will cease at 23:30 hrs,
 - During regulated entertainment by means of live or recorded music the premises supervisor shall monitor noise levels to ensure no noise nuisance is caused to neighbouring properties to preserve the amenity of the neighbourhood, and
 - Signs shall be placed in a clear and visible position to all public exits/entrances requesting customers to leave quietly.

And secondly, made the point regarding outdoor music ceasing at 23:30 hrs, that the Sub-Committee could not restrict/reduce the current premises licence. It was subsequently confirmed that the wording could only be applicable to the variation sought for Monday – Thursday.

- (v) The Licensing Manager further notified the Sub-Committee that having confirmed with the applicant before the Hearing, that the activities proposed in respect of plays and indoor sporting events would not require a licence.
- (vi) Further to her written representation, Ms Bowers informed the Sub-Committee of the proximity of her property to the licensed premises and that she was objecting to the application for the music (live and recorded) extension. She explained that there had been times when she was unable to open her windows or sit in the garden. Ms Bowers acknowledged that the barn was better than the previous marquee however, stated that sound proofing had been of no effect because the doors were opened and closed and guests made noise when leaving and getting into cars. Ms Bowers did say that the noise had settled down during the Autumn and the volume had reduced in the last few months save for one event during the weekend before the Hearing and Ms Bowers also confirmed her support for community groups using the premises. That said, Ms Bowers remained concerned about the volume of music particularly at outdoor events (and affecting her family's sleep) and felt that 23:00 hrs would be reasonable. Ms Bowers sought an assurance that the music would be kept at the level that had been demonstrated possible between September – December.
- (vii) Mrs Wright, further to the representation of Mr Wright, informed the Sub-Committee of the proximity of their property to the licensed premises and that their objection was only in respect of noise and as such, they were objecting to increasing the weekday hours (including outdoors) and increasing the licensed area. Mrs Wright appreciated how hard the applicant had worked in the run up to Christmas and also confirmed that the noise of the patrons leaving the premises had been of no discomfort to them. Mrs Wright stated that if that were to be maintained they would not object however, the noise from the weekend before the Hearing was so loud it had had an impact on them. They had to move rooms away from the noise and turn their TV up. Mrs Wright informed the Sub-Committee that they expected noise living next door to a pub but it should not affect their lives. Mrs Wright explained that when they had been disturbed, they had not complained to the Council because they had tried to resolve the issue directly with the pub. Mrs Wright also explained that even when the pub closes at 00:30 hrs, the noise might not stop until 01:00 hrs because of people leaving and on weekdays when they need to be up before 06:00 hrs they might only get 4 ½ hours sleep. Mr and Mrs Wright know now how to contact Environmental Health and did so on the weekend before the Hearing although, it was unclear to them why the noise could not be controlled all the time as it had been more recently. Mrs Wright sought clarity why the weekend before the Hearing had caused a problem and queried whether the event had been in the barn and the sound proofing measures in there. Mrs Wright observed that no matter how well meaning, if large groups were outdoors, there would be nothing the management could do to control the noise. Given the pub was in close proximity to residents Mr and Mrs

Wright had considered fencing and triple glazing but there was no guarantee this would work. They too had considered noise barriers but these would need to be around The Crown Inn perimeter. Mrs Wright sought to inform the Sub-Committee of the feeling of other residents however, it was clarified that given those residents had not submitted representations this information would not be taken into consideration. Mrs Wright raised a concern regarding Planning permissions, however, matters of Planning were not a matter for the Sub-Committee. Mrs Wright was keen to hear from the applicant as to their application and how it would be managed.

- (viii) The licensable activities and relevant times of the current premises licence were read out for the benefit of all Parties, and the variations sought. Parties were reminded that the Hearing was for determination of the variation application but would not reduce what was already licensed.
- (ix) The Sub-Committee sought clarification as to acceptable noise levels. The Licensing Manager confirmed that whilst Environmental Health did on occasion suggest noise decibel limits, they had not on this occasion made a representation. The Licensing Manager informed the Sub-Committee that the premises had 12 Temporary Event Notices (TENS) over October, November and December 2023 and no complaints had been made to Licensing or Environmental Health.
- (x) The Sub-Committee further sought clarification as to where the barn was situated on the plan (at page 32 within the agenda papers). The Licensing Manager assisted with the plan.
- (xi) In response to Ms Bowers' noise and disruption comments, Mr Beaney informed the Sub-Committee he had opened the pub up on a Saturday morning before the Hearing to discuss and sort any problems out. He also stated that the Manager lived at the licensed premises and Ms Bowers had not come to them with any concerns. Ms Bowers explained that she had not initially raised any complaints because she had wanted to allow the new management time to settle down, and noise had recently settled down. Regarding the meeting however, with only 24 hours notice she was unable to attend due to other commitments. Also due to her personal circumstances she explained she was not comfortable in making complaints however, the noise had impacted on sleep. Ms Bowers reiterated that September to Christmas had been fine, although she had been able to hear the music, it had not prevented sleep.
- (xii) Mr Beaney stated that although the premises is licensed for live and recorded music on Fridays and Saturdays until 01:00 hrs they have not played it that late. The different noise level the weekend before the Hearing might have been because of different bands/types of music although, the events in the barn September to December had been in the barn. The barn was insulated.
- (xiii) Mr Beaney informed the Sub-Committee that Mr and Mrs Wright had moved in in 2020 (corrected by Mrs Wright, they moved in in 2019) and the barn had been there since 2014. He explained that the previous owner of the licensed premises had run a lot more events, then COVID came so the pub was not being used for events. Now it was being used

again. He stated the management had written to Mr and Mrs Wright to try and resolve the issues when they heard of them; there had been no direct complaint to the management.

- (xiv) Mrs Wright stated that she and her husband recognised how hard the management had worked to reduce the noise between September and December. She explained that they expected some noise, and in fact like it. However, when it had become so intrusive they could not use their house they did raise it and the management of the licensed premises wrote to them. Mrs Wright stated they had wanted to discuss the matter, not communicate by letter. Mr and Mrs Wright had felt that in the letter the management blamed them for living next to the pub so Mr and Mrs Wright did not want to talk after that. Mr and Mrs Wright expressed that they were pleased to have the discussion at the Hearing.
- (xv) Mr Beaney detailed the variation sought stating that the licence was untidy when they took it on, effectively the application was for a tidy up and one additional hour of alcohol, and one additional hour of music (although, no change on Friday or Saturday). Mr Beaney explained they had been agreeable with Environmental Health requirements although, now understood that the condition would be limited. As for the extension of the plan, that would be to assist with fun days, parties, weddings for example, having cocktail bars/horse box bars. Currently if not in the licensed area a TENS must be applied for. The variation would assist with using the full area, making the management easier, and reducing time / costs. The venue had also taken additional steps under the variation for example, the venue did not have CCTV, it did now (at a cost).
- (xvi) Witness, Michaela Hubbard (Manager), informed the Sub-Committee that she had been the manager at the premises for 10 years (8 of those years with the previous owners). In her experience, there had been 28 weddings most years although, not since lockdown and there had been no complaints. She stated that she appreciated the bands were louder however, the barn was not open beyond 00:00 hrs (except on New Years Eve 2023). Music was turned off at 23:30 hrs and patrons were quiet on leaving, management ask cars and taxis to keep the noise down. The pub stopped serving at 23:00 hrs, patrons leave by 23:30 hrs. They were quiet when leaving, the management and staff cared deeply. Ms Hubbard explained there was a WhatsApp group for village communication and villagers come to the pub, they have also helped people in trouble. Ms Hubbard stated that people feel safe at the venue, lone women come as well as families. The management were sorry and committed to trying to keep noise levels down.
- (xvii) It was questioned whether the management could communicate events to the members of the village but the Manager explained they do not know in advance how loud the act would be. It was also queried whether sound proofing could be upgraded. Ms Hubbard said there was always a member of staff in the car park on leaving and signs at points of exits. Regarding sound proofing Mr Beaney stated there would be a huge cost and if there was a concern across the village, they would have to consider however, others do not find it a concern and Gail Tasker had come along to give her account of noise (resides with her family in the next house along).

- (xviii) Gail Tasker informed the Sub-Committee that she lived opposite the barn and The Crown Inn. She acknowledged that it was difficult being at the Hearing where friends and neighbours are opposing. Mrs Tasker stated that she and her husband moved in 17 years ago with no children. When purchasing the property the proximity to the busy public house opposite was stressed to them. Now they had 2 children, one was doing their GCSEs. Mrs Tasker presented her 'lived experience' and stated that there had been three owners since she lived opposite, the pub had always been well run, well managed and successful. Mrs Tasker confirmed there was noise but accepted there would be when buying a property opposite a public house. Mrs Tasker stated that on sunny days there was constant noise of children. Mrs Tasker informed the Sub-Committee that she did not recognise the account that had been given by others of having to live elsewhere than in the front of her home or having had to consider soundproofing. Mrs Tasker stated that the barn noise had been reduced under current management and that she was aware there was a door person who checks the opening and closing. Mrs Tasker confirmed she could hear noise but did not find it disturbing. Mrs Tasker acknowledged that the longer hours could be problematic but she had been assured by the current management it would not be an issue. Mrs Tasker stated that the village and the pub were very much joined together, the public house supported the village members. Whilst Mrs Tasker understood being in the house and hearing noise, she did not recognise the strength of feeling by the objectors.
- (xix) The Sub-Committee queried whether the plan (page 32 of the agenda papers) was the whole footprint of the property. And if so, how effectively could noise be managed. Mr Beaney stated that applying additional conditions would cost the business money and there were licensable activities on the licence that they could do but are not doing; the application was for a tidy up and to allow the business to be flexible. The Sub-Committee queried what could be done to monitor noise outdoors. Mrs Beaney stated it was hard to monitor music outside for example, soundproofing would not work but they were always respectful of time. The Licensing Manager referred the Sub-Committee to page 11 in the agenda papers, drawing attention to the conditions agreed by Mrs Beaney for the variation.
- (xx) Further to his written representation, Mr Wells informed the Sub-Committee he had lived in the village for 30 years. There had been 5 different landlords in that time. Mr Wells stated that the new managers developed the business and supported the community for example, for the Coronation they organised a party for the village, providing food and games. Mr Wells stated that no weekend changes were being sought so he was struggling to understand some of the objections. Mr Wells suggested that the village meeting should, arguably, have been held before the application but those who did attend went away with a positive message and one objection was withdrawn. Mr Wells was of the opinion that over 50% of the village attended the pub and the ladies who lunch were new customers. He also observed that during snow / winter months the business was from local villagers so the management would not be wanting to alienate them. Likewise, if there was excessive noise that would result in feedback on internet review sites (for the chalets) and that would be detrimental to the business.

- (xxi) Mr Beaney clarified that the application was not consulted on prior to its submission because they did not realise it was a problem however, having seen concerns on the village WhatsApp they called a meeting. He apologised for that.
- (xxii) The other written representations were taken into consideration.
- (xxiii) On behalf of the applicant, Mr Beaney stated they were not looking for big amendments, they were seeking a tidy up, flexibility and making management easier. Mr Beaney confirmed that the applicant still agreed for the Environmental Health wording for outdoor music to cease at 23:30 hrs on Monday to Thursday. Mr Beaney reiterated the increased licensed area was requested (page 32 of the agenda papers) so for example, at fun days bars could be set up and take money at various locations within the perimeter. Ms Hubbard stated that following the Coronation event it would be nice to offer one or two more community days. The Licensing Manager stated that strictly the chalet area could be left out of the licensed area however, it would be the most practicable solution to include the whole area given the explanation.
- (xxiv) The Sub-Committee queried whether there was enough staff for the events. The Manager confirmed there would be. Ms Hubbard informed the Sub-Committee a mistake had been made in not realising how many people smoked meaning the barn door would open/shut. However, now that had been recognised customers must smoke out the back.
- (xxv) Ms Bowers stated that she did not dispute that the Manager did everything she could to try to control the noise and she appreciated all they were doing. She expressed her hope that they could work together in future.
- (xxvi) Mrs Wright echoed the thanks, and stated she was not complaining about the pub per se, just the noise. Mr Beaney stated it may be possible for notification of bands via the WhatsApp group, the same as they do for fireworks.
- (xxvii) Before the Sub-Committee retired to determine the application it was summarised that the principal objection related to noise (outdoors and barn) however, those objectors present had confirmed that noise levels, save for the weekend before the Hearing, had been at an acceptable level and that they wished the licensed premises success.

The Sub-Committee had taken into account the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003 and in particular the guidance given under Section 182 of the Act
- (iii) Article 6 of the Human Rights Act (Right to a fair trial)
- (iv) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications)

RESOLVED: (a) That the application for a variation to the premises licence in respect of The Crown Inn, The Street, Finglesham be GRANTED and modified as follows:

Alcohol Sales (for consumption ON and OFF the premises)

Monday – Thursday	11:00 – 00:00 hrs
Friday – Saturday	11:00 – 00:30 hrs
Sunday	11:00 – 00:00 hrs

Live Music and Recorded Music (Indoors)

Monday – Thursday	23:00 – 00:30 hrs
Friday – Saturday	23:00 – 01:00 hrs
Sunday	23:00 – 00:01 hrs

The variation request for Sunday was not accepted, it was noted by the Sub-Committee that alcohol sales for a Sunday have not been sought to be extended therefore they cease at 00:00 hrs and the live and recorded music hours will stay at 00:01 hrs.

Live Music and Recorded Music (Outdoors)

Monday – Thursday	23:00 – 23:30 hrs
Friday – Saturday	23:00 – 01:00 hrs
Sunday	23:00 – 00:01 hrs

The variation request for Sunday was not accepted, it was noted by the Sub-Committee that alcohol sales for a Sunday have not been sought to be extended therefore they cease at 00:00 hrs and the live and recorded music hours will stay at 00:01 hrs.

The following was agreed as sought -

Films (Indoor and Outdoor)

Every day	18:30 – 23:00 hrs
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Boxing or Wrestling Entertainments (Indoor and Outdoor)

Monday	08:30 – 23:00 hrs
Thursday – Sunday	08:30 – 23:00 hrs

Late Night Refreshment

Monday – Thursday	23:00 – 00:30 hrs
Friday – Sunday	23:00 – 01:00 hrs

The Sub-Committee noted -

Opening Hours

Monday – Thursday	11:00 – 00:30 hrs
Friday – Sunday	11:00 – 01:00 hrs

- (i) The Sub-Committee noted that the performance of dance was to stay as per the current Licence and that neither plays or indoor sporting events required a licence for the activities proposed.
- (ii) Removal of the outdated conditions on the current premises licence (as noted at page 28 of the agenda papers) was agreed.
- (iii) Inclusion of conditions to the current premises licence (at page 28 of the agenda papers), the Operating Schedule (at page 30 of the agenda papers), the conditions agreed with Environmental Health (at pages 47 and 48 of the agenda papers) was agreed subject to the limitation of the 23:30 hrs for outdoors music being only applicable Monday – Thursdays.
- (iv) Increasing the licensable area was agreed, as applied for.
- (v) Anything not applied for or not determined in the Sub-Committee's decision remains as is. The Sub-Committee noted that non-standard hours may now be obsolete, these should be tidied up by Licensing. Further, any mandatory conditions that follow i.e. age verification for films will need to be included.

The Sub-Committee encouraged Parties to continue working together and noted that the applicant had suggested a possibility of increasing communication in respect of bands; the Sub-Committee encouraged as much communication as possible as to events. It was hoped this would resolve noise concerns however, neighbours were reminded to inform the necessary departments of the council of any ongoing complaints – Out of Hours Noise, Environmental Health and the Licensing team. Ultimately, the Licensing Act protection is by of Review although, it was hoped this would not be necessary.

The meeting ended at 12.27 pm.