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Premises / Personal Licences Sub-Committee

14 September 2018

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON FRIDAY, 14TH SEPTEMBER, 2018 AT 2.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Cossens, Davis, White and Watson
In Attendance:	Karen Townshend (Licensing Manager), Linda Trembath (Senior Solicitor (Litigation and Governance)), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer)

16. CHAIRMAN FOR THE MEETING

It was moved by Councillor White, seconded by Councillor Davis and:-

RESOLVED – That Councillor Cossens be elected Chairman for the meeting.

17. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Licences Sub-Committee held on 3 August 2018 were approved as a correct record and signed by the Chairman.

18. DECLARATIONS OF INTEREST

There were none.

19. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

20. A.1 REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - APPLICATION FOR THE GRANT OF A PREMISES LICENCE - - 17 HIGH STREET, MANNINGTREE, ESSEX

The Chairman (Councillor Cossens) welcomed everyone to the meeting and made introductory remarks. He stated that he wished to give an equal amount of time to both the applicant and the objector to make their cases. He proposed 15 minutes for each side.

Additional information had been provided by the Objector to the Sub-Committee and the Applicant and the Chairman gave the Applicant five minutes to read this before the Licensing Manager began her verbal summary.

The Council's Licensing Manager (Karen Townshend) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational

Services), an application for the Grant of a Premises Licence at 17 High Street, Manningtree.

Section 2.2 of the written report set out the original proposed opening hours for the premises which were:-

Mondays to Saturday 1200 hours to 0000 hours and Sundays 1200 to 2300 hours.

The Licensing Manager reported that the proposed licensable activities applied for by the applicant were before Members in Sections 3.1 to 3.4 of the written report.

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those were detailed in Sections 4.1 to 4.5 inclusive.

Members were further informed that two letters of representation/objection had been received in relation to this application.

It was reported that no Responsible Authorities had made representations on the application.

The Sub-Committee had before it for its information the relevant extracts from the Council's Statement of Licensing Policy in respect of planning considerations and the statutory 'Prevention of Public Nuisance' Licensing Objective.

Members also had before them for their assistance the relevant paragraphs from the Home Office's Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance;
- (2) Prevention of Crime and Disorder; and
- (3) Planning and Building Control.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Manager following her summary of the written report. There were no questions.

The Applicant, Mr Rowan Hunter gave representations to the Sub-Committee. He stated that he wished to open a local Wine Bar, but would not serve alcohol during all of the hours between 12 Noon and 12 Midnight, but would only serve between 5.00 p.m. and closing time. He would also allow the premises to be used for private hire. Other pubs in the area were around residential areas and the premises would not be adding any extra premises to the High Street as the White Hart pub had closed. Those premises had previously been for retail use and had been closed for over a year.

The High Street was very busy and Mr Hunter considered that the traffic noise would be worse than what would emanate from the bar. He said that it would add jobs to the local area and that he would also be hiring out the premises for private events and charitable functions. He stated that he would not be having live music, only background music.

The Chairman then asked the objector, Mrs Bettle whether she had any questions for Mr Hunter. She stated that her husband was also an objector but that he could not attend today.

Mrs Bettle stated that if this licence was granted, it would be in breach of the planning conditions for the premises. Mr Hunter then stated that he had just reapplied for planning permission, and that he had applied for seven days trading, as opposed to the four that had been granted on the current planning permission.

The Chairman then asked the Sub-Committee whether they had any questions for Mr Hunter. It was queried about the planning application being in the name of Mr Welch. Mr Hunter explained that he had now taken over the premises and had reapplied for planning permission for use as a wine bar and not a coffee shop.

Mr Hunter was asked how he thought the wine bar would work and would it be viable, as the permission currently was for a coffee shop.

Mr Hunter responded that it would bring a fresher look to the area as a designated wine bar with tapas. He had nine years hospitality experience and he expected to make it a viable business.

It was stated that Planning and Licensing rules each had a bearing on the application, but were two different departments and regimes.

Mr Hunter was asked how he intended to deal with deliveries to the premises, considering the premises were right on the pavement in the High Street. He explained that deliveries would be via the back of the premises where there was a car park for his and other premises and that those deliveries would be during normal working hours and the bins would be emptied in the daytime between 10.00 a.m. and 11.00 a.m. Mr Hunter stated that he would like a licence from 12 noon, so that the premises could be privately hired or used for charitable events.

Mr Hunter was then asked how many clientele he could accommodate at any one time and he said that he could accommodate 28-32 seated but that the Fire Brigade had told him that he could have 60 people on the premises. He would normally have 2 or 3 staff working.

Mr Hunter was asked what training he would provide for staff and he stated that he would provide training in health and safety, lifting, the selling of alcohol and fire safety.

He was then asked about his statement of asking customers to leave the premises quietly and he was asked how this would be achieved. He said that there would be signs on the door of the premises asking customers to leave the premises quietly as there were residential properties nearby. He said that if customers kept on being noisy, they could be barred from using the premises.

Mr Hunter was questioned about the fact that he stated that he does not want live music and he said that he did not want to impact on what else he would like under the licence and that if he had to drop live music he would be fine with this as he only wanted to use background music and perhaps an acoustic singer on Christmas Eve and New Year's Eve.

Mr Hunter said that he had undertaken the training to gain his personal licence and he was currently waiting for his DBS check to be returned.

The Chairman then asked the objector, Mrs Bettle for her representations.

Mrs Bettle said that the overwhelming issue here was the fact that the licence applied for, if granted, would be in breach of the current planning permission which stated “no amplified music” on the premises. It would be, in her opinion, a criminal offence and would go against the licensing objective of the prevention of crime and disorder.

She said that even if the music was background music, then this was still amplified, which was not what the planning permission stated.

She further stated that the Planning permission stated that the wine bar use shall not be outside of the hours 6.00 p.m. – 11 p.m. – Thursdays to Saturdays and 6.00 p.m. – 11.00 p.m. on Sundays, but Mr Hunter was now applying for a licence for seven nights a week between 12 noon and 12 midnight.

She reminded the Sub-Committee that the Council’s Licensing Policy stated at 1.14 that licensing policies should integrate with Planning Policies and at 1.19 it stated that when the Licensing Authority was considering any application, it would avoid duplication with other regulatory regimes and that applications for premises licences for permanent commercial premises should normally be from businesses with appropriate planning consent for the property concerned. Therefore this would be in direct breach of the planning permission already granted.

Mrs Bettle stated that Mr Hunter should wait until he obtained his planning permission before he applied for his premises licence.

She stated that it would also be in breach of the licensing objective of the prevention of crime and disorder. There were many other premises in Manningtree that provided evening entertainment.

She also stated that she was concerned in respect of the licensing objective of public safety and she felt that these premises were probably in the worst place in the High Street for an evening establishment and this was where the street narrowed.

There was also the consideration of peaceful enjoyment for the residents living nearby. She stated that residential use was increasing in the area and many had bedrooms at the front of their properties and they would therefore not have peaceful enjoyment. Indeed the White Hart pub which had closed had applied to change it’s use to residential.

The Chairman then asked Mr Hunter whether he had any questions for Mrs Bettle. Mr Hunter asked Mrs Bettle what she thought traffic queuing in the High Street had to do with his business. Mrs Bettle responded in that she said that the volume of traffic already showed that there were enough premises trading in the evenings and there was no need for another one and also that those premises did not open out directly onto the road, whereas his did.

The Chairman then asked the Sub-Committee whether they had any questions for Mrs Bettle.

Members asked whether the traffic was still two-way on the High Street and Mrs Bettle said that yes it was, until the pinch point whereby one way took priority over the other.

Members asked Mrs Bettle whether the principal reason for her objection was the sound levels – i.e. amplified music for now potentially seven nights and she responded that yes this was the main point and these were all planning conditions that would be breached.

Members asked if there was a safe place for taxis to pick up passengers from the premises and Mrs Bettle said certainly not outside those premises as the road was too narrow.

Members asked Mr Hunter to explain about providing tapas and Mr Hunter stated that this was Spanish style food on small plates i.e. of cheese, meats, olives etc.

Mr Hunter stated that this was not a nightclub, and he did not want to be open until midnight, rather it was his vision to open five days a week as a standard, but for special events or at peak times e.g. Christmas and New Year to be able to open seven days. He said that he was prepared to limit the number of days per week that he could open. He was asked if this would jeopardise the business and he stated that it would not affect him in a business sense and that he would be prepared to open Wednesdays to Sundays.

Mr Hunter was asked about noise levels, particularly in the summer months when doors and windows might be open and did he have any noise reduction measures in mind. Mr Hunter stated that only the door would be open when patrons were entering or leaving the premises.

The Chairman asked Mrs Bettle whether in view of the fact that her husband could not attend, had she taken all of his considerations into account and she said that his objections were mainly the safety issues with the traffic.

The Chairman then invited Mr Hunter and Mrs Bettle to sum up. Mr Hunter said that he understood that it was confusing with the existing planning permission and the permission that he had recently applied for. He would like to bring something different to the Town as there were already four empty shops in the High Street. He thought that it was something that he could do in the area and also make it accessible for the local community. He would like it to be a free hire space for the local community and would not be a nightclub and have excessive noise and drinking and he envisaged that the demographic would be the 30-50 years age group.

Mrs Bettle stated her concern about the comments in respect of using the premises as a hire space/community hub because of the issues of traffic and the fact that the premises had been given permission for use as a coffee shop with limited wine bar use and also that another condition was that there was to be no amplified music at the premises and the premises licence being applied for was stating use as a wine bar with amplified music. She felt that if the Council granted this Licence it would bring ~~them~~ it into disrepute. She stated that she felt the right time to ask for a Premises Licence would be

once the current planning application had been granted. Mr Hunter could then apply for a Premises Licence based on his planning permission.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting for the Sub-Committee to consider the application and reach a decision.

After a period of time the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then returned to the meeting and the Council's Solicitor confirmed that she had provided legal advice to the Sub-Committee whilst it was making its decision in respect of whether the Sub-Committee could be adjourned because of the recent submission of Mr Hunter's planning application, but that she cannot-could not see any specific power to allow the Committee to be adjourned at this point in the proceedings for more than 5 working days.

The Chairman of the Sub-Committee then read out the Sub-Committee's formal decision as follows:

"Application No. 18/00457/PREMGR – Application for the Grant of a Premises Licence in respect of 17 High Street, Manningtree.

1. The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from residents, along with the Guidance issued by the Secretary of State and other matters setting out the Licensing Authority's own Statement of Licensing Policy.

2. The Sub-Committee does not agree to grant the application in full. The sections of the application that are not agreed are as follows:-

Sections 3.1 Performance of Live Music; 3.2 Performance of Recorded Music; 3.3 Anything of a similar description to live music, recorded music or performance of dance; 3.4 supply of alcohol [on the premises only] in part: These were not granted taking into account paragraphs 1.14 and 1.19 of this Authority's 4th Licensing Policy which came into effect on 9 February 2016, having heard both the applicant and objector.

3. However, subject to paragraph 2 above, the Sub-Committee has decided to grant part of this application namely a Premises Licence for the sale of alcohol on Thursdays to Saturdays weekly between 6.00 p.m. and 11.00 p.m. and Sundays 6.00 p.m. to 10.00 p.m.

The reason for the grant of this Licence brings it in line with current planning permission to open for the sale of alcohol on those days and between those hours, and to grant any longer hours or additional days would place the applicant in breach of those conditions and potentially liable to prosecution.

If a new planning application is granted then the Sub-Committee would be willing to reconsider and suggest no additional/or reduced fee be charged.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have a right of appeal to the Magistrates' Court.

This Decision was made today, 14 September 2018 and will be confirmed in writing to all parties."

The meeting was declared closed at 4.48 p.m.

Chairman

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