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Premises / Personal Licences Sub-Committee

7 November 2019

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON THURSDAY, 7TH NOVEMBER, 2019 AT 12.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors V Guglielmi, J Henderson, Winfield and Davis
Also Present:	Mr Deepak Patel (Applicant), Ms Alison Reed (Manager of The Plough Inn) and Mr Richard Porter (Applicant's Solicitor)
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Karen Townshend (Licensing Manager), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer)

44. ELECTION OF CHAIRMAN FOR THE MEETING

It was moved by Councillor Winfield, seconded by Councillor J Henderson and:

RESOLVED – That Councillor V Guglielmi be elected Chairman for the meeting.

45. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions.

46. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 30 May 2019 were approved as a correct record and signed by the Chairman.

47. DECLARATIONS OF INTEREST

There were none.

48. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none.

49. REPORT OF CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 - APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - 19/0020/PREMTR - THE PLOUGH INN, PLOUGH ROAD, GREAT BENTLEY, CO7 8LA

The Chairman (Councillor V Guglielmi) welcomed everyone to the meeting, including the applicant, Mr Deepak Patel, his solicitor, Mr Richard Porter and Ms Alison Reed, the manager of the Plough Inn, and made introductory remarks.

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 variation of a Premises Licence for The Plough Inn, Plough Road, Great Bentley.

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

Monday to Thursday	1000 – 0030
Fridays and Saturdays	1000 – 0130
Sunday	1000 – 0030

Section 3.0 of the written report set out the current licensable activities which were:-

Sale of alcohol on and off the premises

Performance of live music	
Fridays and Saturdays	2000 – 2300

Performance of recorded music	
Monday to Thursday	1000 – 0000
Fridays and Saturdays	1000 – 0100
Sunday	1200 – 0000

Provision of facilities for dancing	
Fridays and Saturdays	2000 – 0000

Sale of alcohol on and off the premises	
Monday to Thursday and Sunday	1000 – 0000
Fridays and Saturdays	1000 – 0100

The proposed licensable activities (Variation Application) are as follows:-

Performance of live music [inside and outside]	
Friday and Saturday	1400 – 0000
Sunday	1400 - 2100

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

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

The Council's Environmental Protection Team had been consulted and they had requested a Noise Management Plan (NMP) be submitted to them by the applicant. Members were provided with a copy of the NMP for their reference. Upon receipt and review of the initial NMP (pages 111-115), the Environmental Protection Team had formally objected to the variation application. However, upon receipt and evaluation of a revised NMP or Noise Impact Assessment carried out by Healthy Abode Ltd trading as HA Acoustics and dated 28 October 2019 (pages 81–110), they had stated that:-

“After evaluation of the recently submitted acoustic report dated 29th October 2019, the Environmental Protection team are satisfied that the levels of noise emitted from the site, can be mitigated and managed providing recommendations within the said report are implemented and maintained.

Physical mitigation by way of using a noise limiter (NL) – both live and recorded amplified music amps and speakers must be plugged into a NL. The level of the NL has been recommended (as outlined in sections 6.11 to 6.13 and point 8.4) to be set at approximately 82dB(A) to ensure the emitted noise levels fall within the scope of “No Observed Effect Level” ; the NL must be installed, calibrated and routinely maintained by a relevantly qualified operator.

Implementation of double doors (as outlined in 6.14.1) to further reduce sound emitting from the internal areas and the restriction of the use of the garden area (as outlined in 6.14.2) is also a recommendation that will assist in mitigating the concern over noise from this area within the late hours of the evening.

As a further precautionary measure, the erection of an acoustic fence along the perimeter of the premises, where noise sensitive receptors are located, will also assist in reducing the perceived sound by nearby residents.

Providing the above recommendations are met and sustained, the Environmental Protection Team have no reason to object to the proposed variation. Compliance with the recommendations should enable the applicant to comply with the licencing objective, under Part P (d), with the prevention of public nuisance, by way of minimising the impact the music will have on nearby residential premises.

Our response purely relates to the noise produced by the music, be it live or amplified and does not include mitigating noise generated by the patrons of the premises.”

No representations had been received from any other Responsible Authorities.

Members also had before them the Application Form and supporting documentation, a location plan and copies of the representation/objection letters.

The Chairman advised both the applicants and the objectors that she would allow 25 minutes for each party to give their representations. The Chairman then invited the Applicant’s Representative, Mr Richard Porter to give representations to the Sub-Committee.

Mr Porter explained that there were three points to his representations:-

1. There was a general misconception about the extension of time – there was no application to change hours, it was still within the times of amplified music. The application was for live music up until Midnight
2. The objections could be met by having sensible conditions in place. He had seen the objections and would be putting forward a number of conditions which he felt could be met.

3. If the Sub-Committee refused the application the Licence would still be the same. If granted, the Sub-Committee could impose conditions upon the Licence which would hopefully go towards helping the concerns of the objections i.e. noise limiters/doors closed.

The Applicant, Mr Patel was then invited to address the Committee and read his Statement to the Sub-Committee which was also included within the Agenda (unsigned).

The Chairman asked if Members had any questions that they would like to ask Mr Patel.

Members asked why the noise limiters which had now been installed were not installed at the time of the extensive refurbishment, he had spent about £400,000 on the refurbishment. Mr Patel said that the extension was built to Building Regulations standards with extra insulation and double glazed doors. The noise limiter was installed after a Noise Management Plan had been commissioned. Mr Patel explained that he was not aware of any previous objections.

Mr Patel was asked why he had requested live music from 2.00 p.m. and he explained that they sometimes had a singer in the afternoons. He said that during the year there had only been two outside events, a charity event and the Great Bentley Carnival. Mr Patel was asked where the outside music would be and he stated at the rear of the pub. There was a single opening door at the front of the property and bi-fold doors at the rear.

Members queried the noise level of the music and it should be 38 decibels at nearby properties and 76 decibels when there was live music. Live music would only be in the garden on four occasions throughout the year.

Mr Patel had stated in his statement that he was troubled by some of the comments by objectors regarding the noise levels. He said that if he had had any complaints about noise then the music would be turned down. There had been a 50th birthday party and as he was concerned about the noise, he had got the entire party inside the public house.

Members asked Mr Patel how he would monitor the sound levels of live music acts and he advised that he had now purchased a noise monitoring device. Mr Patel also confirmed that air conditioning would be installed before next summer, 2020, that had been allowed for in the budget for the public house for February/March 2020 and this would mean that the doors would not need to be opened and reduce the sound levels.

Alison Reed, the Pub's Manager was then invited to address the Committee and read her Statement to the Sub-Committee which was included within the Agenda.

Mrs Reed explained that she lived above the premises. She went through her statement and said that there was no complaint about the level of noise on 21st June 2019 but she had been concerned herself about the noise levels and had not booked that particular band again.

Members asked Mrs Reed about her comment on page 72 of the Agenda regarding the fact that they were still learning and understanding and improving their systems as she

had worked in the pub before Mr Patel had taken it over and she said that although there had been live music there had not been a lot of customers and there had been no complaints about noise at that time.

Members were concerned about the fact that a number of objectors had mentioned the fact that the doors and windows were kept open which exacerbated the noise levels and she said that there were only windows at the front of the premises and those did not open. They were single glazed as the pub was Grade II listed. There were bi-fold doors at the back of the new extension.

Mr Porter, the applicant's representative handed to the Sub-Committee the Closing Submissions he had prepared and drew attention to paragraph 5 on the second page which confirmed, amongst other things, that there would be no more than 4 live music events to be held in the garden and parking area per calendar year as well as to the list of conditions that he suggested could be made if the variation to the Licence was granted starting at paragraph 10 (on the fourth page).

The objectors were then invited to address the Sub-Committee.

Councillor Lynda McWilliams advised that, as the local Ward Councillor, she would be speaking for a number of the objectors but that there were a number of other objectors who would like to speak to the Sub-Committee themselves.

Councillor McWilliams said that The Plough was central to the village. There were two points to the objections, namely the licensing objectives of Prevention of Public Nuisance and Protection of Children from Harm. The improvements to the Plough were appreciated by the village but that due to the changes, there were concerns about anti-social behaviour. The reports of noise were not just from nearby neighbours, some customers had actually left the pub as it was so loud in the Summer.

It was stated that the doors and windows were not closed at the times required.

With regards to the Licensing Objective of "Protection of Children from Harm", Councillor McWilliams said that nearby houses had children and the loud music and shouting and swearing was disturbing the children's sleep. Residents had to shut their doors and windows even in the hot weather.

She said that two incidents had been reported to the Police, an assault on 12th October and noise and fighting outside the pub on 19th October.

She said that the reason that people lived in the village was because it was quiet. She said that part of the proposed variation was for the rear garden and car park to be used for live music and this would only exacerbate the harm. She queried why the Noise Impact Assessment was carried out in October and not during the Summer months.

Mrs Sally Pollard, one of the objectors was then invited to address the Sub-Committee.

She stated that she lived directly behind The Plough and had lived there for three years. Her daughter has autism and sensory processing disorder. Although the pub had recently been quiet, during the Summer months the noise had been horrendous and they had dreaded the weekends. She explained that her daughter had a routine and

when people at the pub were shouting she could not sleep and this also affects her son. She explained that her daughter could not cope with loud noises and even using her soundproofing headphones the sound had affected her and she had “emotional meltdowns”.

She was particularly worried about bands playing music outside. She said that she should not have to take her daughter away from home because of a band playing outside. They had moved to Great Bentley for peace and quiet. Her daughter loved the village but could not cope with the loud noise.

The Chairman asked her whether the conditions proposed by the applicant would improve the situation and she said that she did not think that it would.

Mr Jason Pollard, was then invited to address the Sub-Committee.

He stated that the noise was so bad that they had considered moving away, they had only moved there 3 years ago because it offered the peace and quiet they needed. He asked when the acoustic fencing was going to be installed. He stated that he had complained to the pub but had been ignored. He said that if the noise levels were kept down and the conditions proposed were met then he considered that this would help the situation. He would be happy if the pub kept to the regulations as long as it did not affect him or his neighbours nearest to the pub, but in his view he felt that the regulations would not be upheld.

Mr Roger Adams, another objector was then invited to address the Sub-Committee.

He said that if all of the recommendations from the acoustic report were implemented then this would help to reduce the noise. He said that during the refurbishment the front of the pub had become a patio area. The front door was where most of the noise emanated from. He said that after checking, he was unsure as to whether the pub was Grade II listed. He said that the recommendation for double doors at the front of the premises would mitigate the noise.

Mr Fowler, another objector was then invited to address the Sub-Committee.

Mr Fowler lived immediately behind the pub, with his boundary next to the pub and he had lived there for 32 years. He had a swimming pool in his garden and he said that he could not use the pool area when the noise was bad. He understood that the extension was going to be a restaurant but the bar had been moved to the new area.

He queried why a good village pub was reliant on live music, he thought that it would remain as a pub with a restaurant but it was becoming more of a nightclub. He stated that when the noise was bad it was impossible to sleep in any of his bedrooms.

The Chairman then asked the Applicant's Representative, Mr Richard Porter if he wished to ask the Council's Environmental Protection Officer, Katie Wesley-Smith any questions and he said that he did.

Mr Porter then said that the recommendation in Katie Wesley-Smith's report regarding double doors at the front of the property could be a problem because of the status of the building, but said that a sound limiter would assist.

Katie Wesley-Smith said that she appreciated the comments regarding the doors, especially as most of the complaints related to noise from the rear of the property. She would therefore be happy to remove the recommendations for double doors from her report which was another factor that could assist with the noise issues

Mr Porter asked Mr Patel if he had any comments to make and he said that he could not agree to the recommendation for the double doors due to the status of the building. He also could not agree to the acoustic fencing as he stated that it would cost in the region of £4,000-£5,000 which was cost prohibitive.

Katie Wesley-Smith stated that she was happy with a noise limiter being installed but that the other recommendations in her report were for the Sub-Committee's consideration. Katie Wesley-Smith also stated that although the report refers to 82dbA that may need to change, depending upon when and where a noise limiter was installed, its direction, speaker type and effect.

The Chairman then asked Mr Porter and the objectors if they had any closing statements that they wished to make to the Sub-Committee.

Councillor McWilliams stated that the recommendation of the installation of acoustic fencing was interesting in that she felt it would help rather than hinder the situation, although it was unclear as to how the noise would be reduced.

Mr Porter said that it was not in his client's interests to fall out with his neighbours, he wanted a good relationship with the village. He said that the pub employed 13 people and provided facilities for the village with quiz nights etc., but that the pub needed to be financially viable. His client was not asking to extend amplified music as he was already licensed for this activity until 1.00 a.m on Fridays and Saturdays. The difference was he simply wanted an extra hour for live music on Fridays and Saturdays as the current license allowed live music until only 11.00pm.

He stated that if his client's application was approved new conditions could be attached to the licence but if it was refused then there would be no conditions upon the licence. He considered that his Client was putting forward constructive proposals.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting in order 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 returned to meeting and the Council's Solicitor confirmed that she had not provided any specific legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:-

"Application No: 19/00523/PREMVA Application to Vary a Premises Licence in respect of The Plough Inn, Plough Road, Great Bentley

1. The Sub-Committee has given careful consideration to his 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 set out in the Licensing Authority's own Statement of Licensing Policy.
2. The decision of the Sub-Committee is to **GRANT** this application in full, subject to the imposition of certain conditions.
3. In addition to any Mandatory conditions and any conditions that are consistent with the Operating Schedule the following conditions will apply in order to satisfy the relevant Licensing Objective, namely the prevention of public nuisance and the protection of children from harm.

In respect of the Licensing Objectives for The Prevention of Public Nuisance, in this case particularly noise emanating from the Plough on certain occasions and in relation to the protection of children from harm the conditions are taken from the document produced by the solicitor for the applicant headed "closing submissions" and provided to the Sub-Committee at the meeting on 7 November 2019 and to which reference should be made for further detail as that document, in particular the table on pages 4 to 6, forms part of these conditions. In addition, the Noise Impact Assessment produced by HA Acoustics and dated 28 October 2019, also forms part of the Sub-Committee's decision and reference in particular is made to the "conclusion" of that report.

It is noted that the application is for the following in relation to the garden and parking area:

1. to have live music events in the garden or parking area of the public house on no more than 4 occasions per calendar year;
2. that on each of those occasions the noise levels at the perimeter of the public house do not exceed 76 dB (and see the report of HA Acoustics);
3. that recorded music will not be played into the garden or parking areas;
4. that live music will not be played in the garden or parking area beyond dusk or 1900 hours, whichever is the later; and
5. save for parking and removal of vehicles and ancillary activities relating to the arrival or departure of patrons to the public house the garden or parking area will not be available to the patrons after dusk or 2100 hours whichever is the later, and
6. that the times for the playing of live music within the premises on Fridays and Saturdays is from 1400 hours to midnight, and on Sundays from 1400 hours to 2100 hours.

In summary the conditions are as follows, and follows the numbering in the table referred to above and as in the applicant's closing submissions:

1. An electric noise limiter will be installed and properly calibrated, and maintained in accordance with the manufacturers' instructions and a record both of such

maintenance and any records produced by that limiter made available to officers of TDC on request. Whilst the level of noise will initially be set at 82 dbA that may need to change, and that obtaining that level will depend upon when and where installed. It is suggested that these matters be agreed with the Environmental Officer of TDC initially and from time to time as necessary.

2. All doors and windows (where it is possible to open them) shall be kept closed at all times when live or recorded music is played inside the premises, save for the fire escape. At all times when music, live or recorded is played in the premises all access and egress will be through the front door only.
3. The applicant or the manager of the premises, or a responsible member of the staff shall monitor at all times the language or noise emanating from the public house, its gardens or its vehicle parking area.
4. Air conditioning will be installed and operating in the premises for the comfort of patrons particularly at times when all windows and doors are closed.
5. All staff should actively encourage the gradual dispersal of all patrons or customers at closing time and it is particularly noted that the applicant has put forward specific strategies that will be operated during the last 20 minutes of trading on any day and the Committee expect to see these carried out.
6. The applicant accepts that waste from the public house may be in external or public areas, and will carry out checks at least daily to ensure that all waste is disposed of properly.

Reasons: The Sub-Committee has heard from both the applicant, his manager of the Plough and also from the objectors, Cllr Lynda McWilliams, as ward Councillor for Great Bentley, on behalf of a number of the objectors and from a number of the objectors.

The Sub-Committee has noted that the doors to the property, a listed property, are all single opening doors and in the new extension at the back, are bi-fold doors. It is understood that none of these doors are double glazed or have, or can have, a double door system because the property is a listed property and such adjustments would not be acceptable. The applicant and/or his manager have confirmed that there are no windows at the rear of the property, and that the windows at the front are sealed shut and cannot be opened. The Environmental officer from TDC has confirmed that the installation of double doors would assist in reducing the sounds emanating from the public house but accepts that the building being a listed building means it might not be possible to meet such a condition, and therefore would not insist upon such a condition.

The applicant or his manager have confirmed that they have asked, and will continue to do so, bands or musicians to reduce the noise levels; that they do, and will continue to undertake research on bands or musicians before booking them, including on YouTube; and that although they do not know what equipment the band or musicians will be using, they have put a noise monitor in place in order to assist with ensuring that sound levels are kept to reasonable levels at all times that the public house is open.

The Sub-Committee noted that the applicant confirmed that all requirements set out by the Environmental team at Tendring District Council are in place, and will, it is hoped, be prepared to work constructively with them in future.

The applicant has also confirmed that in the budgets for the Plough he has allowed for the installation of air conditioning in the premises, and that such air conditioning will be installed before the start of summer 2020. The installation of air conditioning will help reduce the level of noise heard outside the public house in that the doors will not need to be opened, and the windows do not open in any event.

The Sub-Committee has heard objections in relation to the noise coming from the Plough and also in relation to bright lights, and hopes that the applicant will be able to resolve such issues, possibly by the installation of acoustic fencing in the future but will ensure that all and any lighting coming from the premises is directed down or away from neighbouring properties. The Committee encourages the applicant and objectors to meet and discuss any issues that may arise.

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

This Decision was made today, 7 November 2019 and will be confirmed in writing to all parties.”

The meeting was declared closed at 4.30 pm

Chairman