

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020) came into force on Saturday 4 April 2020 to enable councils to hold remote committee meetings during the Covid 19 pandemic period. This is to ensure local authorities can conduct business during this current public health emergency. This meeting of Standards Sub-Committee will be held remotely under these regulations, via the Zoom application and will be webcast to ensure accessibility by the public and press.

Please ask for:
Gurdip Paddan

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lilac are confidential**

27 January 2021

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING SUB-COMMITTEE to be held on Wednesday 3 February 2021 at 2.00 pm via Zoom.

Yours faithfully



Corporate Director
Public Protection, Planning and Governance

AGENDA
PART 1

PROCEDURE

1. **APPOINTMENT OF CHAIRMAN**

To appoint a Chairman of the Sub-Committee for the meeting.

2. **DECLARATIONS OF INTERESTS BY MEMBERS**

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

3. **APPLICATION FOR VARIATION OF PREMISES LICENCE FOR THE ROSE AND CROWN PUBLIC HOUSE, 14 CHURCH STREET, WELWYN, AL6 9LX, HERTFORDSHIRE** (Pages 5 - 100)

Report of the Corporate Director (Public Protection, Planning and Governance)

considering an application for a variation of premises licence at the Rose and Crown Public House, 14 Church Street, Welwyn.

Circulation: Councillors Barbara Fitzsimon
Mike Larkins
Julie Cragg

Officers Senior Litigation Lawyer (R. Simpson)
Environmental Health Officer (A. McCormack)
Licensing Technical Officer (J. Moatt)
Governance Services Officer (Gurdip Paddan)

Press and Public (except Confidential Items)

If you require any further information about this Agenda please contact Gurdip Paddan, Governance Services on 01707 357467 or email – democracy@welhat.gov.uk

Agenda Annex

LICENSING AND REGULATED ENTERTAINMENT HEARINGS PROCEDURE

This is the procedure that the Council has adopted under the Licensing Act 2003 (Hearings) Regulations 2005 for all of its licensing hearings to achieve a consistent approach. The hearing is started by the Chairman stating that the Sub-Committee is considering. It is then explained to all the parties that this is a mixed quasi judicial and administrative function. The hearing will take the form of a discussion led by the authority. The strict rules of evidence will not apply although the rules will be observed to a great extent because this is considered to be the best way of presenting the evidence. Documentary or other information produced at the hearing may be taken into account with the consent of all the parties.

All parties will be given an equal maximum period of time to exercise their rights to make representations and provide supporting information to the Sub-Committee as provided for in this procedure. The Chairman will ask those appearing to speak concisely and only on the points that have been raised in the representations submitted. If several representations have been received on similar lines the parties will be invited to appoint a spokesperson. The Sub-Committee will seek to avoid hearing repetitious representations.

- (1) Once all the parties are present in the room and seated the Sub-Committee will enter and the hearing will be convened.
- (2) The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.
- (3) The applicant and/or his representative should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (4) The objectors and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (5) The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (6) The Chairman will invite the Licensing Officer to present his report.
- (7) The applicant may then state their case, calling any witnesses they consider necessary, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (8) With the Chairman's permission members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.

- (9) The objectors then state their case calling any witnesses, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (10) The members may ask the objectors or their witnesses questions. These questions should be for further information or clarification.
- (11) The objectors are then asked if they wish to make a final address to the Sub-Committee.
- (12) The applicant or representative is then given the same opportunity to address the Sub-Committee.
- (13) The Sub-Committee will then retire to consider the representations which have been made and to make its decision. The Sub-Committee will be accompanied by the Legal Adviser and Committee Manager.
- (14) A decision is then taken.
- (15) The Sub-Committee will then return to inform all the parties of the decision. Notice of the determination will be given in writing after the hearing. For certain applications the determination will be made within five working days of the hearing.

If any legal clarification is needed during the Sub-Committee's deliberations, the Legal Adviser will return to inform all the parties of the point considered, together with the advice given and will invite comment on that.

COMMENTS

Should the Sub-Committee decide to grant a licence it may only add conditions or restrictions which are necessary for promoting the licensing objectives and which do not duplicate other statutory requirements. However, the powers to add conditions are confined by the fact that any condition or restriction must be reasonable. The Courts have ruled that a public body in a privileged position of being able to exercise its discretion in dealing with applications for licences and consents of various kinds, when coming to a decision, must exercise that discretion reasonably and fairly and relate it to the subject concerned. A public body is not at liberty to use its powers for an ulterior object, that is one which is not within the ambit or intended purpose of the statutory provision under which the power is exercised however desirable that object may seem in the public interest.

The Sub-Committee will disregard any information which is not relevant to the matter being considered.

The Sub-Committee may exclude all the parties and the public from a hearing or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing.

The Sub-Committee may require any person attending a hearing who in its opinion is behaving in a disruptive manner to leave the hearing.

WELWYN HATFIELD COUNCIL
LICENSING SUB COMMITTEE
REPORT OF THE LICENSING OFFICER

Welwyn

REPORT TO LICENSING SUB COMMITTEE

VARIATION OF PREMISES LICENCE FOR THE ROSE AND CROWN PUBLIC HOUSE 14 CHURCH STREET WELWYN AL6 9LX HERTFORDSHIRE

1 Summary of the Review

Premises Licence Holder(s)
Punch Partnerships (PTL) Limited
Address of Premises
The Rose and Crown 14 Church Street Welwyn AL6 9LX

This report contains an application for a variation of the premises licence currently in place at The Rose and Crown, Church Street, Welwyn. This premises is located in a central location within Welwyn village and is bordered at the rear by a residential Cul de sac. The front and side aspects are also bordered by residential properties. This Licence is held by Punch Partnerships (PTL) Limited and the Designated Premises Supervisor is Christine Baker. This application was received by Welwyn Hatfield Borough Council Licensing Department on the 22nd of December 2020. The applicant in line with legislation displayed Blue Notices at the Premises on the 23rd December 2020, advertised the application in the Welwyn Hatfield Times on the 6th of January 2021, the Public register was updated and placed on the councils website and all the Responsible Authorities were notified. The variation application has since been amended by the applicant after a number of written relevant representations were submitted. All persons who have submitted these representations have been given the details of the amended application.

The amended and current application to vary the Licence is as follows:

1. To change the Premises Plans to include the rear Barn/Annexe building
2. To add Late night refreshment
3. To change to opening times for the Public House building only to 0800hrs daily
4. To Extend the hours for the sale of Alcohol for the Public House building only on Fridays and Saturdays to midnight
5. To extend the Closing time on Fridays and Saturdays for the Public house building only to 0030hrs
6. The Barn/Annexe building would adopt the current times of the current Premises Licence.

A copy of this current Premises licence together with current premises plans and list of conditions and schedule licensable activity times is shown in PART 2 appendix A.

The Licence Hearing is as a result of the Licensing Authority receiving 27 formal written relevant representations against the proposed variation within the 28 day consultation period which ended on the 19th of January 2021. The representations are made up of 24 residents who mostly live close to or border the premises. The other representations are from Environmental Health, Welwyn Parish Council and the Welwyn Planning and Amenities Group. The representations have been submitted under the Licensing Act 2003 on the statutory grounds of:

- Prevention of public nuisance
- Prevention of Crime and Disorder

Part 2 Appendix B Original application form and proposed plans

Part 2 Appendix C Written confirmation of amended application details from applicants agent/solicitor

Part 2 Appendix D Written representations from local residents, Welwyn Parish Council and the Welwyn Planning and Amenities group.

Part 2 Appendix E Representation from Environmental Health

Part 2 Appendix F Generated Map showing the location of The Rose and Crown and the location of all the addresses of persons who have submitted representations in relation to The Rose and Crown

2 Details of Representations Received

27 formal written representations have been submitted against the variation application on grounds of Preventing Public Nuisance and Preventing Crime and Disorder. These representations have been judged as appropriate and have therefore been brought to the Licensing Sub Committee to be determined. The representations are at Appendix C and D.

The representations relate to preventing nuisance to the public primarily by noise. Representations also relate to preventing crime and disorder primarily drunken behaviour, criminal damage, fighting and bad language. Other matters relating to parking problems cannot be taken into consideration as these do not fall under the licensing objectives subject of this hearing.

Most representations mention previous historic issues of public nuisance and crime and disorder relating to The Rose and Crown.

2.1 Unresolved Representation Concerns

Most of the 24 residents who have submitted representations live very close or border the The Rose and Crown and all are against the variation application.

3 Explanation

The Rose and Crown Premises licence number PA 26921 allows for the sale of alcohol by retail on and off the premises and is licensed for regulated entertainment namely Live music limited to two entertainers and Karaoke and recorded music.

The times that these activities can take place are on the schedule at Appendix A.

The licence has some specific noise conditions that form part of the Operating schedule namely

1. Notices must be displayed at exits asking customers to respect local residents and keep noise levels to a minimum on leaving.

The licence also has further specific conditions that were attached to the Licence after a hearing by the Licensing Authority namely:

1. Use of outside areas must cease by 2320hrs
2. All live music or recorded music or similar activity ie Karaoke to cease by 2300hrs
3. DPS to ensure that customers leave the premises and area quietly and promptly within 15 minutes of closing time.
4. All windows and doors must be shut between 2300hrs and closing

Any evidence and decision must relate to the premises licence and not to other matters such as planning, parking problems as these are not relevant under the four licensing objectives. These are separate regimes and regulations which have no bearing on the premises licence and cannot be taken into consideration at this hearing.

The committee is obliged to determine this application for variation of a premises licence for The Rose and Crown. In determining the application the sub - committee must take account of the council's duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

Section 35 (3) of the Licensing Act 2003 states that where relevant Representations are made in respect of a variation application under section 34 The authority must take such steps as it considers necessary for the Promotion of the Licensing objectives. These steps are

1. To modify the conditions of the licence
2. To reject the whole or part of the application.

The conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Relevant representations means representations which:

1. Are about the likely effect of the grant of the application on the promotion of the licensing objectives and are not in the opinion of the relevant licensing authority, frivolous or vexatious.

4 **Licensing Policy**

(2.10) The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

(5.4) Conditions will only be attached to premises licences or club premises certificates where they are reasonable, proportionate, enforceable and relevant to the premises. They should focus on matters within the control of the individual licence holder or premises user (for temporary event notices). Conditions will be tailored to the type of operation and specific characteristics of the individual premises.

(5.6) Any conditions should be:

- clear
- enforceable
- evidenced
- proportionate
- relevant
- be expressed in plain language capable of being understood by those expected to comply with them.

(5.11) The Act requires that any conditions attached to licences must be specific to individual premises and tailored to the characteristics and style of the licensable activities rather than applying a set of standardised conditions to all. The Council will therefore always ensure that conditions are individually selected and appropriately tailored. In some cases conditions may be drawn from pools of conditions set out in the Guidance issued under section 182 of the Licensing Act 2003.

(9.6) The Sub-Committee will determine each case on its individual merits whilst taking into consideration the terms of this Policy document. Where the Sub-Committee determines that it is appropriate to attach conditions to the licence/certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned on members of the public in the area concerned. Such conditions will be proportionate to the

activity to be controlled and will only be imposed in the interests of the licensing objectives.

(24.1) The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to mean that any person may make a representation about a premises licence or club premises certificate application. They no longer need to establish that they live or work near to the premises. The representation must, however, be relevant to at least one of the licensing objective and must not be frivolous or vexatious.

(24.2) In making a decision as to what weight to attach to a relevant representation, we may consider whether the individual is likely to be directly affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. However, each representation will be judged on its own merit.

Recommendation

- 4.1 The committee must have regard to the variation application and representations made and the evidence it hears. The committee is therefore asked to determine the variation application.

6 Appendices

- a. Premises licence and schedule and premises plans
- b. Premises Licence variation Application and proposed plans
- c. Written confirmation of amended application by applicants solicitor
- d. Representations against the variation application
- e. Environmental Health representation
- f. Map showing location of premises and addresses of residents objecting

James Moatt Licensing Technical Officer

Date – 21/1/2021

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Section 14(2) of the Licensing Act 2003 (Hearings) Regulations provides the grounds for exemption

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