

Please note that by law this meeting can be filmed, audio-recorded, photographed or reported electronically by the use of social media by anyone attending. This does not apply to any part of the meeting that is held in private session.

Please ask for:
Gurdip Paddan

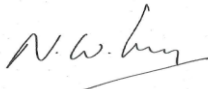
Please note papers printed on
lilac are confidential

5 May 2021

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING SUB-COMMITTEE to be held on Thursday 13 May 2021 at 2.00 pm in Campus West, The Campus, Welwyn Garden City, AL8 6BX.

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 COACH AND HORSES PUBLIC HOUSE, 61 NEWGATE STREET, NEWGATE STREET VILLAGE, HERTFORD. HERTFORDSHIRE SG13 8RA (Pages 5 - 98)**

Report of the Corporate Director (Public Protection, Planning and Governance) considering an application for a variation of premises licence at the Coach and Horses Public House, 61 Newgate Street, Hertford.

Circulation: Councillors B.Fitzsimon (Chairman) G.Hayes
L.Chesterman

Officers Principal Litigation Officer (A.Byrne)
Senior Litigation Lawyer (R.Simpson)
Licencing Officer (K.Payne)
Licencing 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 – 13 MAY 2021
REPORT OF THE LICENSING OFFICER

Welwyn

REPORT TO LICENSING SUB COMMITTEE –

VARIATION OF PREMISES LICENCE FOR THE COACH AND HORSES PUBLIC HOUSE 61 NEWGATE STREET NEWGATE STREET VILLAGE HERTFORD HERTFORDSHIRE SG13 8RA

1 Summary of the Review

Premises Licence Holder(s)
Deborah Michelle DAVIS
Address of Premises
The Coach and Horses 61 Newgate Street Newgate Street Village Hertford SG13 8RA

This report contains an application for a variation of the premises licence currently in place at The Coach and Horses Newgate Street Village. This premises is located in a central location within this village and is bordered at the rear and front aspects by residential properties. This Licence is held by Deborah Michelle DAVIS. This application was received by Welwyn Hatfield Borough Council Licensing Department on the 22nd of March 2021. The applicant in line with legislation displayed Blue Notices at the Premises on the 24th March 2021, advertised the application in the Hertfordshire Mercury on the 25th of March 2021, the Public register was updated and placed on the council's website and all the Responsible Authorities, Parish councils and councillors were notified. The variation application has since been amended by the applicant.

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

1. To amend the licensing plan in accordance with the drawing which accompanies the application namely to add an external serving bar in the beer garden to be included within the premises licensed area. Sale of alcohol from the external bar area shall be permitted Sunday to Thursday until 2200hrs and Friday to Saturday until 2300hrs.
2. To remove certain existing Annex 2 conditions namely 1 The carpark shall be lit during opening hours. 2. Firefighting equipment shall be serviced and maintained regularly by a reputable company. 3. No children will be allowed in the bar area. 4. Gaming machines shall be located in the bar area. 5. A non smoking area shall be provided for children.
3. To reword an existing condition on the Operating schedule namely 1. That the manager or Designated Premises Supervisor shall be an active member of Pubwatch to be reworded to The Premises shall be an active member of Pubwatch where such a scheme exists.

4. To remove conditions agreed with Environmental health namely. 1. The designated carpark shall be used for that purpose and no other use. 2. All exit doors shall be regularly checked to ensure they function correctly and that any fastenings on such exit doors shall be removed when members of the public and staff are present on the premises. 3. Any battery supplying the emergency lighting shall be checked daily before the public is admitted to the premises.

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

The Licence Hearing is as a result of the Licensing Authority receiving 24 formal written relevant representations against the proposed variation and 7 formal written relevant representations supporting the proposed variation within the 28 day consultation period. The representations against are made up of 22 residents who mostly live close to or border the premises. The representations supporting are made up of 7 members of the public who mostly live outside of Newgate Street Village in neighbouring villages. The other representations are from Environmental Health and the Hatfield Town parish Council. The representations against have been submitted under the Licensing Act 2003 on the statutory grounds of:

- Prevention of public nuisance
- Prevention of Crime and Disorder
- Public Safety

Part 2 Appendix B Original application form and proposed plans

Part 2 Appendix C Written representations from the public supporting the application

Part 2 Appendix D Written representations from local residents and Hatfield Town Parish Council and Environmental Health against the application.

Part 2 Appendix E Generated Map showing the location of The Coach and Horses and the location of all the addresses of persons who have submitted representations

Part 2 Appendix F photo of fish bar located in the main designated carpark of Coach and Horses Public House

Part 2 Appendix G Whats app comments made by applicant.

2 Details of Representations Received

24 formal written relevant representations have been submitted against the variation application on grounds of Preventing Public Nuisance Preventing Crime and Disorder and public safety. 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. Other matters relating to parking problems resulting in public safety and some photographs have been provided showing cars parked on verges, pavements and junctions.

Most representations mention previous historic issues of public nuisance and crime and disorder relating to The coach and horses and some have

photographs attached which shows parking problems that are alleged to be undermining the licensing objective of Public Safety.

One representation in particular alleges that some whatsapp posts(Appendix G) made by the applicant prior to the application being submitted in November 2020 will have undermined the application process in that some residents might have been reluctant to submit representations against the application due to fears of repercussions especially residents who live near to the premises. A copy of the whatsapp posts mentioned is attached to this Part 1 report.

The view of Council licensing officer James MOATT is that a large amount of objection representation have in fact been submitted with only 3 members of the public asking to remain anonymous due to being in fear. However these three persons all gave different reasons for being in fear and did not sight the whatsapp comments of the applicant as a reason for wishing to be anonymous.

To date no member of the public has contacted the council to say that they were not going to submit an objection due to being in fear and the Council have not received any details of any persons who have not submitted objections due to being in fear.

The determination of a Licensing Committee is not dependant on the amount of representations submitted and only one objection is required to trigger a Licence hearing and therefore the residents of Newgate Street Village have not been disadvantaged in any way.

All the representations objecting to the application are similar in content.

Another issue raised has been the use of a fish bar in the designated carpark in relation to the condition on the premises licence that the carpark will be used for no other use. This condition was added to the licence as part of the operating schedule following agreement between Environmental Health and the then applicant (who is different to the current licence holder) when the licence was first applied for back in 2005

The wording of this condition is not clear as there is no legal definition as to what the use of a carpark is. Also the Fish bar is in fact a trailer with wheels which is parked in a parking bay. A trailer is by definition a vehicle. If this condition is not removed as applied for then consideration could be given to a change in the wording so that it is clearer as to what the condition means. This would assist the licence holder and The council with regards to enforcement considerations.

The representations supporting the application describe how they feel that the premises is an asset for the local area and how the applicant has invested in the premises and provides amenities for families to enjoy

2.1 Unresolved Representation Concerns

Most of the 22 residents who have submitted representations against the application live close or border the The Rose and Crown and all are against the variation application.

3 Explanation

The Coach and Horses Premises licence number PA 26914 allows for the sale of alcohol by retail on and off the premises and is licensed for regulated entertainment namely Live music and recorded music.

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

The licence also has further specific conditions that were attached to the licence after agreement with Environmental Health namely

1. To minimise the occurrence of noise nuisance arrangements must be made so that no customers are allowed outside the building between 2330hrs and 0700hrs unless they are leaving the premises or emergency evacuation
2. The DPS shall take all reasonable steps to ensure that customers leave the building and the vicinity without causing disturbance to nearby residents.
3. Prominent clear and legible notices are to be displayed at all exits of the building and carpark requesting that customers respect the residents in the area and leave quietly.

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 Coach and Horses. 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. Current Premises licence and schedule and premises plans
- b. Premises Licence variation Application and proposed plans
- c. Written relevant representations supporting the application
- d. Written relevant representations against the variation application
- e. Map showing location of premises and addresses of residents objecting and supporting the application
- f. Photograph of Fish Bar
- g. Whats app Comments

James Moatt Licensing Technical Officer
Date – 21/3/2021

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank