

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:
Democratic Services

10 May 2023

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE to be held on Thursday 18 May 2023 at 2.30 pm via Zoom

A G E N D A P A R T 1

PROCEDURE

1. APPOINTMENT OF CHAIRMAN

To appoint a Chairman 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 GRANT OF TEMPORARY EVENT NOTICES FOR COACH AND HORSES, 61 NEWGATE STREET VILLAGE NEWGATE STREET HERTFORD SG13 8RA (Pages 7 - 242)

Report of the Licensing Officer considering the application for a grant of Temporary Event Notices for Coach and Horses, 61 Newgate Street Village, Newgate Street, Hertford, SG13 8RA.

Circulation: Councillors J.Cragg
D.Jones

S.McNamara

Officers Regulatory Senior Lawyer (S.S)
 Licencing Team Leader (K.Payne)
 Licensing Technical Officer (N.Tupling)

 Senior Leadership Team
 Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Democratic Services by email – democracy@welhat.gov.uk

Agenda Annex

This is the agreed procedure for meetings of the Welwyn Hatfield Council Alcohol and Regulated Entertainment Sub-Committee

Meetings of the Alcohol and Regulated Entertainment Sub-Committee are usually conducted “online” rather than in person. However, in advance of a meeting and having considered the particular circumstances the Head of Public Health and Protection AND Governance Services Manager may in consultation with the Director Public Protection, Planning and Governance, Chair of the Alcohol and Regulated Entertainment Committee and relevant Portfolio Holder for Licensing decide to hold a meeting “in person”. This includes holding all of the meeting in person, or, in exceptional circumstance allowing certain parties to the meeting in person and others to attend “online”.

The agenda pack for the meeting will state how the meeting is to be held and will include a copy of this 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 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.

The Governance Services Manager will arrange for all online participants to receive a Zoom meeting ID and password before the meeting. This will give them access to the meeting online.

If members are participating online, then members must use their Council email address when participating in the meeting and will receive a Zoom meeting ID and password before the meeting. This will give them access to the meeting online.

In the event of any connection failures, the Chairperson should determine if the meeting is still quorate. If the meeting still is, then it will go on as usual. If there is no quorum, the Chairperson will specify how long the meeting is adjourned for. It is expected that adjournments should be for no more than ten to fifteen minutes to enable the connection to be re-established

Physical	“Virtual” (online)
Once all the parties are present in the room and seated and the Sub-Committee will “enter” and the hearing will be convened.	Once the sub committee panel have all joined the call and confirmed audio/video connections are working, the remainder of the participants will be invited in from the waiting room
The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.	
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.	
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.	
The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested 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.	
The Chairman will invite the Licensing Officer to present their report.	
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.	
With the Chairman’s permission, members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.	
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.	
The members may ask the objections or their witnesses questions. These questions should be for further information or clarification.	
The objectors are then asked if they wish to make a final address to the Sub-Committee.	
The applicant or representative is then given the same opportunity to address the Sub-Committee.	
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.	In order for the sub-committee to consider the representations in private and to make it’s decision, all other participants will be moved back into the waiting room.
A decision is then taken.	
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.	Other participants will be called back in from the waiting room to be informed of the sub-committee’s decision.
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.

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Agenda Item 3

Part I
Item No: 0

WELWYN HATFIELD COUNCIL
ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE
REPORT OF THE LICENSING OFFICER

Northaw and Cuffley

REPORT TO ALCOHOL AND REGULATED ENTERTAINMENT SUB-COMMITTEE

GRANT OF TEMPORARY EVENT NOTICES FOR COACH AND HORSES, 61 NEWGATE STREET VILLAGE NEWGATE STREET HERTFORD SG13 8RA

1 Summary of the Temporary Event Notices

Premises User (s)
DEBORAH MICHELLE DAVIS
Address of Premises
COACH AND HORSES, 61 NEWGATE STREET VILLAGE, HERTFORD, SG13 8RA

This committee report contains 13 Temporary Event Notices for the extension of alcohol sales hours from the premises outside bar located in the pub garden between 21:00 – 23:00 for up to 499 people on the following dates:

Saturday 27th and Sunday 28th May 2023
Saturday 10th June 2023
Saturday 17th June 2023
Saturday 24th June 2023
Saturday 1st July 2023
Saturday 8th July 2023
Saturday 15th July 2023
Friday 21st and Saturday 22nd July 2023
Friday 28th and Saturday 29th July 2023
Saturday 5th August 2023
Friday 11th and Saturday 12th August 2023
Friday 18th and Saturday 19th August 2023
Friday 25th, Saturday 26th and Sunday 27th August 2023

The Temporary Event Notices served on the Licensing Authority are provided in Appendices A - M to this report.

The current premises licence for this premises has been provided in Appendix O to this report for the Committee's information.

Summary of Notices Received

The premises user served 13 Temporary Event Notices on the Licensing Authority under the Licensing Act 2003 Section 100 on Wednesday 3rd May 2023. The 13 notices are for the extension of alcohol sales hours from the premises outside bar located in the pub garden between 21:00 – 23:00 for up to

499 people on 20 dates between Sunday 27th May and Sunday 27th August 2023. The premises user is in line with the legislation by serving the Temporary Event Notices more than 10 working days before the planned events.

The Temporary Event Notices were reviewed and processed as valid notices by the Licensing Authority. The notices were sent to Hertfordshire Police and the Council's Environmental Health Team on Thursday 4th May 2023. The Relevant Authorities were notified that representations to the Temporary Event Notices were required to be provided to the Licensing Authority by the end of Tuesday 9th May 2023.

The Licensing Authority provided the premises user's agent with acknowledgement letters for the 13 Temporary Event Notices by email on Thursday 4th May 2023.

1.1 Unresolved representations

The Licence Hearing is a result of the Licensing Authority receiving formal written relevant objection from the Environmental Health Team to all 13 of the Temporary Event Notices within the 3 working day consultation period. The representations against the notices have been submitted under the Licensing Act 2003 on the statutory grounds of:

- Prevention of Public Nuisance

Part 2 Appendices A – M 13 Temporary Event Notices submitted on Wednesday 3rd May 2023

Part 2 Appendix N – Representation from Environmental Health

Part 2 Appendix O – Current Premises licence for Coach and Horses

Part 2 Appendix P – Licensing Officer's Report for Licensing Sub-Committee Hearing for variation of premises licence

2 Details of Representations Received

Formal written relevant objection notices have been submitted by Environmental Health against the 13 Temporary Event Notices on the grounds of Preventing Public Nuisance.

Environmental Health served a noise abatement notice on the premises user and the premises on 30th July 2021 for loud amplified music from the pub garden causing a nuisance to residents.

In 2022 the Coach and Horses pub submitted 13 Temporary Event Notices (TENs) to extend the opening for the outdoor bar over the summer 2022 from 9pm until 11pm. These were initially objected to by Environmental Health as they also noted regulated entertainment and these events would be likely to breach the noise abatement notice. They were resubmitted without this element and were not objected to.

Over summer 2022, noise monitoring took place due to the noise abatement notice in place and concerns from residents.

Based on the evidence of noise nuisance and evidence gathered during previous TENS events in 2022, Environmental Health do not have confidence in the pub's ability to manage noise impact on residents during the TENs extended hours and no noise mitigation plans have been submitted to detail how the pub will ensure that the proposed activities will not impact nearby neighbours.

The Temporary Event Notices have been brought to the Alcohol and Regulated Entertainment Committee to be determined. The representations are detailed in Appendix N.

3 Background

The Coach and Horses PH has been under the current licence holder/premises user since August 2020 following an application from the premises user to transfer the premises licence in July 2020.

The premises user submitted an application to vary the premises licence in March 2021 to:

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.

The variation application was considered by a hearing of the Licensing Sub-Committee on 13th May 2021. The Licensing Sub-Committee granted the application for a variation of premises licence for the Coach and Horses Public House, 61 Newgate Street, Newgate Street village, Hertford, Hertfordshire, SG13 8RA subject to a condition that the outside bar licence be limited to 9pm.

In reaching a decision the Sub-Committee noted the following as being of particular relevance:

- The fact that existing premises licence already permitted the purchase of drinks inside the premises until 11pm and the drinking of those drinks outside in the beer garden until 11.30pm.
- The fact that the existing licence already permitted the playing of music outside in the beer garden and no variation was sought in relation to music.
- The fact parking concerns are not relevant to applications to vary licences and that there are alternate more appropriate ways of seeking to address the parking concerns of the village available to the objectors.
- The removal of conditions requested was due to their irrelevance to the Licensing Act 2003. The conditions are more appropriately covered by other legislation.

The Licensing Officer's Report for Licensing Sub-Committee Hearing for the variation of the premises licence is detailed in Appendix P.

The Temporary Event Notices submitted are to permit the sale of alcohol from the external bar and the provision of regulated entertainment in the outside garden area to the rear of the pub from 21:00 – 23:00 on numerous dates.

The committee is therefore asked to determine whether or not to uphold the Environmental Health Officer's objections.

4 Explanation

The committee is obliged to determine the applications in light of an objection from the Environmental Health Officer (Appendix N) with a view to promoting the Prevention of Public Nuisance Licensing Objective.

The committee may not uphold the Environmental Health Officers objection to the TEN's on the grounds of any other Licensing Objective.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy in that it can only: -

- a) Prevent the TEN's from going ahead by upholding the Environmental Health Officer's objection, or
- b) Add conditions to the TEN's that are already on the premises licence conditions. The committee may not add to or amend these conditions.

5 Licensing Policy

- 5.1 The sub committee will also wish to be aware of the revised Guidance issued under section 182 of the licensing Act 2003.

Guidance 7.38

The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

Guidance 7.39

This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

5.2 The sub-committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

25.7 Where the Police or Environmental Health object they will serve an objection notice on you. You can then discuss the event and agree modifications to

address their concerns. If no agreement is reached, we will hold a hearing to consider the objection.

- 25.8 If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions. Conditions can **only** be imposed on the TEN where they already exist on the premises licence or the club premises certificate. The Act requires the conditions to be appropriate for the promotion of the licensing objectives **and** not inconsistent with the carrying out of the licensable activities.

6 Recommendation

- 6.1 The committee must have regard to the Temporary Event Notices served and the evidence it hears. The sub-committee is therefore asked to determine the Temporary Event Notices.
- 6.2 In determining the notices, which must be at the conclusion of the hearing the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the 13 Temporary Event Notices as served.
 - b) To add conditions to The Temporary Event Notices, from the premises licence that are not inconsistent with carrying out the licensable activity.
 - c) To exclude any of the licensable activities to which the Temporary Event Notices relate.
 - d) To reject all 13 Temporary Event Notices or part of them.

7 Appendices

A – M 13 Temporary Event Notices submitted on Wednesday 3rd May 2023

N – Representation from Environmental Health

O – Current Premises licence for Coach and Horses

P – Licensing Officer's Report for Licensing Sub-Committee Hearing for variation of premises licence

Nicol Tupling Licensing Technical Officer
Date – 10/05/2023

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