

LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 16 June 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10 am

Present: Councillors: Tony Boto
Glenvil Greenwood-Smith
Barbara Jenney

Also present:

Julia Smith
(Interim Head of Customer & Community Services)

Rita Groves
(Licensing Enforcement Officer)

Mandy Dennis
(Senior Environmental Protection Officer)

PC Kevin Murphy

Bill Perry

Mark Worthington

Liam Warren

Mrs Christine Norton

Mr Frank Norton

Mebs Kassam

Barbara Wiggins

Representing

East Northamptonshire Council

East Northamptonshire Council

East Northamptonshire Council

Northamptonshire Police

Licensee, The Wheatsheaf, Rushden

Worthingtons Licensing Solutions,
representing the Licensee

NSUK Security

Representative

Representative

Legal Advisor to the Panel

Democratic Services Officer

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenvil Greenwood-Smith be appointed Chairman of the Panel for this hearing.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. APPLICATION TO REVIEW A PREMISES LICENCE FOR THE WHEATSHEAF, 1 HIGH STREET SOUTH, RUSHDEN

(Prior to the commencement of the Hearing Panel, further supporting documentation was tabled from Licensee's representative, Mark Worthington and from Mrs Christine Norton, representative. Both parties agreed that the further documentation would be accepted for the Panel to consider.)

An application to review the Premises Licence was received on 27 April 2015 from the Environmental Protection Team at East Northamptonshire Council. The appropriate blue notice was displayed on the premises during the required consultation period.

The matters for which a review to the premises licence was sought relate to the prevention of crime and disorder and the prevention of public nuisance. The main reasons for the review request were noise from customers, music and crime and disorder. The full details of the review were detailed at Appendix 1 of the Report.

The following people had made representations:

- Police
- Rushden Town Council
- ENC Licensing
- One member of the public

The Licensing Enforcement Officer had submitted a representation to support the review application. The representation related to concerns regarding compliance with the Premises Licence and how the premises were being managed.

The representation received from the member of the public related to the extent of noise problems from the premises and the effect it was having on them.

The representation from Rushden Town Council related to noise issues also.

The representation from the Police was concerned with crime and disorder, non compliance with licensing conditions and recorded crime and incidents relating to the premises.

Evidence from Applicant

Mandy Dennis (MD), Senior Environmental Protection Officer, provided a brief resume of the information she had provided to the Panel. She had been involved in noise complaints since at the premises since 2010. The noise emanating from The Wheatsheaf was sufficient to disturb Mr & Mrs Norton in their home. Most of the complaints about noise and disturbance were received on Fridays, Saturday and Sundays. Noise emanated from the public house and the smoking area and garden at the rear of the public house, which backed onto Mr & Mrs Norton's property. MD noted that a new Company had been engaged to provide security on the premises. The problems were mainly management issues and more recently steps had been taken to remedy the ability of staff to manage issues, should they occur.

MD confirmed that Mr & Mrs Norton had used ENC recording equipment for approximately 3-4 years. Noise recordings were played which were taken from Mr & Mrs Norton's bedroom on 24.4.15, 26.4.15, 2.5.15 and 3.5.15. Mr & Mrs Norton also kept a diary and there was no reason to believe that the diary was not correct.

MD confirmed that the Licensee, Mr Bill Perry (BP), had co-operated fully.

Questions to the Applicant

In response to a question from the Panel, MD confirmed that she believed the noise emanated from The Wheatsheaf and she had no reason to believe otherwise. MD also confirmed that, in her opinion, the smoking area could hold up to 20 people, possibly more.

Evidence from Rita Groves, Licensing Enforcement Officer

Rita Groves (RG), confirmed that she had been dealing with issues at the Wheatsheaf for some time. She had carried out visits with the Police. Her main concern was about lack of control at the premises, especially when BP was not present. On a visit to the premises on 26 October 2014 with the Police, 22 breaches of conditions were found which were in contravention of the Licensing Act 2003.

RG noted a visit to Mr & Mrs Norton on 18 April 2015, whilst she was Duty Officer for the Out of Hours service. RG read from the notes she had taken at the time.

Following that visit, RG and the Police again inspected the premises and a small number of breaches were found on that occasion. However, later the same evening problems arose which resulted in the Police being called. RG confirmed that there appeared to be a lack of control, especially in the outside area.

RG confirmed that she had written to the Licence Holder regarding breaches of conditions which were taking place.

Questions to Rita Groves

Following a question from the Panel, RG confirmed that BP attempted to work with the Council. She believed that a strong management team was required at the premises and that problems seemed to occur when BP was not present.

Evidence from PC Kevin Murphy, Northamptonshire Police

PC Kevin Murphy (KM), confirmed that much of what he would report had been stated by RG. The premises were essentially a noise nuisance; however there had been 2 instances of crime and disorder recorded against the premises last year. KM considered that a professional security team would benefit the management of the premises. KM confirmed that he had nothing further to add regarding the conditions of the Licence.

Questions to PC Murphy

Following a question from the Panel, it was confirmed that there were CCTV recordings of the smoking area.

KM confirmed that, although there had been incidents at The Wheatsheaf, no Police prosecutions had been filed.

Evidence from Mrs Christine Norton

Mrs Christine Norton (CN) confirmed that she and her family had lived at a neighbouring property to The Wheatsheaf for 13 years. There had been noise issues in the last few years and there was continuing disruption which prevented the enjoyment of their home. It had become worse more recently since the licensing hours had been increased. CN suggested that noise levels should be reduced and music stopped altogether by midnight.

CN confirmed that she had kept diaries and had taken noise recordings from her property. There had been occasions when she and her husband had considered relocating elsewhere for the evening to remove themselves from the noise.

CN noted the information she had tabled at the beginning of the Panel Hearing whereby at around 8pm on 14 June 2015 she had witnessed, from her bedroom window, disgusting and offensive behaviour by 3 semi naked men in the grounds of The Wheatsheaf. She had reported the incident to the Police and Council, but had since discovered she could have made a 999 call.

Questions to Mrs Norton

Mark Worthington (MW) representative for The Wheatsheaf, said he understood that Mr & Mrs Norton kept an upstairs window constantly open. Mrs Norton confirmed that this was for a family pet which was used by the pet for exit and egress, however, having the window closed made no difference to the amount disturbance they suffered.

Following a question, Mrs Norton confirmed that their main concern was with noise and disturbance on a Friday and weekend nights and mainly from the smoking area.

Evidence from Mark Worthington (MW), Worthingtons Licensing Solutions representing Mr Bill Perry of The Wheatsheaf.

MW confirmed that BP understood the severity of the situation and did not take it lightly. Although Mr & Mrs Norton had complained, no other complaints had been received from neighbours. Steps had been undertaken to improve the management of The Wheatsheaf and NSUK Security had now been employed to take responsibility for security on the premises. Further management training was being provided and regular management meetings were held, which security staff attended.

Conditions relating to the noise issues had been suggested and standards inside the property had been improved. MW noted that BP had co-operated with Council officers, but that improvements were still needed.

Discussion between the parties took place regarding steps to mitigate the noise levels inside and outside the premises. Discussion also took place regarding conditions on the Licence.

The Chairman of the Panel then requested the parties to discuss and agree conditions whilst the Panel made their deliberations on the Review.

At 12.30pm the Panel adjourned to make their decision.

The Panel returned at 1.45pm

RESOLVED:

That, having made the decision to adjourn the determination of the Panel in accordance with Regulation 26 of the licensing Act 2003 (Hearings) Regulations 2005, that a determination would be sent out within 5 working days from the date of the Hearing.

Chairman

**REVIEW OF THE PREMISES LICENCE FOR
THE WHEATSHEAF, 1 HIGH STREET SOUTH, RUSHDEN
LICENSING PANEL HEARING 16 JUNE 2015**

The Licensing Panel has considered this application for a Review of the Premises Licence for The Wheatsheaf, 1 High Street South, Rushden and has taken into account the Licensing Officers report, Senior Environmental Protection Officer's report, representations from the respondents representative, Police Officer Murphy and also considered all relevant representations evidence and documents submitted at the hearing.

The Panel carefully deliberated and gave serious consideration to the licensing objectives, ENC's Statement of Licensing Policy; Guidance issued under Section 182 of the Licensing Act 2003 and also considered the Live Music Act 2012, The Legislative Reform (Entertainment Licensing) Order 2014. The main consideration was the licensing objectives relating to the prevention of crime and disorder and prevention of public nuisance in accordance with the review application.

Public Nuisance/Crime and Disorder

- 1 Evidence from local resident The Panel heard direct evidence from local residents Mr & Mrs Norton at the hearing. This was confirmed by evidence presented by ENC's staff.
- 2 Evidence from Northamptonshire Police Licensing Unit The Panel heard direct evidence from PC Kevin Murphy
- 3 Evidence from the Licence Holder and Representative The Panel heard direct evidence from Mark Worthington representing the Licensee of The Wheatsheaf, with additional comments from Mr Perry the Licence Holder.

4. Evidence from Rita Groves - ENC's Licensing Enforcement Officer The Panel heard direct evidence from Rita Groves.

5. Mandy Dennis – ENC's Senior Environmental Protection Officer The Panel heard direct evidence from Mandy Dennis.

The Licensing Panel having considered all the above are of the unanimous view that on a balance of probability the current operation of the Wheatsheaf is not promoting the licensing objectives of preventing crime and disorder and prevention of public nuisance.

The Panel noted the overwhelming evidence of mismanagement:-

- The weight of evidence
- Strong representations from statutory authorities
- The length of time the noise abatement notice had been in place with little apparent improvement

The Panel expressed disappointment that the Police, having made representation on crime and disorder contributed to a contradictory and unclear position by latterly agreeing with the agent for the licensee that the establishment was well managed.

Therefore, it is considered by the panel that the following is appropriate and proportionate:-

To modify the conditions of the licence to as follows:

Conditions attached after a hearing by the licensing authority

1. Upper levels of in house amplification equipment to be set in consultation with officers from East Northamptonshire Council and kept in a secured area.
2. All windows and doors to be closed when live or recorded music is being played other than for access and egress

3. No live or recorded music shall be played, relayed or amplified outside the building
4. Acoustic boards are to be fitted to windows in the main bar area facing the rear of the premises when live or recorded music is played between 21.00hrs and close of business.
5. There will only be one (1) live music event in any calendar week.
6. Customers must be requested to leave the premises and its vicinity in an orderly manner. Signs must be placed inside the entry/exit door requesting members to consider neighbours when they leave, and not to shout or slam car doors.
7. Signage will be on display in the smoking area requesting customers to be quiet and respect the neighbours. Signage will also indicate that the maximum number of persons permitted to use the area after 23:00 hours shall be 6.
8. A 'Challenge 21' age verification Policy will be adopted and Challenge 21 posters will be displayed at the point of sale and at least one other location in the premises.
9. No person under the age of 18 will be permitted to remain on the premises unless accompanied and supervised by an adult.
10. If there is to be any entertainment of an "adult nature" eg nudity or 'blue comedians', then no person under the age of 18 will be permitted to remain on the premises.
11. Signs will be displayed above any gaming machine to the effect that "No person under 18 years of age is permitted to play this machine"

12. A refusals register will be maintained and made available for inspection by police officer, Trading Standards officer or other authorised officer.
13. A CCTV system will be operational in the premises when licensable activity is taking place, this will cover all licensable areas, including the outside smoking shelter and patio area and the area immediately outside the front of the premises on High Street South. Images will be recorded and retained for at least 14 days. A person who is capable of retrieving the images will be present at all times the premises is open for licensable activity. Where footage of an evidential nature is requested by a police officer or other authorised officer, this must be made available for viewing immediately and if requested, a copy made available for collection by such officer within 24 hours.
14. On Fridays and Saturdays, after 22.30 hrs until close of the premises, no drinks are to be served in glass vessels of any description. Only toughened plastic or polycarbonate vessels are to be used.
15. On Fridays and Saturdays and on other nights when regulated entertainment is provided, from 21.00 hrs until close of business at least two SIA licensed door supervisors will be employed at the premises. They will wear high visibility clothing if deployed on the door or outside areas.
16. An incident log will be maintained at the premises and made available for inspection by a police officer or other authorised officer. It shall be bound and sequentially paginated.
17. The gate to the alleyway from the premises car park shall be locked between 23.00 and 08.00 hrs.
18. Patrons will not be permitted to take drinks of any description outside the premises after 23.00hrs; signage will be displayed at the exit doors to that effect.

19. After 23.00 hours the smoking area will only be used for smoking and no drinks will be permitted in that area. Signage will be displayed to that effect.
20. A Personal Licence Holder will be present and working on the premises on Friday & Saturday nights from 21.00hrs until close of business.
21. The Personal Licence Holder shall undertake, as a minimum, from 21:00 until close of business hourly perimeter checks to monitor music noise levels and record in a log their findings and actions.
22. The grassed garden area will be provided with a lockable gate or other similar cordon across the steps to the garden. This gate will be locked at 23.00hrs preventing access to the garden by customers.
23. When door supervisors are required to be employed, after 23.00 hrs one (1) door supervisor will have a specific responsibility for supervising the smoking and external areas. He/she will wear high visibility clothing and shall:
 - a. Ensure the door from the Pub to the smoking area is not propped open in any way.
 - b. Ensure customers using the smoking area do so in a quiet and orderly manner and return inside the pub once they have finished smoking and do not congregate in this area. Also to ensure that the number of persons do not exceed 6 after 23:00.
 - c. Make 20 minute checks of the grassed garden area to ensure no customers are using this area after 23.00hrs, and record this in a log.

The Panel further modified the premises licence as follows:

Sale of Alcohol consumed off and on premises

Friday and Saturday 11:00 to 01:00 hours

Sunday to Thursday 11:00 23:59 hours

Live and Recorded Music indoors

Friday and Saturday 11:00 to 23:59 hours

Opening hours of the premises

Friday and Saturday 11:00 – 01:30 hours

Sunday to Thursday 11:00 to 00:30 hours

For the avoidance of doubt Section 177 (A) (3) does apply to the licence and hence playing of live and recorded music does henceforth become a regulated activity

The reasons for the above conditions and changes to the premises licence are

- 1) Due to the lack of progress on remedying the breach of the noise abatement notices
- 2) general lack of management control.
- 3) Unabated noise nuisance coming from the Wheatsheaf
- 4) The aforementioned conditions being agreed by all the parties to the review

The panel received legal advice in terms of :

- 1) The legal test to be applied
- 2) The four licensing objectives albeit this review was called under the prevention of public nuisance and prevention of crime and disorder
- 3) The options available to the panel
- 4) Section 182 guidance

There are no other changes to the existing premises licence.

The Decision Notice will be sent out in writing. If any Party, Applicant or Objector who has made a representation, is aggrieved with the Panel's decision, they have the Right to Appeal to the Magistrates Court. That must be done within 21 days of the date given on the Decision Notice, and the modification of the licence do not take affect until expiry of the 21 day period

Councillor Glenvil Greenwood-Smith

Chairman

22 June 2015