

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 5 August 2014

Present: Councillor (in the Chair)
Councillors J Grimshaw, T Holt and D Jones

Also in attendance:

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence:

1 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 APPLICATION FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE ROSE & CROWN, 2 COCKEY MOOR ROAD, BURY.

The Panel met to consider an application pursuant to section 51 of the Licensing Act 2003, for a review of the premises licence by Bury Licensing Service, in respect of the Rose and Crown Public House, 2 Cockey Moor Road, Bury.

The review application was as detailed in the report which was presented to the Members of the Panel by the Licensing Unit Manager.

All written representations were contained within the report to the Panel. All documentary evidence comprising the review application, report provided with the agenda and representations had been served on all parties in advance of the Hearing. Written documents relating to outside checks and door supervisor logs had also been submitted to the Panel along with photographic evidence highlighting signage requesting respect for neighbours.

The review application had been supported through representations received from Mr David Mortimer, a Licensing Enforcement Officer, and from local residents in the form of written complaints relating to noise emanating from the beer garden and smoking shelter, at the licensed premises.

The Panel heard oral representations from Mr Mortimer on behalf of the applicant and from local residents Mr Tonks and Ms Irving.

The Panel also heard representations from Ms Bo-Eun Jung representing the licence holder and from the Designated Premises Supervisor Ms Balmbra.

The Panel heard no other representations.

The Panel asked questions of Mr Mortimer, Mr Tonks and Ms Irving, as well as the licence holders representatives and the DPS.

All parties were offered the opportunity to question the other.

All parties were allowed the opportunity to sum up their respective cases.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in October 2012

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

1. That the licensed premises had conditions attached to its licence that the beer garden be closed to patrons and locked at 22.00 hours each day and that no drinks shall be permitted to be taken into the smoking area after 22.00 hours each day.
2. That there had been at least 2 incidents in recent months where noise had emanated from the beer garden at the licensed premises after 22.00 hours, causing nuisance to neighbouring residents.
3. That these apparent breaches of the licence conditions were admitted by the licence holder.
4. That there had been previous meetings and an ongoing dialogue with the Licensing Service, the DPS and the licence holder and 2 previous warning letters sent to the licence holder and DPS.

5. That there was signage on the door to the beer garden requesting that customers refrain from swearing and ball games, although it was noted that this had recently been covered up by union flags.
6. That security staff had been employed to work and make relevant checks at weekend to ensure compliance with conditions and that other staff undertook similar checks at regular intervals during the week.
7. That despite the above measures the incidents of noise after 22 hours had occurred.
8. The Panel noted the measures volunteered on behalf of the premises licence holder at the hearing namely, increased signage; promotion of single dedicated taxi service; door staff to monitor beer garden every 15 minutes; issuing of premises licence holders phone number to local residents; springtime meetings with residents to discuss potential issues.
9. The Panel concluded that previous measures employed to alleviate any concerns and curtail any perceived public nuisance, as a result of noise from the beer garden, had not restricted complaints from local residents, further incidents had occurred and it was not satisfied that the measures offered would prevent further public nuisance.

Delegated decision:

Upon consideration of all relevant representations and in light of policy and guidance and the findings set out above, the Panel unanimously decided that on balance, the Panel found there were causes for concern so far as the promotion of the Prevention public nuisance was concerned at the licensed premises.

The Panel having heard all of the evidence and considered it with care, in line with their duties as advised by the Legal Officer, therefore decided as follows:

Having given appropriate weight to all of the representations, the Panel considered the merits of the case and **RESOLVED** that it be appropriate, reasonable, necessary and proportionate, in relation to the promotion of the licensing objective of the prevention of public nuisance, to **MODIFY** the conditions of the Licence as follows:

COUNCILLOR
Chair

(Note: The meeting started at Time Not Specified and ended at Time Not Specified)