

WEST OXFORDSHIRE DISTRICT COUNCIL

Record of a meeting of the **LICENSING PANEL**
Held in the Council Chamber, Council Offices, Woodgreen, Witney, Oxon
at 10.00am on Monday 29 September 2014

PRESENT

Councillors: Mr S J Good (Chairman), Mr M A Barrett and Mrs L E C Little.

I. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 –
ASTON POTTERY, BAMPTON ROAD, ASTON

The Chairman of the Panel welcomed those present to the meeting. Mr Good then set out the procedure by which the hearing would operate.

In response to a question from the Chairman the applicant, Mr Stephen Baughan, confirmed that the application had been properly advertised and registered his intention to address the Panel, as did his assistant, Ms Pinner.

Mrs Owen, a local resident, and Mr P West, representing Aston, Cote, Shifford and Chimney Parish Council, then registered an intention to address the Panel.

The Chairman explained the order of business for the meeting. He advised that the Panel Members were familiar with the written representations submitted and requested those addressing the Panel to highlight any specific points they wished to raise, which should relate to the Licensing Objectives.

Mr Good also explained that new evidence could only be considered with the consent of all parties present and asked if any such evidence was to be introduced. There was no new evidence presented and no questions raised regarding the procedures under which the meeting would operate.

The Council's Licensing Officer presented her report outlining the application and advised that a letter of objection had been received from Mrs Owen, and that the Aston, Cote, Shifford and Chimney Parish Council had also raised objections.

The Council's Licensing Officer advised the Panel that this was an application for a new premises licence, confirmed that no objections had been received from responsible authorities, and that the application was for a licence for Plays, Live Music, Recorded Music, Dance and anything of a similar description, and for the sale of alcohol between the hours of 9 am and 11 pm on Sundays to Thursdays and 9 am and midnight on Fridays and Saturdays. She also drew attention to the suggestion that further planning consents could be necessary before all the intended uses could be implemented, and stated that the applicant had been advised accordingly.

The Council's Legal Adviser then reminded all present of the Licensing Objectives, and advised of the provisions of the Live Music Act 2012. Under that legislation, which had recently come into force, in premises where the sale of alcohol had been approved, live music was permitted for up to 200 people between 8 am and 11 pm, where the music was amplified, and there were no restrictions in audience numbers where the music was not amplified. Additionally, arising from the workplace exemption under the legislation, a business could provide live amplified music between those hours.

Mr Baughan and Ms Pinner then addressed the Panel in support of the application. In doing so, and in answering questions from the Panel, they:

- Outlined the history of the business and the nature of activities on the site, including normal opening hours, late night opening one night a week in the period leading to

Christmas, and an explanation of the number and frequency of hosted visits, for example for educational purposes

- Emphasised that the application was in order to allow “add-ons”, which were essential to the profitability of the business
- Referred to the fact that there were no apparent objections to the sale of alcohol
- Stated that the intention was to host acoustic guitar performances approximately six times a year, which would entail minor amplification within the café. Ticket sales would be in advance, with attendance limited to 150. Such an event had already been held, and the noise was contained within the premises; and the car parking was away from nearby properties with the exception of that occupied by Mrs Owen, and would be properly managed. As part of the management of events, visitors would be asked and encouraged to leave considerately. It was expected that events would finish by around 10:30 pm, and it was not expected that they would lead to deliveries “out of hours”. Outside lighting would be necessary but would be unobtrusive
- Confirmed that issues relating to planning consent were being looked at
- Noted that whilst up to 12 Temporary Event Notices were possible in a year, they wished to be able adequately to promote forthcoming events. In doing so, there was reference to the Parish Council suggestion that there should be only six events a year, and the wish of the applicants not to be too restricted
- Confirmed that the maximum seated capacity was 150, which had been risk assessed, given that the Fire Service no longer inspected premises to indicate a capacity
- Acknowledged that the application may have caused a degree of alarm by giving an impression that the premises would always be open between the hours referred to

Mrs Owen then addressed the Panel, stating that she was a neighbour to the property and wished to put her objection into context. During her address she:

- Stated that when the applicant had told her he was seeking an alcohol license he had said that it would be served at lunchtimes and when hosting up to six events a year. Mrs Owen had challenged that, feeling that he would be encouraged to hold more events if approached to host them. It was only when seeing the application that she had been aware of the range of events proposed and of the possibility of the garden being used
- Gave the view that the relevant criterion in terms of the application was that of public nuisance, with the possibility that preparation for larger events such as films, amateur dramatics and dance events could entail prolonged activity outside usual hours.
- Stated that the pottery intruded on her privacy and enjoyment of her garden, with the invasion of privacy being stressful, including from the overflow car park, which was within six metres of her property. The nuisance was apparent at evening events, and would be likely to increase if visitors were fuelled by alcohol
- Opined that the case Mr Baughan had made to the Panel was somewhat different from the application; and that someone else in the future could seek to exercise the full rights conferred by it

- Concluded that she raised no objections to the sale of alcohol during current business hours, nor to the hosting of six to 12 events a year which included minimal sound amplification, if such took place within the building

Mr West then spoke in representation of the views of Aston, Cote, Shifford and Chimney Parish Council. Mr West stated that the Parish Council:

- was not averse to the occasional event outside usual business hours, but considered the application to be extremely broad and that it would allow as many events as the applicant wished to host
- considered Temporary Event Notices to be more appropriate, and that the proposal conflicted with condition 7 of the relevant planning permission
- had no objections to the sale of alcohol during current business hours, but was worried that future operations might not be consistent with current intentions, and had particular concerns about outside events

In response to questions from the Panel, the Legal Adviser explained the nature of a public nuisance in the context of a Licensing application, which would be anything likely materially to affect the ordinary lives of people in the vicinity. This could include anti-social behaviour, noise and light pollution. Because the premises were in a rural setting, where the expectation would be that the rural setting would be tranquil, this meant that nuisance would be more highlighted than it would be in an urban setting.

The Adviser also referred to case law in relation to representations which speculated as to future events, and were therefore not clear evidence of what would definitely occur. As such, the representations would have to be regarded as fear and speculation and could not be relied upon.

During concluding remarks:

- Ms Pinner emphasised that the application only included the area immediately outside the café, and not the area to the rear of Mrs Owen's house. A hedge had been planted along the perimeter to try to screen that property
- Mr Baughan stated that the fence to the property was not accessible because of flower borders
- Mrs Owen disputed the comment relating to fear and speculation, on the basis that previous evening events had in her view caused a public nuisance

The Panel then retired to consider the application and submissions made at the hearing.

On its return, the Panel asked the Legal Adviser to give further comment, in response to which she

- Again explained the relevant provisions of the Live Music Act 2012
- Advised that if a subsequent review of a Premises Licence was to take place, the Panel considering such a review could consider evidence and impose conditions

The Chairman of the Panel referred to the legislative constraints under which the Panel operated, and considered that the Panel had to take into account the advice relating to fear and speculation. He noted that members of the public and/or the Parish Council could keep records of issues, and had the ability in the future to implement a review of a Licence. This would constitute evidence, and could lead to the imposition of conditions or the revocation of the Licence. He also observed that it was possible that the Council's consideration of planning issues could be another opportunity for the

public and the Parish Council to input into the process, but noted that the planning considerations were not a matter for the Panel.

Having considered the report and the submissions made at the meeting in relation to the licensing objectives and the Council's Statement of Licensing Policy and Guidance, and being of the view that a reduction in the hours licensed for the sale of alcohol was appropriate in this location, the Panel -

RESOLVED: That the application for a Premises Licence under the Licensing Act 2003 in respect of Aston Pottery, Bampton Road, Aston be approved, subject to the sale of alcohol being restricted to the hours of 9 am to 10 pm on Mondays to Thursdays, and 9 am to 11 pm on Fridays and Saturdays.

The hearing closed at 11:15 am