

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 Tuesday 1 November 2016

PRESENT

Councillors: Mr N A MacRae MBE (Chairman); Mr E J Fenton and Mr E H James

I. APPOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

Mr E J Fenton attended in place of Mrs E H N Fenton.

2. APPLICATION FOR VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – THE OLD SWAN, MINSTER LOVELL

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

In response to a question from the Chairman, the applicant's representative, Ms Beverley Molmans – Head of group operations at Andrew brownsword Hotels, confirmed that the application had been properly advertised. She indicated that she did not wish to address the Panel but would be happy to answer questions from Members.

Ms Mary Jay, then registered her intention to address the Panel in objection to the application. Ms Jay contended that the applicants had failed to comply fully with the requirements to advertise the application as, whilst notices had been displayed in the immediate vicinity of the property, no notice had been posted at the premises themselves.

The Council's Legal Advisor outlined the advertisement requirements and explained that, in addition to placing a newspaper advertisement, applicants were required to display a notice prominently at or on the premises to which the application relates, where it can be conveniently read from the exterior of the premises for a period of no less than 28 consecutive days.

The Council's Licensing Officer advised that, whilst she had seen the newspaper advertisement, she had not personally visited the site so could not confirm that the requisite notices had been displayed.

Ms Jay indicated that, whilst notices had been displayed around the perimeter of the site, no notice had been displayed at the premises itself. However, Ms Jay indicated that she did not wish to raise this in objection to the current application but simply to ensure that due process was followed in the future.

The Council's Legal Advisor emphasised that the onus to undertake publicity fell to the applicant, not the Council. He indicated that the volume of correspondence received clearly showed that local residents had been aware of the application and not prejudiced by any technical omission.

As Ms Jay had confirmed that she did not wish to delay the determination of the application, the Panel was happy to proceed.

No Responsible Authorities registered a wish to address the meeting.

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 MacRae explained that new evidence could only be considered with the consent of all parties present and asked if any further such evidence was to be introduced. There was no new evidence presented and no questions were raised regarding the procedure by which the meeting would operate.

Mr MacRae indicated that many of the matters raised by those objecting to the application related to planning issues and explained that the Panel could only take account of matters relating to the four licensing objectives when considering and determining the application. Mr MacRae noted that some concern had been expressed by objectors over a lack of clarity in the application and acknowledged that this may well be the case. He indicated that he intended to seek to address this in questions to the applicant's representative.

The Council's Legal Advisor then explained that each case had to be considered on its merits and any conditions needed to be appropriate to the four licensing objectives, evidence based and proportionate.

The Licensing Officer presented the report outlining the application and advised that, since publication of the report, the applicants had held a meeting with local residents to discuss their intentions.

As a consequence, the applicants had decided to make the following amendments to the application as submitted:-

1. The deletion of reference to recorded music
2. The permitted hours for the supply of alcohol to non-residents to remain the same as at present; i.e. until midnight.
3. The hours during which the premises would be open to the public to remain the same as at present; i.e. until 00:30.

In addition, whilst the company had no current plans for such events, in response to concerns expressed by local residents the applicants agreed to the inclusion of the following condition:-

A letter/email will be circulated to the residents of the area (including Little Minster) when any events are to take place in a marquee. A hotline number will be provided.

The Licensing Officer advised that the application still sought to provide late night refreshments to residents between 23:00 and 05:00 and from 23:00 until midnight to non-residents. The application also sought to supply alcohol to residents for 24 hours daily.

She advised that, of the 14 letters of objections received, six had been withdrawn following the meeting between the applicants and local residents.

The Panel noted that the residents of Third House, Little Minster, North Hill House, College Farm, Minster Lovell and Littlemin House, Little Minster had withdrawn their objections:-

The Chairman explained that, whilst the applicants had indicated that they had no intention of holding marquee events, the Licensing Act classified these as 'indoor events' despite the obvious lack of sound attenuation offered by such a structure.

Mr MacRae enquired how many non-residents were likely to require late night refreshments between 23:00 and Midnight. In response, Ms Molmans estimated that this could be some 20 to 30 persons.

Mr MacRae noted that, whilst there was a national extension of hours during the New Year period, whilst the application made reference to non-standard timings at Christmas and Easter but did not specify the hours requested. Having sought clarification from the applicant's representative, it was explained that Ms Molmans had only recently joined the company and had not been involved in the preparation of the application. There had been an incident at one of the company's other properties the previous night and, as a consequence, other members of the management team were unavailable to attend the hearing.

The Council's Legal Advisor indicated that the Panel could not approve non-standard hours in the absence of any specified hours.

Mr MacRae sought clarification of the term 'residents and guests', questioning whether 'guests' were those invited by persons resident at the hotel or if the term extended to the general public. Ms Molmans confirmed that it was intended to relate to the former.

In response to further questions, Ms Molmans advised that the company required all staff to complete on-line training regarding issues surrounding the licensing on their first day of employment and outlined the steps that would be taken to prevent public nuisance.

Ms Jay then addressed the meeting. She expressed concern that the hearing had been conducted with too much haste as the Parish Council had not been able to meet to consider its position following the meeting that had been held between the applicants and local residents. Ms Jay indicated that, had it had the opportunity to do so, the Parish Council may well have withdrawn its objection.

The Council's Legal Advisor explained that the Council was under a statutory obligation to determine applications within a set time from the date on which they had been submitted. He advised that, in the absence of any indication to the contrary from the Parish Council, it had to be assumed that their objection stood and had to be considered as such in determining the application. The Licensing Officer advised that this had been the last date on which the Panel could have been held.

Mr Fenton acknowledged local concerns but enquired whether the provision of late night refreshments to those staying at the hotel was a cause of nuisance and disturbance to local residents. In response, Ms Jay advised that, whilst the primary concern related to the performance of music in marquees, pedestrian traffic between the two separate parts of the establishment had resulted in some noise nuisance. She expressed the hope that suggestions made by the new owners that the two sites would be operated independently would come to fruition and address this.

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

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, the Panel

RESOLVED: That the variation of the premises licence be granted for the activities, days and hours sought in the application and as set out in the operating schedule, amended as detailed above, subject to the following conditions:-

1. A letter/email will be circulated to the residents of the area (including Little Minster) when any events are to take place in a marquee. A hotline number will be provided.
2. That no more than one event shall take place in a marquee in any calendar month.

In advising of the decision the Chairman acknowledged the difficulties faced by the applicants but indicated that it would have been helpful if a representative familiar with the application could have been present. He explained that, in the absence of any specified hours, the Panel could not approve non-standard hours at Christmas, New Year and Easter beyond those allowed by national exemption.

Mr MacRae also requested that staff be given adequate training to prevent them causing unnecessary noise when moving around the site.

In conclusion, the Chairman reminded those present that interested parties, dissatisfied with a decision made by the Council, could appeal to the Magistrates' Court and that, in the event that difficulties were experienced, any interested party could seek a review of the Premises Licence.

The hearing closed at 10:45am