



Minutes of **Licensing Act 2003 Sub-Committee**

Meeting date **Thursday, 9 September 2021**

Members present: Councillor Matthew Lynch (Chair), Councillor (Vice-Chair) and Councillors Hasina Khan and Jean Sherwood

Officers: Tracy Brzozowski (Customer Services (Enforcement)), Tasneem Safdar (Shared Legal Services Team Leader), Nathan Howson (Enforcement Team Leader (Licensing)) and Coral Astbury (Democratic and Member Services Officer)

20.11 Declarations of Any Interests

There were none.

20.12 Procedure

Members noted the procedure to be used to conduct the hearing.

20.13 Determination of Application to Vary a Premises Licence- Lord Nelson, Out Lane, Croston, PR26 9HJ

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to advise members of an application to vary the premises licence by virtue of S34 Licensing Act 2003, for Lord Nelson, Out Lane, Croston, Leyland, PR26 9HJ.

Members were advised that the application had been brought before the Sub Committee due to a relevant representation being received. Members would need to determine the application in accordance with the provisions of the Licensing Act 2003.

The Premises Licence Holder (PLH), Punch Taverns Ltd, was represented by their legal advisor, Ewan Macgregor. Nicola Jacques, the tenant and the Designated Premises Supervisor (DPS) John Russell were also present at the hearing. Also present was Other Persons: Mrs Anne Peet, who had submitted a representation in respect of the application.

The Licensing Team Leader (Enforcement) explained that the premises had been licensed since 2005 following its conversion from a Justice's Licence. Following the death of the licence holder in 2015, this lapsed and a new licence had been granted. Since then, this had been transferred and varied several times, with its most recent transfer in 2015 and members noted that a copy of the licence was appended to the report.

Members were advised that the premises was surrounded on most sides by residential properties, and since re-opening following the relaxation of COVID restrictions the Council had received a number of noise complaints regarding the use of the beer garden on Sunday afternoons for live music. Several joint visits had been made between the Police, Licensing and Environmental Health, resulting in the application to vary the licence.

The PLH proposed to make the following amendments to the licence:

- The removal of Condition 6.ii – *Noise from the premises shall not exceed ambient background noise at the boundary*
- The removal of Condition 6.ii.a – *Where noise from the premises exceeds ambient background noise at the boundary of the premises, steps shall be taken to reduce the volume accordingly.*
- The addition of the following Condition: *Any entertainment held within the external area of the premises shall only take place between the months of April and September (inclusive) and shall cease by 9pm on any day.*
- The addition of the following Condition: *Any event held within the external area shall be documented by a risk assessment regarding preventing any noise disturbance to any nearby properties. Such risk assessment shall be held at the premises for no less than six months and shall be produced to a responsible authority on request.*

In response to a member enquiry, it was confirmed that a noise complaint had been made to Environmental Health and information and diary sheets had been provided. However, as the diary sheets had not been returned there had been no basis for installing noise equipment.

The Chair requested that an aerial view of the premises on Google Maps be shown on the screen for Members to consider, which was agreed by all parties in attendance.

The Chair queried what would be considered to be noise nuisance. The Licensing Team Leader provided that a public nuisance is a subjective question and depends largely on the experience of the person experiencing it.

Mr Macgregor, on behalf of the PLH, provided that there had been a meeting in July with Council Officers to discuss the issues which had been raised. The area manager had agreed with the Licensing Team Leader (Enforcement) the proposed wording which would tighten the conditions on the licence. As a result, an application to vary the licence was submitted.

Members noted that the current licence permitted music inside and outside of the venue Monday-Sunday 12:00-00:00. Mr Macgregor explained that the proposed conditions would limit this, live music would only be held April-September with a terminal hour of 9pm every day. He explained that the pub was a community pub and it was important for the PLH that they got on with neighbours. Mr Macgregor provided to members that live entertainment would be crucial to the pub's viability.

Mr Macgregor explained that not all residents were in objection to the live entertainment, and a letter of support had been provided to the DPS, albeit this was not read out or submitted as part of the hearing.

Mrs Peet explained to the Sub Committee that she had lived in her property for 28 years and residents generally had good rapport with the local businesses. The disturbance first began in 2017. She explained that her representation was on behalf of a number of residents living in the area. Referring to the image shown on Google Maps, Mrs Peet pointed out her property and garden to the Sub Committee and advised that some gardens ran to the side of the pub. In 2017, residents had been in contact with the Council to complain about the noise and action was taken. When the pub re-opened following the easing of COVID restrictions, members noted that a large marquee had been built to the front of the property. Mrs Peet explained at times this is where the music would come from and it was every Sunday, when it first began the music was very loud.

Mrs Peet advised the Sub Committee that since the application had appeared in the Chorley Guardian the music has been a lot quieter and not interfered with resident's enjoyment of their property.

The Council's Legal Advisor explained to members that only representations from Mrs Peet could be taken into consideration and other residents had the opportunity to make representations but had not done so.

In response to a member question, Mrs Peet confirmed that the noise from the pub can get very loud at times, to the extent that they cannot sit in the garden and hold a conversation. Mr Macgregor also confirmed to the Sub Committee that the marquee was in the process of being removed and had been a temporary measure for Covid purposes.

In summing up, Mrs Peet repeated her concern that the removal of the condition regarding ambient noise could lead to noise levels being above what is considered as reasonable. The concern was the noise levels from the pub whilst live music was being played. There was no anti-social behavior or noise from spill out. Mrs Peet further explained that the past few weeks had been noticeably quieter, and this had been acceptable to residents. She explained that the pub was well managed and not troublesome.

In summing up Mr Macgregor explained to the Sub Committee that it was not surprising that the noise level of the pub had decreased since the meeting with Officers. The application arose out of discussions with Council officers. Mr Macgregor reminded the Sub Committee that there were no regulatory concerns and no representations from any responsible authorities had been received.

Mr Macgregor explained that there was no basis to install a sound limiter as no noise records had been submitted. The pub needed to balance the needs of the business with those of the community, however the provision of entertainment would be critical for the pub's survival.

The Sub Committee noted that the proposed conditions were stricter than the current conditions held on the licence, with the times and dates music could be played outdoors restricted.

RESOLVED:

In reaching their decision, the Sub Committee took into account the following: -

1. Both written and oral evidence presented in connection with the hearing
2. The Licensing Act 2003
3. Chorley Borough Council – Statement of Licensing Policy
4. S182 amended guidance of the Licensing Act 2003

The Sub Committee carefully considered all the facts and issues raised by the parties. The application requests the removal of condition 6 ii and 6ii (a) and the modification of the licence by alternative conditions which limit the use of the external area between April and September until 9pm.

Any event held in the external area is to be documented by risk assessment regarding preventing any noise disturbance to any nearby properties.

The Sub Committee have heard that the premises is well managed and not troublesome. Currently, the licence allows for the playing of live music between noon and midnight every day of the year. Concerns have been raised by residents living in the area in respect of noise nuisance from the playing of live music. This had led to discussions between the premises and Responsible Authorities and ultimately the application before the Sub Committee.

The premises appears to have gone the extra mile by offering up conditions which are more restrictive than currently on the licence, by reducing the permitted licensable hours in the external area. The representation made by Mrs Peet is relevant and the only issue mentioned is the level of noise emanating from the premises. However, no evidence has been provided in this regard and it is noted that there are no representations made by any Responsible Authorities, specifically Environmental Health who are experts in their area.

The Sub Committee make the following decision, which addresses the representation made and in the circumstances is appropriate and proportionate to promote the licensing objectives: -

- To grant the application in part, in that conditions 6 ii and 6ii(a) are removed from the licence.
- To modify the operating schedule by the addition of the following conditions:
- Any entertainment held within the external area of the premises shall only take place between the months of April and September inclusive and shall cease at 9pm – Mon-Saturday and 8pm on any Sunday.
- Any event held within the external area shall be documented by a risk assessment regarding preventing any noise disturbance to any nearby properties. Such risk assessment shall be held at the premises for not less than 6 months and shall be produced to a responsible authority on request.

Any party to a hearing has a right to appeal the decision to the Magistrates' Court within 21 days of receiving the written notice.

Chair

Date