

Licensing Decision Records

21 September 2017

Councillors:

Councillor Peter Abraham, Councillor Eleanor Combley and
Councillor Brenda Massey

Officers: Carl Knights – Licensing Policy Advisor, Lynne Harvey – Legal Advisor,
Allison Taylor – Democratic Services



Licensing Hearing.

**Application for the variation of a premises licence in respect
of John Harvey Arms, John Harvey Arms, Court Farm Road, Bristol BS14 0ED**

1. The premises currently has the benefit of a premises licence which permits:

Sale of Alcohol Monday to Sunday 10:00 - 00:00

Indoor sporting events Monday to Sunday 10:00 - 00:00

Live Music Friday 20:00 - 23:30

Live Music Saturday 10:00 - 23:30

Live Music Sunday 10:00 - 23:00

Live Music Monday to Thursday 20:00 - 23:00

Recorded Music Monday to Sunday 10:00 - 00:00

Performances of Dance Saturday and Sunday 10:00 - 00:00

Performances of Dance Monday to Friday 20:00 - 00:00

Similar - live/recorded music or dance Monday to Sunday 10:00 - 00:00

2. Hours the premises will be open to the public:

Monday to Sunday 08:00 - 00:30

3. The Applicant applied to the Authority to permit:



The application seek to vary the licence to permit customers to drink within a restricted external seating area of the premises (as indicated on the submitted plans) by the removal of condition 36 Annex 3 "Alcohol shall not be taken into any external area of the licensed premises (for the avoidance of doubt alcohol shall only be consumed within the building as identified on the plans attached to the licence)" and the addition of new conditions to mitigate the potential for possible nuisance.

Relevant representations had been received from the following parties, all of whom had been notified of this hearing and their rights:

Isobella Dean
Mr And Mrs Baker
Claire Cree
Cllr Tim Kent
Judith Vickery
Lin Mills
Mr And Mrs Cross
Steve Hodgson
David Stanfield
D Macfarlane
Maria Williams
Naughton Williams
Julia Hodgson
Avon And Somerset Police
Valerie Stanfield
H.G. Woodburn
Mrs J Baker
Dave Markham
Mr, Mrs And Miss Feltham
Jacqui Way
Debbie Barker
Colin Townsend
Mr And Mrs W Collis
Nick Woon



Pollution Control

Lisa Eizens

Claire Slowley

Mr And Mrs Robert Burnham

Mr And Mrs David Stone

Christopher Slowley

Mr And Mrs J Talbot

Tracey Shaw

The Committee considered the Application after hearing the representations made and decided:-

Decision:

That the application be granted in part and rejected in part and subject to the following additional conditions which the Committee agreed would promote the licensing objectives:-

- 1. Alcohol and glassware shall not be taken in any of the outside areas between the hours of 1900 – 1000 the following day;**
- 2. Alcohol shall only be taken outside in the area hatched on the plan accompanying the application which shall be suitably cordoned off by fencing or screening as depicted in the drawing produced by the Applicant at the hearing, subject to satisfactory planning permission being obtained;**
- 3. The number of seats in the hatched area shall be restricted to not more than 30;**
- 4. CCTV shall cover the hatched area during all licensable hours;**
- 5. No loudspeakers shall be placed outside;**
- 6. The Licensee, Manager or other responsible person shall make available a contact number to residents upon request.**

The element of the application rejected is for the hours between 19:00 hours and 21:30 for sale of alcohol for consumption in the defined outside area and for consumption in the defined outside area until 23:00 hours.

Reasons:

Representations from the Applicant



The Committee heard from the Applicant that this was a community based pub which was built around the same time as the estate. Originally it was known as the “Baccy Jar” which did not operate under the strongest of management in that it was a source of problems from crime and disorder and nuisance. It had been renamed twice and after a closure of around 8 months, the current Licensee had taken over.

There was a protracted history in respect of the premises in that it was the subject of a licence review approximately ten years ago and then there was an application from a Mr Van Basten (the premises was then called the Court Farm Tavern) to have outside drinking. This was allowed by the Committee but the area which was designated and constructed for outside drinking did not benefit from planning permission and was the subject of enforcement action.

Both the premises and the outside area is licensed but no off sales are allowed. A specific condition was imposed in 2013 whereby no alcohol was allowed to be taken outside. It was fully understood why this was imposed at the time but the effect of it was that customers could not go outside with a drink on a warm sunny day. This means that during the Summer months, the pub trade suffers considerably but the outgoings remain the same. Locals want to go outside in the warmer weather otherwise they will go elsewhere. It was contended that this was the only pub in Bristol whereby customers were not allowed to go outside. What was now being sought was very reasonable.

The intention behind the application was to enable customers to go outside in good weather in a relatively small defined area.

A drawing of the proposed cordoned off area was circulated by the Applicant which comprised an area of fencing/screening around the area hatched on the plan that accompanied the application. It was submitted that this screening would resolve any issues concerning increased noise and loss of privacy raised by the local residents. It was established during the hearing that the proposed structure would require planning permission so if the Committee were minded to grant the application, this would have to be subject to satisfactory planning permission being obtained before the outside area could be used.

The Applicant offered further concessions on the original application whereby no alcohol could be taken in the outside area beyond 2030 hours and the outside area shall be cleared of all customers by the same time. Additional conditions were offered by the



Applicant to further mitigate the concerns raised by all parties who had objected to the application.

A picture had been painted of the pub being poorly run but this was not the case at all. Times had changed considerably since the last application and the nature of this application was different. The current licensee ran a tight ship and 9 letters had been submitted in support of the application, which was unusual. Outdoor drinking had taken place under the authority of Temporary Event Notices and no complaints had arisen as a result.

It was not agreed that the problems the police had highlighted were directly attributable to the pub. It was accepted that the Police were called to Court Farm Road on a regular basis but this was due to problems between two neighbours. The last unannounced visit from the Police was about 5 years ago and the Licensee had never met with any officers who had said she was uncooperative.

Representations from Local Residents in Support of Application

It was represented by two local residents that the pub was now being tarred with the wrong brush as a result of its' previous history. The management of the pub had now changed for the better and locals who use the pub feel that they should have the right to sit outside with a drink in good weather. The current licensee was losing so much custom as a result of the condition in question. It was unfair for those opposing the application to keep referring to the history of the pub as this did not reflect the current situation.

Representations from Local Residents Against the Application

It was generally accepted by most that the pub had been well run since the current licensee/applicant had taken it over. However, the pub was in the middle of a residential area and the lives of local residents had been made a misery as a result of previous issues associated with customers being allowed to drink outside. There were genuine fears that this situation would return if the condition in question were to be relaxed in any way. Since the condition prohibiting outside drinking had been imposed by the Council several years ago there had been few problems. This condition had therefore worked well.

The Committee were invited to look at the reports from the Police. To remove the condition and to allow outside drinking would be to expect residents to step back to all the



previous problems of crime and disorder and nuisance. The inclusion of outside drinking would only increase police resources in an already problematic area.

Some residents lived right next to, or in very close vicinity to the pub. There were concerns that the outside drinking area would result in not only problems from increased noise but also loss of privacy.

The nature of customers drinking outside was no different. Ambient noise levels get lower as it gets later, which means that customers outside would become more of a nuisance.

One resident commented that during the operation of TEN's the outside area was hardly used so could not understand why the proposed change was being sought.

The Committee were invited to reject the application.

Representations from the Police

Louise Mowbray reiterated the concerns that had been submitted on behalf of the Police in not less than three separate representations.

The area outside and around the pub was one of the hot spots for crime and disorder. A large number of incidents had been listed since January 2017 which was a considerable drain on Police resources.

21 residents had objected to this application which was almost unheard of. The condition that is currently in place is appropriate and has improved the situation. Profit should not be put in advance of the licensing objectives which had not been sufficiently mitigated by the Applicant.

Any changes in the short term might be workable for the current licensee but the licensee or DPS could change which would give rise to a risk of going back to the bad days.

The Police were also concerned as to who would enforce and monitor compliance with the new conditions suggested by the Applicant and who would maintain that customers stay within the gated area.

The Committee were invited to refuse the application.



Representations from Pollution Control

Mark Curtis asked that the views of local residents be taken into account. Since the current applicant had been running the pub, there had been an improvement and no complaints had been received whilst TEN's had been in use.

If the outside area were to be used there would always be a potential for noise nuisance.

However, Mark Curtis was of the view that if the Committee were minded to grant the application, mitigation measures could be imposed by way of condition, such as restricting the terminal hour and ensuring that there is a suitable means of enclosure around the outside area.

Representations from Councillor Kent

It was agreed by all that an exceptional landlady currently ran the pub and there was no criticism directed at her. However, the location was the problem. The pub is very open and surrounded by residential premises. The applicant's proposal for a fenced off outside area was unclear since the drawing produced at the hearing was merely an artists' impression. There was no information about the width of the structure and how much room there would be inside to accommodate customers or how much room there would be if benches were placed in that area.

There was no wish to lose the pub which benefitted the wider community but there were concerns about outside drinking and the effect it would have on neighbouring premises in terms of nuisance.

Conclusion

The Committee considered that they had to look at the merits of the particular application before them and the style of management under the current licensee/applicant. Considerable weight was attached to the representations advanced by the Police and other relevant persons concerning the previous problems associated with the premises and its history. In the past, the premises had been poorly managed and as a result had been a source of misery to local residents. However, it was clear that there were no specific complaints in regard to the current licensee/applicant who had evidently done a



good job of turning the premises around into a well-run establishment. Although the Police had made representations about problems in the surrounding area there was no firm evidence to suggest that these could be directly attributable to the premises at this time.

The recommendations that came from Pollution Control were sensible in that if there were to be a sensible cut off time for drinking outside and the area in question could be suitably screened off (subject to planning permission) this could mitigate the concerns of those who had objected to the application thereby achieving a fair balance between the commercial needs of the applicant and the protection of local residents. It was therefore considered that the application could be allowed in part but subject to appropriate conditions to secure promotion of the licensing objectives.

Allowing a clearly defined and cordoned off outside area would be unlikely to lead to noise nuisance and the steps put in place by the applicant supported the licensing objectives and allowed the premises to become a more family-friendly, community meeting place.

The Committee noted the concession offered by the applicant to address concerns by reducing the hours applied for outside drinking to 20:30 hours and that the area be cleared and closed at that time. However, the Committee in deliberating, agreed that a terminal hour for the outside area of 19:00 hours would allow customers to have a lunch time or evening meal and give residents' comfort that any noise outside would cease at a reasonable hour, thus promoting the public nuisance licensing objective.

It was made plain to the applicant that the outside area could not be used until planning permission was granted and if it was refused, the outside area could not be used at all.

CHAIR

Councillor Combley

