

# Minutes

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## Licensing/Appeals Sub-Committee Friday, 31 October, 2014

### Attendance

Cllr Barrett  
Cllr Mrs Henwood  
Cllr Newberry

### Officers Present

Dave Leonard	Licensing Officer
Gary O'Shea	Principal Licensing Officer
Chris Pickering	Principal Solicitor
Jean Sharp	Governance and Member Support Officer

### 231. Appointment of Chair

RESOLVED to appoint Cllr Barrett to chair this meeting of the Sub-Committee.

### 232. Quasi-Judicial Function

Members were respectfully reminded that, in determining the matter listed under Minute 233, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

### 233. Application for a Premises Licence - Licensing Act 2003 – Brave Nelson, 138 Woodman Road, Warley CM14 5AL

The report before Members provided information of an application for a new premises licence in respect of Brave Nelson, 138 Woodman Road, Warley, Brentwood CM14 5AL

Members were requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations might be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;

- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

An authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant would have in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

The four licensing objectives were;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

No objective carried any more weight than any other.

Any representation must be able to demonstrate that on the balance of probability the application in its current form would fail to adequately promote one or more of the licensing objectives. No other matters might be considered.

### **The Application**

The application was received on 9 September 2014 from Mr Paul Duley in respect of Brave Nelson, 138 Woodman Road, Brentwood CM14 5AL.

This application is submitted following meetings between the licence holder, his agent, the licensing team and members of two responsible authorities, namely the Council noise team and the Police. The application was sought to agree conditions that would allow a more efficient promotion of licensing objectives.

The application did not seek to vary the current premises licence or extend the hours of any licensable activity. It sought a new premises licence, operating to its current hours, to include conditions that were appropriate and practical together with an operating schedule that promoted the licensing

objectives within the community. The conditions on the current licence were ambiguous and difficult to enforce.

The hours for the sale of alcohol for consumption on and off the premises were for the following hours;

10:00hrs-23:00hrs on Sunday to Thursday and  
10:00hrs-23:30hrs on Friday and Saturday

The regulations of the Licensing Act 2003 outlined the requirements for the advertising of applications by the applicant.

Regulations also required that the applicant gave a copy of the application to each responsible authority on the same day upon which it was given to the licensing authority.

There were no other statutory requirements for advertising of any application, however, the relevant Ward Councillors were notified and details of all applications received along with the time limit for receipt of representations was posted on the Council website.

There had been one valid representation received from the Council's Environmental Health Officer relating to noise and public nuisance complaints received against the premises over an extended period of time supported by nine Service Request Reports.

The Police observations and agreed conditions were appended to the agenda together with the observations of a Senior Planning Officer.

Six representations had been received from local residents who lived in close proximity to the premises.

The Brave Nelson has been subject of several unsuccessful applications to redevelop the land for residential housing and the latest application, to redevelop the car park, was refused planning permission this summer.

### **The Sub-Committee's Decision**

The Sub-Committee considered in detail the written objections from residents who raised concerns over the noise nuisance emanating from the premises and the Sub-Committee considered the submissions from the applicant in support of the application. It also considered the reports presented from Council officers. The Sub-Committee was concerned about the noise emanating from the garden in particular and in the interests of preventing public nuisance **RESOLVED** to grant the application as applied for subject to the following conditions:

1. An incident log will be kept in which staff will record any crimes, incidents, refusals and any complaints received.
2. Staff will be trained on their roles and responsibilities, records of training given will be retained and made available to the licensing authority or the Police for inspection upon reasonable request.

3. A comprehensive CCTV system is installed with full recording facilities covering both inside and outside parts of the premises.
  4. Any music provided will be closely monitored and controlled by the in house management team so as to minimise noise nuisance to the neighbours.
  5. All music will cease at 23:00hrs
  6. Smokers will be encouraged to use the garden smoking shelter in a quiet and noise friendly fashion
  7. Customers will not be permitted use of the garden after 22:00hrs except for the purpose of smoking. The number of smokers permitted to be outside smoking after 22:00hrs will be limited to 15.
  8. No drinks are to be consumed outside after 22:00hrs.
  9. Notices will be posted at entrance/exits requesting patrons to respect the neighbours and leave in a quiet & orderly fashion.
  10. The premises will adopt a Challenge 25 policy
  11. Children will only be admitted while in the company of a supervising adult and will be required to vacate the premises by 22:00hrs daily (except for a pre-booked family party/event
  12. The premises shall install and maintain a CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
  13. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain on premises.
  14. All recordings shall be stored for a minimum of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer of a Responsible Authority.
  15. A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
  16. Self-closers shall be fitted on all doors that open to the front of the premises and into the garden and the doors shall not be fixed open whilst music is being played to avoid noise break-out from the premises.
  17. The children's play area will be closed to all patrons after 21:00hrs on any day.
  18. Ball games are to be banned from the children's play area.
  19. Music amplification is prohibited in the outside areas of the premises without prior permission from the Council's licensing department.
  20. Any special events planned at the premises shall be notified to the Council's licensing department at least 14 days before the event. The premises management will work with the licensing department so that the impact of such events is minimised.
  21. The hours of operation at New Year is limited to 02:00hrs, rather than the 08:00hrs applied for.
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