

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 3 July 2018 at 10.00 am**

### **Present:**

**Councillor J Maitland (Chair)**

### **Members of the Committee:**

Councillors L Brown, L Kennedy and M Wilson

### **Also Present:**

S Buston (Council's Solicitor)

K Robson (Senior Licensing Officer)

V Craig (Licensing Assistant)

### **The Lounge**

C Madeley (Applicant)

J Atkinson (Speaking on behalf of the Applicant)

Sgt C Dickinson (Durham Constabulary)

PCSO L Remmer (Durham Constabulary)

P Aylott (Other Person)

Mr and Mrs Duncan (Other Persons)

J Pemberton (Other Person)

S Walton (Other Person)

### **Three Tuns**

W Drennan (Applicant)

Councillor Nicholson (Speaking on behalf of J Linsley – Other Person)

### **1 Apologies for Absence**

There were no apologies for absence.

### **2 Substitute Members**

There were no substitute Members.

### **3 Declarations of Interest**

There were no declarations of interest.

#### **4 Application to Vary a Premises Licence - The Lounge, 21 North Terrace, Seaham**

**Members:** Councillors J Maitland (Chairman), L Brown and M Wilson

The Committee considered the report of the Corporate Director, Regeneration and Local Services regarding an application for the variation of a premises licence in respect of The Lounge, Seaham (for copy of report, see file of Minutes).

A copy of the application and location plan had been circulated together with copies of the representations received and responses from responsible authorities.

The Senior Licensing Officer presented the report and advised Members that eight letters of representation had been received. Miss Maddox, an objector, was unable to attend the meeting but had stated that the weekend of the 22 June 2018, customers from The Lounge, walked across the road with drinks and stood by the statue, there was no bar staff in attendance. Members were also advised that Environmental Health, County Durham Fire and Rescue Service and Durham Local Safeguarding Children Board had no comments to make. Durham County Council Planning Authority had no comments to make but had provided information on the variation of the planning condition.

Sgt C Dickinson, speaking on behalf of Durham Constabulary indicated that Durham Constabulary were objecting to the variation on the grounds of public nuisance and the prevention of crime and disorder. The extended hours would attract an increase in footfall which could potentially increase crime and disorder and extra amenities would be required. The likelihood was that the premises would close at 1.00 am but patrons would be in the area much longer due to taxis and hot food. Planning consent had been approved for 23.00 hours to protect residential amenities and the premises currently do not have planning permission to open until 1.00 am. The premises was granted planning permission as a café but operates as a public house and advertises as a public house which is against the planning permission granted.

PCSO L Remmer spoke in relation to complaints that had been received concerning noise from the premises especially late on a night which included doors opening and closing. Complaints had also been made in relation to smoking and drinking to the front of the premises and staying open later than the permitted hours. The complaints had been raised with the applicant at a meeting, who had confirmed that the extended hours were as a result of the royal wedding which Durham County Council had given consent to and they did not go over these hours. Members were also advised that permission had not been obtained for the table and chairs outside the premises.

In response to a question, PCSO Remmer advised Members that there was no smoking area to the rear of the premises, so patrons used the Front Street.

Councillor Brown sought clarification if the variation of condition 5 had been granted.

In response, Sgt Dickinson advised that no approval had been given for a variation to the planning permission.

Mr Buston, the Council's Solicitor sought clarification from Durham Constabulary that their objection was only in relation to the extension of the hours to 1.30 am.

Sgt Dickinson confirmed that their objection was in relation to the extension of the hours to 1.30 am.

All parties were given the opportunity to ask questions of Durham Constabulary.

The Applicant indicated that the door supervisors do not allow glasses to be taken outside the front of the premises.

At this point, other persons indicated that they had photographic evidence of people with glasses outside the premises which were taken last Sunday.

Mrs Duncan, an objector indicated that she lived 2 doors from The Lounge and that she had lived in her premises all her life and The Lounge up until 3 years ago was a residential property. The property then became a takeaway then a restaurant where you could have a drink with food but had now turned into a public house. She had no objections to people getting on in life but they were residents who had to live there. The Front Street was an up and coming area but they had to close their windows on a night due to the noise as you could still hear the music from the premises even when the doors to the premises were closed, patrons were drinking and smoking outside and there was evidence of drinking in the park. The premises currently did not have permission to operate as a public house and the premises was making their life a misery.

Mr Buston asked Objectors to confirm that their objection was only in relation to the extension of the hours.

The Objectors confirmed that they had no issues during the day, it was just on an evening and the premises being used as a public house.

The Applicant commented that she was surprised that the door supervisor would allow patrons to take glasses outside the front of the premises.

Mrs Duncan indicated that she had been looking out of her window at the view and witnessed people going in and out of The Lounge and going across the road with glasses. Children play over the road and glasses were left in this area from Patrons from The Lounge.

The Applicant responded that Mrs Duncan was unable to see The Lounge from her window and that there was other public houses on the street.

Mrs Duncan confirmed that the patrons came from The Lounge, her property was three stories high opposite Tommy and she could see The Lounge and the Navy Club. She indicated that patrons don't bring drinks out of the Navy Club and don't

make much noise and it was The Lounge that was letting patrons walk across the road and drink, which she had photographic evidence of and had no reason to lie.

Ms Aylott who is a resident of North Terrace confirmed everything that was said by Mrs Duncan. She then indicated that the door supervisors were not at the premises all the time but were on call from another premises. If the premises was running as a café why did they need door supervisors. The décor in The Lounge was lovely but it was not operating as a café as should be.

Ms Walton who was a resident of Bath Terrace which was on the corner of North Terrace where she had lived for over 20 years and cared for her elderly mother. She indicated that there was a lot of activity on the sea front which residents were supportive of for the local economy. The hours of operation were extended from time to time and they were operating on the pavement. There was no double door entry system and it was very noisy. The idea of a variation to extend the hours was shocking and the area was residential with a high density of homes and families. They were regularly disturbed at midnight and beyond due to lights and taxis beeping. The current planning permission was to trade to 11.00 pm and the public needed to be protected from activity, there was no dedicated smoking area and smoking on the Front Street did not look good for Seaham as a visitor attraction, you had to dodge the street furniture and smoke was unacceptable and residents in the area needed to be protected.

The Chairman sought clarification if the tables and chairs were outside all day.

The Chairman was advised that the premises opened at 11.00 am.

The Senior Licensing Officer advised Members that there was no requirement to have door supervisors on the premises but the Applicant had proposed to have door supervisors.

Mr Pembleton an objector indicated that none of them objected to visitors to the area during the day but it is a conservation area and the Council are good at cleaning up in the morning but any activity after 11.00 pm was excessive. He reiterated what had been said by the other objectors but the extension of hours was not appropriate in a conservation area.

Mr Atkinson spoke on behalf of the Applicant and indicated that the business was a bistro come bar which served food five days a week. The premises were immaculate with a cosmopolitan feel. They had installed a disabled toilet on the ground floor of the premises and had employed door supervisors. They did have a sound issue so took a sound reading when the doors were open and closed and when closed there was no sound. 10% of the patrons were under 30 as they were a northern soul venue and attracted 40/50 year olds. Drinks did not come out of his establishment, although he was not in attendance on a weekend as he had other premises. They were looking for two extra nights to enhance the business. The door supervisors were more greeters than supervisors and he invited Members to come and have a look around the premises. He also indicated that there was another three premises in the vicinity and the Navy Club patrons don't come out until 2.00 am. They currently have tables and chairs located outside due to the

lovely weather and they have had an ash tray fixed to the wall to the front of the premises. He indicated that other establishments were open late and he wanted a level playing field.

The objectors indicated that the establishment was a gin bar.

Mr Atkinson responded that the premises was a bistro/gin bar and that they had done everything by the book and that they had door supervisors who ensured that the doors on the main road were closed. He admitted that the music had been loud but this had been rectified.

The Objectors indicated that the music level had only changed as a result of the application coming to the meeting today.

The Applicant referred to taxis sounding their horns which was allowed until 9.30 pm but he had personally talked to taxi drivers and asked them not to sound their horns outside his premises.

The Chairman sought clarification if the sound check had been carried out by Durham County Council.

The Applicant responded that the sound check was carried out using an app on a phone and the highest reading obtained was a lorry going past.

In response to questions, the Applicant indicated that they had retainers on the doors and that the pavement licence had been transferred over to themselves and that they had made a planning application to change the hours of the premises, but this had not been determined yet.

Councillor Wilson sought clarification from the Applicant if they were trading as a bar or café and if they only sold alcohol on a weekend as the residents indicated that you were advertising as a gin bar and the photo of the front of the premises says 'gin bar'.

The Applicant responded that it was a bistro and they had taken down the sign that said 'gin bar' three weeks ago.

Members asked if they served coffees and sandwiches on an evening and if you needed to purchase a meal to obtain an alcoholic drink.

The Applicant responded that they served coffees all day, and that you did not have to purchase a meal to obtain alcohol.

The objectors referred to the Thursday night quiz which took place and this was not something you would find in a Bistro and that they had live entertainment and the terrace was listed so there was no double glazing installed. The Applicant responded that they served tapas when the quiz was on and they only had live entertainment on the opening weekend.

An objector asked if the committee had visited the premises on an evening and if not could this be done. The Senior Licensing Officer responded that this wasn't something that was usually done but if members wished to visit the premises then this could be arranged.

An objector indicated that reference to the 'gin bar' had been removed from the premises and that it wasn't a double door entry system and was a glass door and he hoped the removal of the gin sign was not temporary.

The Applicant responded that they were not obliged to have door supervisors in place.

The objectors had no objection to the business being run as a restaurant/café but it was a bar which was what they were objecting to.

Durham Constabulary referred to the pavement licence and the e-mail she received this morning from Durham Constabulary Traffic Division indicated that they had no record of a change to the licence as they were consulted on applications.

The Applicant indicated that they had a copy of the licence on display in the premises and they could arrange for a photo of this to be sent to them.

The Committee adjourned at 10.55 am to enable the applicants to obtain proof of the pavement licence.

The Committee re-convened at 11.00 am and the Senior Licensing Officer informed the Committee that the premises had a valid pavement licence which was granted in April 2018.

In Summing up, the Objectors indicated that Seaham has other bars which they had no issues with and were well managed. They don't have any issues with noise or disturbances from cafes but The Lounge was operating as a café during the day but a bar on an evening with music and people standing outside.

The Applicant indicated that he would rectify anything that had been said today.

The Chairman asked if they could have a smoking area to the rear of the premises.

The Applicant responded that they were unable to have a smoking area to the rear but they had installed an ash tray to the front of the premises.

At 11.05 am the Sub-Committee resolved to retire to deliberate the application in private. After re-convening at 11.30 am the Chair delivered the Sub-Committee's decision.

In reaching its decision the Sub-Committee had considered the report of the Senior Licensing Officer, the written and verbal representations of the Applicant and other persons. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:** That the variation of the premises licence be granted as follows:-

<b>Licensable Activities</b>	<b>Days and Hours</b>
Sale of Alcohol (on/off sales)	Monday to Thursday 11:00 until 22:00 hrs Friday & Saturday 11.00 until 23:00 hrs Sunday 11:00 until 22:00 hrs
Opening Times	Monday to Thursday 09:00 until 22:00 hrs Friday & Saturday 09:00 until 23:00 hrs Sunday 10:00 until 22:00 hrs

**5 Application to Vary a Premises Licence - The Three Tuns, 3 Association Street, Shildon**

**Members:** Councillors J Maitland (Chairman), L Brown and L Kennedy

The Committee considered the report of the Corporate Director, Regeneration and Local Services regarding an application for the variation of a premises licence in respect of The Three Tuns, 3 Association Street, Shildon (for copy of report, see file of Minutes).

A copy of the application and location plan had been circulated together with copies of the representations received, additional information from the applicant and responses from responsible authorities.

The Senior Licensing Officer presented the report and advised Members that the variation was purely to extend the opening hours in the morning. The authority had received 17 letters during the consultation. Councillors Nicholson and Quinn withdrew their objection after receiving information from the licensing authority in relation to the operating schedule which alleviated their concerns. Five letters were deemed relevant and attempts were made to validate the 10 pre-printed letters which were written by Mrs Linsley and signed by residents but only 2 responses had been received.

Durham Constabulary, County Durham and Darlington Fire and Rescue Authority, Local Safeguarding Children Board and Planning had no comments to make on the application. No response had been received from Environmental Health.

The Council's Solicitor sought clarification on the letters that had not been verified and if Licensing had any records of complaints for the premises.

The Senior Licensing Officer advised the Sub-Committee that they had written to these objectors with details of the application and asked if their objection remained

or if they wished to withdraw but only two responses had been received. She also confirmed that they had no record of any complaints.

Councillor Nicholson who was in attendance on behalf of Mrs Linsley, an objector who was unable to attend the meeting. He read out a statement from Mrs Linsley that apologised for her being unable to attend the hearing and that crime and disorder was evident, they were subject to swearing from the beer garden which was worse on a weekend. They were also subjected to doors slamming and patrons did not leave the premises quietly and the beer garden was not secure. They were unable to enjoy their garden on an evening and weekend and they were unable to open their windows.

From a Public safety point of view, bottles were left in the road and there was drunk drivers.

In relation to Section 9 public nuisance – their child was disturbed by noise and pollution and the live music meant they were unable to open their windows. She had been put onto medication for anxiety and the area was unsafe due to fights breaking out. Music played from 9.00 am to past midnight was unacceptable and it was not necessary to be open 9.00 am on a Sunday. The singer used loud speakers which was disturbing.

The Applicant indicated that his licence did not allow live music after 11.15 pm and live music was never played in the beer garden, it was only indoors and he complied with his current licence.

The Chairman sought clarification that the variation was for additional time on a morning.

The Applicant indicated that B and M opens early every day and 10.00 am on a Sunday.

The Council's Solicitor asked if the 9.00 am start was to enable them to serve breakfasts.

The Applicant responded that patrons hung around after breakfast for them to open, he was unable to develop the business on an evening so the only opportunity was to develop it on a morning without any inconvenience.

Again the Council's Solicitor asked if he intended to serve breakfasts or just alcohol.

The applicant confirmed it was alcohol only and that he had been a licensee for 21 years and was chairman of pub watch. The very first incident was a petition in Oct 2015 on the waving of spades which was untrue and most of the items in the petition was down to gossip. The lady who lived two doors away from the premises wished him luck for today and hoped he did well. He was accused of not completing the blue form correctly as he had not included food but this was not the case as food would not be provided.

The Council's solicitor sought confirmation that the objections were in relation to late night rather than early morning.

The Applicant referred to the petition and how he could not believe how Mrs Linsley had portrayed him and if she had only taken the time to come and see him instead of only dealing with him over the telephone.

Councillor Brown sought clarification if the fence in the beer garden was broken.

The Applicant responded that the fence was no longer broken as it was suggested at a recent pact meeting that the fence be fixed. He also indicated that taxis don't park in the street and he had asked them not to sound their horn.

The Council's Solicitor asked if the notes on page 111 were from the pub watch meeting.

The Senior Licensing Officer confirmed that she had checked the information with Durham Constabulary who confirmed it was correct.

Councillor Nicholson indicated that the press article gave the impression that the variation was for later in the evening.

The Senior Licensing Officer indicated that the legislation required the notice to give a brief summary then contact Licensing for further details. There was nothing misleading in the notice and she had a copy of the notice if members wished to view it.

The Applicant confirmed that the notice gave the current hours and that he wanted to open earlier on a morning and that he regretted not putting a letter through his neighbour's doors explaining what his intention was.

At 11.55 am the Sub-Committee resolved to retire to deliberate the application in private. After re-convening at 12.05 pm the Chair delivered the Sub-Committee's decision.

In reaching its decision the Sub-Committee had considered the report of the Senior Licensing Officer, the written and verbal representations of the Applicant and other persons. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:** That the variation of the premises licence be granted as follows:-

<b>Proposed Licensable Activities</b>	<b>Days and Hours</b>
Recorded Music (Indoors and Outdoors)	Monday to Wednesday 09:00 until 00:30 hrs Thursday to Saturday 09:00 until 01:30 hrs Sunday 09:00 until 00:30 hrs

	No outdoor music after 10.00 pm Outdoor music will only be played during spring and summer months
Sale of alcohol (on and off the premises)	Sunday to Wednesday 09:00 until 00:00 hrs Thursday to Saturday 09:00 until 01:00 hrs
Opening Times	Sunday to Wednesday 09:00 – 00:30 hrs Thursday to Saturday 09:00 – 01:30 hrs