

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Conference Room 1 - Council Offices, Spennymoor on **Thursday 27 September 2018 at 1.30 pm**

Present:

Councillor P Crathorne (Chairman)

Members of the Committee:

Councillors D Brown and J Maitland

Also Present:

K Coulson-Patel (Council's Solicitor)
H Johnson (Licensing Team Leader)
N Anderson (Licensing Enforcement Officer)
Sgt Dickinson (Durham Constabulary)
S Norman (Durham Constabulary)
PCSO Robson (Durham Constabulary)
C Burns (Premises User)
C Connor (Licence Holder)

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 Consideration of a Temporary Event Notice - The Merry Monk, Bishop Auckland

The Committee considered the report of the Licensing Team Leader regarding a Temporary Event Notice (TEN) under Part 5 of the Licensing Act 2003 relating to The Merry Monk, Bishop Auckland (for copy see file of Minutes).

Officers were unable to determine the matter due to an objection notice been received from Durham Constabulary on the basis that the event would undermine

the licensing objectives, namely the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

A copy of the notice and the objection from Durham Constabulary had been circulated to Members.

Members were advised that the Temporary Event Notice was for an event on Saturday through to Sunday on 30 September 2018 to extend the hours of the premises from 1.30 am to 4.00 am, which would include a late bar and DJ driven music.

Sgt Dickinson on behalf of Durham Constabulary indicated that the premises had 7 previous TENs in relation to Kynren events for after parties, a further TEN for 23 September 2018 had been refused for the same reasons as this application. Durham Constabulary had been informed that on Monday 20 August 2018, a warning letter had been issued by the local authority to the premises in relation to the sale of alcohol after hours on the 18 August 2018.

They had also been informed that Durham County Council had visited the premises and requested a copy of the CCTV and they were met with resistance from Mr Burns and the documentation relating to this could be obtained from the licensing officer.

The most recent breach of their current licence for namely serving alcohol after hours on the 9 September 2018 is still under investigation. The applicant is aware of the breach and had stated that he thought he had a TEN for the event. This event was to be DJ led and was not in relation to Kynren and Durham Constabulary had concerns of the clientele that would attend the event.

There were no question of Durham Constabulary.

Mr Burns the Premises User indicated that he sympathised with Durham Constabulary but their job did not include worrying about The Merry Monk which has an unblemished record. He believed he had submitted an application for a TEN, he had previously submitted a number of TENs notices and he thought that the TEN for the 9 September 2018 had been included. He held his hands up to the mistake and stated they had had 8 TENs over the summer. He was simply asking for the licence to be extended to 4.00 am.

There were four establishments in the Market Place that could trade to 4.00 am but only one traded to 4.00 am but three others could but choose not to. Durham Constabulary did not come into his premises, he trained licensees but he had made a mistake on the 9 September 2018 and the bar and staff were suffering and he would take the punishment as he was guilty not The Merry Monk.

He continued by stating that the bar was very popular as it was run well with six door staff and they often have a queue. He had TENs without any objections from Durham Constabulary over the summer. He spoke to the licensing officers on a weekly basis and had not failed any test purchases. They did a lot for charity and the bar was well liked and the 9 September 2018 was a simple mistake by himself

as the Designated Premises Supervisor (DPS). He could remove himself as the DPS and put in a manager but this would not solve the problem. Durham Constabulary have other bars which they have to police, and their bar currently closes at 1.30 am. He had been a publican for 40 years and there was not a blemish on his record, he admitted that he had made a mistake which would not happen again.

They had recently made a Section 34 application to trade to 4.00 am but there was some problems as he had signed the application when he shouldn't, so this needed to be rectified. He did not want to trade to 4.00 am but other bars in the Market Place had a licence to 4.00 am so he wanted parity. He did not have any issues in his bar he just simply made a mistake with the paperwork and he met with Durham Constabulary on a weekly basis. There had been no issues with the TENs that were held in the summer months.

Councillor Maitland sought information on the letter sent by the authority to the premises on the 20 August 2018.

The Licensing Team Leader advised Members of the protocol when an alleged offence had been committed. Mr Burns then asked what evidence they had and why he had not been able to view the evidence as he had viewed his own CCTV and could not see any evidence that they were serving alcohol at 1.40 am.

The Licensing Enforcement Officer indicated that the authority did have some evidence and when she had spoken to Mr Burns he had said that he could open until 2.00 am but could only serve alcohol until 1.30 am and admitted that the DJ had announced last order at 1.45 am.

Mr Burns asked to see the evidence. The Licensing Team Leader responded that they were unable to share the evidence as it would identify the source.

The Licensing Team Leader advised the Sub-Committee that a formal warning had been issued and it was an ongoing investigation.

Councillor Maitland asked if it was a member of the public who submitted the evidence which the Licensing Team Leader confirmed was the case.

Councillor Brown sought clarification if the other four premises that had a 4.00 am licence was under a TEN. Mr Burns responded that it was a full licence.

The Applicant then provided Members with information on the current operating hours of the establishment and the type of clientele that attended during various times and days. He also advised Members that he had a vast amount of experience and had also ran the Post Chase and Castle so he had an in depth knowledge of the Market Square and they did not have raves but the establishment was full after midnight and they had a queue. Due to the TENs that had been held earlier in the year they had learnt that 4.00 am was successful and that they could trade later and he had received messages asking him to stay open as they liked the atmosphere in The Monk and 1.30 am was their busiest time and they needed the TENs or they could not stay open.

Members asked if the establishment was empty by 2.00 am without any issues and if doormen were in situ before midnight and how did they keep a check on the capacity of the premises at any one time.

Mr Burns responded that on a Friday they had one door supervisor at 9.00 pm, two by 11.00 pm and four at Midnight and on a Saturday this was the same but at 1.00 am they added another two making it six door supervisors although the licence stipulated fewer. With regard to the capacity of the premises they had a manual system where door supervisors had a clicker which was recorded every 15 minutes and they tended to only hit capacity on a Saturday night when a queue would be formed when they hit 260 capacity.

The Chairman sought clarification of transport arrangements for bars that were open until 4.00 am.

Mr Burns responded that there was a taxi rank and taxis were available in the Market Place.

Durham Constabulary sought clarification on the times for the TENs that had been held in the summer. Mr Burns advised Members that the previous TENs had been until 3.00 am.

Durham Constabulary stated that they had not previously been open until 4.00 am. Mr Burns indicated that 3.00 am was a taster over the summer and that they had submitted a variation.

The Licensing Team Leader advised the Sub-Committee that an application for a variation had been submitted but required amendments before it could be accepted. Mr Burns indicated that they were in the process of amending the application and there were bars in the area that had a licence to 4.00 am.

The Applicant then referred to a conversation he had with the Licensing Enforcement Officer when she indicated that if they could take out the identifier out of the footage then they could provide him with a copy of the evidence. He had looked at his CCTV footage and couldn't find any evidence. He had made a mistake with the TENs, but apart from this he traded to the letter of the licence.

The Licensing Enforcement Officer advised the Sub-Committee that they had received complaints and when she had looked at the CCTV footage this confirmed that the bar was closed.

Members asked how many TENs could be issued per year.

Mr Burns responded that you could have 15 TENs per year and that he intended to submit his application for a variation but he would be reducing his hours overall with an extra couple of hours on a Friday and Saturday. He had already had 8 TENs and hoped for a workable solution.

The Chairman asked if there were residential houses next to the premises and if they had negotiated with them and had there being any issues with noise.

The Applicant responded that they had not had any complaints but he had spoken to the residents in Silver Street who had concerns in relation to taxi jumping so he had offered some support by way of his door supervisors. He had also offered his personal mobile number, local residents drank in the premises.

The Chairman sought clarification if the door supervisors could help with the taxi rank.

Durham Constabulary responded that it was up to the doorman and the person employing them, the Licensing Team Leader also indicated that it was ok if there was an agreement with the premises and Door Supervisor Company.

Mr Burns responded that he thought of it as a public nuisance and was his duty to make sure people leaving his premises did not cause any issues, he referred to another establishment where they agreed to pick up glasses in the street.

The Chairman referred to the incident on the 10 September 2018 and she was advised that it was still ongoing and the next step would be an interview under caution.

Councillor Brown asked if the TEN was granted then would this put pressure on Durham Constabulary and would they have to change their plans they currently had in place.

Durham Constabulary responded that they would have to change the shift pattern to cover the later opening time but they would facilitate the later opening time.

Mr Burns indicated that this was already in place for the Champagne Bar and it would just be the case of two bars rather than one and that his premises had a safe environment.

Parties were asked to sum up.

Durham Constabulary indicated that they did have concerns under the licensing objectives, a warning letter had been sent to Mr Burns and they had refused to hand over the CCTV footage when requested and this had to be obtained from the premises holder. Further actions had come to light so they needed to look at the premises more closely, hence why they had brought the TEN to the hearing, should the decision be to grant the TEN then they would ask that all the conditions on the current licence be imposed on the TEN.

Mr Burns indicated that he did not subscribe to the concerns, he admitted the 9 September 2018 was his mistake and was going to be dealt with. He could have removed himself as the DPS so any concerns regarding him would be alleviated, the previous TEN events had been successful and he had ran late bars all this life, it was his mistake and he would not be here today in front of the Sub-Committee if he had not made that mistake.

At 2.15 pm the Sub-Committee Resolved to retire to deliberate the application in private. After re-convening at 2.30 pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Licensing Team Leader and the written and verbal representation of Durham Constabulary and the verbal representations of the Premises User. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

The decision of the Sub-Committee was delivered then the Sub-Committee adjourned to clarify that they could impose a condition on the TEN.

The Premises User accepted the condition by mutual agreement, however the Sub-Committee were advised that they could not enforce the condition.

Mr Burns assured the Sub-Committee that alcohol would only be served until 3.45 am as agreed.

Resolved: (i) That the Sub-Committee issue a Notice of Decision to the Premises User and Durham Constabulary for the event as applied for with all the existing conditions as the Premises Licence.

(ii) The Premises User accepted the condition that alcohol and music finish at 3.45 am with the premises closing at 4.00 am.