

LICENSING SUB-COMMITTEE

22 JUNE 2021

PRESENT

Councillor D. Jarman (in the Chair).
Councillors D. Butt and S. Thomas

In attendance

C. Myers	Solicitor,
J. Boyle	Licensing Team Leader,
N. Owen	Governance Officer.

5. APPLICATION FOR THE GRANT OF A FULL VARIATION TO A PREMISES LICENCE UNDER S17 LICENSING ACT 2003 AT FOX AND HOUNDS HOTEL, 201 WOODSEND ROAD, FLIXTON, M41 8QW

The Head of Regulatory Services submitted a report informing Members of an application for the grant of a full variation to the premises licence for Fox and Hounds Hotel, 201 Woodsend Road, Flixton, M41 8QW which had attracted representations from a local resident and Environmental Health & Pollution Control. All parties present at the hearing were invited to address the Sub-Committee.

Representations were made in support of the application by Mr. G. Domleo, Flint Bishop, Mr. A Jamieson, Star Pubs & Bars Ltd, Mr. P Senior and Mr. D Thornhill, Spectrum Pub Company. Representations were made against the application by Mr. P. Belfield from Trafford Council's Environmental Health section and a local resident Ms T. Kilduff.

RESOLVED –

- 1) That the application by Mr. G. Domleo, Flint Bishop on behalf of Star Pubs & Bars Ltd for the grant of a full variation to the premises licence for Fox and Hounds Hotel, 201 Woodsend Road, Flixton be granted in part subject to compliance with the conditions outlined in the decision notice.
- 2) That the issue of the Licence be delegated to the Head of Regulatory Services.

LICENSING SUB-COMMITTEE DECISION NOTICE

Sub Committee Members: Councillor D. Jarman (Chairperson)
Councillor D. Butt
Councillor S. Thomas

Applicant: **George Domleo, Flint Bishop on behalf of Star Pubs & Bars Limited**

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Type of Licence: **Grant of a full variation to a Premises Licence: Fox and Hounds Hotel, 201 Woodsend Road, Flixton, M41 8QW**

Representors: Environmental Health – in attendance

Mr. P Belfield

Mr. R. Pollitt

Local resident – in attendance

T. Kilduff

Parties Present: On behalf of Applicant – in attendance

Mr. G. Domleo, Flint Bishop Solicitors

Mr. A. Jamieson, Star Pubs & Bars Limited

Mr. D. Thornhill, Spectrum Pub Company

Mr. P. Senior, Spectrum Pub Company

Officers

Caroline Myers – Solicitor

Joanne Boyle – Licensing Team Leader

Natalie Owen – Governance Officer

Date of Hearing: 22 June 2021

Time Commence: 6.30 p.m.

Time Terminated: 9.03 p.m.

LICENSING SUB-COMMITTEE DECISION

The Sub-Committee decided that the representations received from Environmental Health and a local resident were relevant representations.

To grant a full variation of the premises licence as follows:-

The name of the premises as shown on the premises licence be changed to The Fox – Pub & Kitchen.

Non standard timings for all licensable activities and opening hours be added as follows:-

Live Music – Indoors

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Recorded Music – Indoors

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Alcohol – On and Off Sales

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New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Opening Hours

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Annex 3, condition 1 “No person under the age of 16 will be permitted on the premises or part of the premises after 21:00 hours.” be removed from the licence and replaced with

“Children under the age of 16 must be accompanied by an adult at all times and must be off the premises by 21:00 hours, unless on New Year's Eve when they will be permitted to remain accompanied on the premises until close.”

CONDITIONS

Any mandatory conditions which must be included under the Licensing Act 2003.

ADDITIONAL CONDITIONS

1. CCTV cameras are located within the premises to cover all public areas including all entrances and exits
2. The system records clear images permitting the identification of individuals.
3. The CCTV system is able to capture a minimum of 24 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
4. The CCTV system operates at all times while the premises are open for licensable activities
5. All equipment must have a constant and accurate time and date generation.
6. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a police officer or authorised council officer copies of recent CCTV images or data with the minimum of delay when requested.
8. The outdoor seating area positioned on the former car park to the west of the pub building plan shall not be used by customers past 21:00 on any day. Customers shall not be allowed to remove glasses or bottles from

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the premises and take them to this area except during these hours. Prior to the use of the area commencing, details of a suitable restriction to prevent customers accessing this area shall be submitted to the Licensing Authority and this restriction shall be kept in place after 21:00 on any day. Prior to the use of the area commencing, signs indicating the restrictions on use shall be placed in a prominent position adjacent to the entrance and exit of the area and retained at all times thereafter.

9. The outdoor seating area positioned on the former car park to the west of the pub building shall not be used for the following activities at any time: the sale of alcoholic drinks, erection of a marquee or covering to the seating area, congregations of standing groups of customers, any screenings of TV, films or sport, and the provision of live or recorded musical entertainment.
10. Except for emergency egress, the bi-fold doors leading to the outdoor seating area positioned on the former car park to the west of the pub building shall remain closed at all times when any performances of live or recorded music, including from a DJ, (but excepting background pre-recorded music), are taking place within the area annotated as a Dining area/Function room on the premises plan.

LICENSING SUB-COMMITTEE'S REASONS FOR REACHING ITS DECISION

The Sub-Committee considered the Licensing Act 2003 and regulations, the Guidance and the Council's Licensing Policy and the application, together with the information provided by all parties at the hearing.

The Sub-Committee heard from the Licensing Officer who presented her report.

The Sub-Committee was satisfied that the statutory requirements regarding notices, advertisements and time limits had been complied with.

The Sub-Committee heard from the applicant's representative that the pub had been managed by Mr Thornhill and Mr Senior since April 2018 and that they are responsible operators having operated the premises with no breaches of the licence for 3 years. The former car park has been in use for as a seating area for outdoor consumption since the introduction of covid restrictions in 2020 and the variation application includes the addition of an outdoor servery to this area. Mr Domleo, the applicant's solicitor, did not consider that the addition of the outdoor servery would undermine the licensing objectives.

The applicant was prepared to agree to a time limit of 21.00 on the use of this area and to keeping the bi-fold doors leading from the pub closed at all times other than for emergency egress when any performances of live or recorded music, including from a DJ, are taking place within the area annotated on the plan as a Dining area/Function room. These were seen as sensible and considered measures by Mr Domleo.

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The Sub-Committee heard that there are approximately 25 outdoor tables for around 80 customers in total at the premises and the applicant was aware of only one complaint, and had been visited once by Environmental Health, in respect of noise from this area.

The applicant's representative clarified that there were no plans to have barbecues, TV or sport screenings in this outdoor part of the premises. The area is intended to be an extension of the dining area. The proposed servery is approximately 5-6 metres from the boundary fence and would be powered by electricity not a generator. The servery would be used for spirits, wine, soft drinks, coffee and draught beer (if it is possible to install this). There would also be a fridge for bottles.

The Sub-Committee noted that the concerns raised by Environmental Health and a local resident were mainly on the grounds of noise nuisance.

The Sub-Committee heard from Ms Kilduff that she had lived at her property for 15 years and not had problems before 2020 when the car park started being used as a seating area. She had complained to the pub manager regarding noise from the premises. She told the Sub-Committee that noise from the outside area had affected her health. She has at times had to leave her house and sit in her car down the road due to the noise. She did not feel the pub was being run in a way that was considerate to neighbours.

The Sub-Committee heard from the Environmental Health Officer Mr Belfield that the outside area to the west of the building is on a redundant car park. There had been a complaint received in respect of noise last year by Environmental Health but this was not followed up by the resident. This year two residents have complained to Environmental Health about noise from the outdoor seating areas. The Environmental Health Officer explained the investigations he had made using purpose-built noise measuring equipment. The recordings showed intrusive noise in the late afternoon and evening from loud conversations and laughter between 47 and 50 db with a max of 55 db. A background recording for comparative purposes when the equipment was set up showed a reading of 38 – 41 db. He advised that this is a substantial increase in acoustic terms. The property would not be likely to have been subject to this level of noise when it was used for car parking and due to screening and distancing from the other outdoor areas. The Environmental Health Officer had met with the applicants to discuss mitigation and potential controls. He noted that a number of seats had been positioned near the boundary fence and the closest residential property is only about 10 metres from the boundary. The proposed outside servery would only be about 5 metres away from the boundary and he felt could encourage customers to congregate near to it.

Mr Belfield advised that in his opinion an acoustic barrier should be installed to protect the residential properties, and that the sale of alcohol from an outdoor servery should not be approved with the area only being used for ancillary seating. The Sub-Committee noted that the applicant had included a number of additional measures on the operating schedule relating to CCTV to illustrate how they propose to promote the four licensing objectives.

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The Sub-Committee carefully considered the concerns raised by Environmental Health and a local resident and balanced those concerns with the interests of the applicant and the licensing objectives.

The Sub-Committee approved the following variations:

The name of the premises as shown on the premises licence be changed to The Fox – Pub & Kitchen.

Non standard timings for all licensable activities and opening hours be added as follows:-

Live Music – Indoors

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Recorded Music – Indoors

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Alcohol – On and Off Sales

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

Opening Hours

New Year's Eve – From the end of permitted hours until 01:00hours on New Year's Day

The Sub-Committee approved the removal of the following condition:

Annex 3, condition 1 “No person under the age of 16 will be permitted on the premises or part of the premises after 21:00 hours.”

The Sub-Committee did not approve the requested time of 22:00 for accompanied children to be on the premises. The Sub-Committee approved the following modified condition:

“Children under the age of 16 must be accompanied by an adult at all times and must be off the premises by 21:00 hours, unless on New Year's Eve when they will be permitted to remain accompanied on the premises until close.”

The Sub-Committee did not approve the following variation:

The licensing plan in accordance with drawing No. 2057 – 301 dated 4 March 2021 which accompanied the application be amended to permit the sale of alcohol from an external bar servery. The amendments to the plan are not to take effect until the works are complete and the licensing authority are notified

The Sub-Committee found that the impact on residents, due to the close proximity of residential premises, of an outdoor servery with the associated noise and activity this would bring would intensify the use of the outdoor area to the west of the premises on the former car park. The Sub-Committee found that the sale of alcohol in the outside area would exacerbate the noise nuisance and undermine the licensing objective of prevention of public nuisance. For these reasons this

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part of the variation application was rejected and the following conditions were imposed:

The outdoor seating area positioned on the former car park to the west of the pub building plan shall not be used by customers past 21:00 on any day. Customers shall not be allowed to remove glasses or bottles from the premises and take them to this area except during these hours. Prior to the use of the area commencing, details of a suitable restriction to prevent customers accessing this area shall be submitted to the Licensing Authority and this restriction shall be kept in place after 21:00 on any day. Prior to the use of the area commencing, signs indicating the restrictions on use shall be placed in a prominent position adjacent to the entrance and exit of the area and retained at all times thereafter.

The outdoor seating area positioned on the former car park to the west of the pub building shall not be used for the following activities at any time: the sale of alcoholic drinks, erection of a marquee or covering to the seating area, congregations of standing groups of customers, any screenings of TV, films or sport, and the provision of live or recorded musical entertainment.

Except for emergency egress, the bi-fold doors leading to the outdoor seating area positioned on the former car park to the west of the pub building shall remain closed at all times when any performances of live or recorded music, including from a DJ, (but excepting background pre-recorded music), are taking place within the area annotated as a Dining area/Function room on the premises plan.

The meeting commenced at 6.30 pm and finished at 9.03 pm.