

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: HOP & VINE, 111 Keighley Road, Cowling, BD22 0BE

Date of the Hearing 1 December 2022 Licensing and Appeals Sub Committee Members Councillors Myers, Moorby (Chair) and Heseltine

Reason for the Hearing To consider and determine an application for the variation of a Premises Licence under section 34 of the Licensing Act 2003 for Hop & Vine, 111 Keighley Road, Cowling('the Premises') and to make a determination under section 35 of the Licensing Act and relevant guidance.

Preliminary Matters: The Sub-Committee hearing was held in public in accordance with Regulation 14(1) of the Licensing Act 2003 (Hearings) Regulations 2005. There were no declarations of interest. The Sub-Committee considered the application for the variation of a premises licence ('the Application') made by Mr Stephen Davy ('the Applicant') under cover of a report of the Licensing Manager dated 1st December 2022 (together with appendices) ('the Licensing Report'), the Council's Statement of Licensing Policy adopted on 6 August 2021, relevant guidance issued under both section 182 of the Licensing Act 2003 and the Business and Planning Act 2020, the written representations of parties submitted prior to the hearing (contained within the Licensing Report) together with additional material submitted after publication of the Licensing Report comprising : email from Ms Nazia Shah, Planning officer with Craven District Council dated 29 Nov.2022 addressed FAO Licensing Panel, Email dated 28/11/2022 from the Applicant attaching photographs of parking spaces and copy of the Applicant's planning application dated 30/10/2019.

The sub-committee listened to the oral representations made during the hearing by: Tim Chadwick, Licensing Officer, Graham Tarn, Environmental Health Officer, [REDACTED] neighbour to the premises.

Evidence

The Licensing Report outlined the details of the Application and incorporated a copy of the Application dated 11th October 2022 (Appendix B). The Application was to vary the premises licence to permit the sale of alcohol between 12:00 and 23:00 every day and from 12:00 to 01:00 on Christmas Eve and New year's Eve. The current permitted hours for sale of alcohol being 12;00 to 21:00. The Licensing Report included the council's Planning Decision Notice dated 20 December 2019 granting planning permission for" the change of use of the premises from financial and professional services to drinking establishment and minor exterior works including replacement of front door, reinstatement of rear window and siting of condenser unit within the rear yard" (Appendix A) and written representations (Appendix E-G) from parties who wished to object to the application.([REDACTED]) There were oral representations from a Responsible Authority, namely Graham Tarn on behalf of the Council's Environmental Health Authority The Sub Committee heard from: - i. Tim Chadwick, Licensing Manager for the Council, ii. Graham Tarn, Environmental Health Officer, iii. [REDACTED] neighbour to the premises and iv. the Applicant

The Sub-Committee in reaching its decision was required, in accordance with s18(4), to take such steps as it considered appropriate for the promotion of the licensing objectives: the prevention of crime and disorder, the promotion of public safety, the prevention of public nuisance and the protection of children from harm.

Decision:

The Sub- Committee decided on a unanimous basis to reject the application as applied for, save that the extended opening hours applied for Christmas Eve & New Year's Eve would be granted

:namely 12:00 to 01:00 ,subject to planning permission having been granted for those extended hours for those dates beforehand

Reasons for the Decision

The Sub-Committee considered the Licensing Report and the representations by:

the licensing officer that this was an application to vary the permitted hours, not the premises which are restricted to the inside of the premises. The rear yard is currently being used as a beer garden by the Applicant under the Business and Planning Act 2020. That Act temporarily permitted premises limited to “on” sales only to sell “off “sales. This temporary measure has been extended until September 2023.He confirmed that the rear yard doesn’t have planning permission for use by the public.

Graham Tarn, EHO made representations on behalf of his dept as a responsible authority: That his dept did not object to the increase of hours to 23:00 for the premises (inside)and that his objection was against the use of the rear yard as a beer garden .He had received 2 complaints about disturbance caused form use of the yard, that an outside area is hard to control with the close proximity of residences. Noise includes raised voices, swearing by people under the influence of alcohol. The sound can’t be limited given the proximity of residential properties on three sides. He has sent out noise monitoring sheets to the two complainants and is looking at the times/duration of the noise levels to investigate a possible statutory noise nuisance. He reminded the committee that the noise nuisance under the licensing regime is different to that under statutory noise nuisance. The noise issues have arisen due to the introduction of licensed premises into an area that was previously a quiet residential area, especially at the back where the yard is located. The Applicant has offered to restrict use of the yard to 9 pm but that is not acceptable to Environmental Health there is child in the immediate vicinity who goes to bed at 7.30 pm.

██████ made representations that he lives next door to the premises and owns the shop next door, that there are always people smoking and drinking in the yard at the rear of the premises, his mother lives with him and his 16-year-old son, smoke comes into his shop and there is shouting, swearing & loudness. The Applicant is hardly present on the premises and the guy who runs the premises doesn’t want to know if ███████ complains to him about the disturbance from the premises.

The Applicant made representations that drinking up is currently 9pm and people are always away by 9.30 pm. The Jubilee and Queen’s funeral were exceptions. That he had done his best to speak with the objectors and that he was unaware that he was in breach of planning permission by using the rear yard, but he is now fully aware.” It is small and classy “and doesn’t get rowdy. That it is not profit driven but run for benefit of the village. It is quiet during the week and customers have asked him if he’d considered extending his hours, so thought he would apply. He offered to the Committee to close off the yard after 7.30 pm. He wants continuity of the hours for which he has applied, He accepts that parking can be an issue when the local football team go to the premises after a match. There is parking for five cars on an area on opposite side of road and he tries to prevent customers parking outside the shop next door. Patrons will need to smoke outside and if the rear yard isn’t allowed to be used the only area for smokers, apart from on the pavement, is a small area to front of premises.

The sub-committee in reaching its decision considered that: nine hours per day licensed was generous licensing hours given that the premises are mid terrace with shop/residential dwelling on one side, a dwelling on the other and residential dwellings to the rear. The licensed premises had been introduced into a residential area by the granting of planning permission to permit a change of use from financial and professional services to licensed premises. No case had been made by the Applicant that the extension was required for financial reasons but rather it was more for the convenience of patrons to save them having to move to another licensed premises at 9 pm. The sub-committee had concerns about the adverse effects of the premises on neighbours, namely the disturbing noise, smoking, and rowdy behaviour complained of by three objectors, all of whom live in very close proximity to the Premises. The nuisance caused by patrons was occurring both in the rear yard and entering/leaving the premises together with smoking outside going into Mr Bains' home. The sub-committee decided that the opening times should remain as 12:00 to 21:00 to prevent public nuisance to neighbours in what is primarily a residential area. The decision to reject the application as above was based on the licensing objective to prevent public nuisance and was reached on a unanimous basis.

Note for applicant: The sub-committee would like to remind the applicant that the planning permission does not allow any public access to the rear yard. The only permitted planning use for the yard being the siting of a condenser unit within the yard.

Any appeal against this decision must be lodged with the Magistrates Court within 21 days of being notified of this decision.

Council Solicitor

Craven DC

6th December 2022