

NEWARK & SHERWOOD DISTRICT COUNCIL
LICENSING SUB-COMMITTEE

RECORD OF LICENSING REVIEW HEARING HELD ON
29 OCTOBER 2020

10:00 HOURS

BROADCAST FROM

CASTLE HOUSE, GREAT NORTH ROAD, NEWARK NG24 1BY

*(Attendance at this Hearing and public access to it were by remote means
due to the Covid-19 Pandemic)*

HEARING TO CONSIDER AN APPLICATION FOR THE REVIEW OF A
PREMISES LICENCE IN RESPECT OF:

BRAMLEY APPLE, 51 CHURCH STREET, SOUTHWELL NG25 0HQ

SUB-COMMITTEE: Councillor Mrs R. Crowe (Chairman)
Councillor I. Walker
Councillor Mrs Y. Woodhead
Councillor Mrs K. Arnold (Reserve)

ALSO IN: Caroline O'Hare (Senior Legal Advisor – NSDC)
ATTENDANCE: Nicola Kellas (Senior Licensing Officer – NSDC)
Tony Dennis (Licensing Enforcement Officer – NSDC)

Applicant: Jill Morris
Review Supporters: Kate Cronin
Councillor Mrs P. Rainbow
Review Objectors: Jonathan Rice (Manager at Bramley Apple)
Helen Teasdale and Richard Scragg (Premise
Licence Holders)

In opening the proceedings, the Chairman advised all participants that the meeting was being held remotely using MS Teams due to the Covid-19 Pandemic and that the proceedings would be livestreamed on social media e.g. YouTube.

Prior to the commencement of the Hearing, the Panel's Legal Advisor advised all parties of the key considerations for determining the application to review the premises licence. She reminded those present that any decision must promote the four licensing objectives. She advised that any decision must be justified and proportionate to the full circumstances relevant to the application and any applied conditions must be reasonable.

Presentation by Licensing Officer

The Licensing Officer presented to the Panel details of the application made to Review the Premise Licence in respect of the Bramley Apple, 51 Church Street, Southwell NG25 0HQ. The report before the Panel presented a summary of the application. It also noted other licensed premises in the area and the representations that had been received in relation to the application, both in support and against the review.

The report set out the legislation in relation to the powers that licensing authorities had to review a premises licence, the options available to the Panel and the relevant policies and guidance.

There were no questions raised in relation to the content of the Licensing Officer's report.

Presentation by the Applicant – Jill Morris

Ms Morris advised that the purpose of application to review the premise licence was to request that the current hours be modified to more acceptable times for a premise in a residential area such as the Bramley Apple. She stated that in doing so would avoid the issues that plague the premises and requested that the Panel consider modifying the hours to the following closing hours: Sunday to Thursday – 23:00 hours; Friday and Saturday – 23:30 hours, adding that she considered these to be reasonable. She stated that the current late hours acted as a 'magnet' for late night drinkers as they were the only premise in the area that had such late hours.

Ms Morris acknowledged that the Manager, Mr. Rice, was unable to control the behaviour of the customers who congregated outside despite his best efforts. She added that she lived at the rear of the premises and was less affected by the disturbance caused by customers than those residents who lived at the front of the premise. She added that there had been a number of issues caused by the premise but the application to review was based on the current situation. Ms Morris did, however, suggest that the introduction of a designated smoking area at the rear of the premise would perhaps assist with noise disturbance at the front.

Questions to the Applicant

In considering the papers for the Hearing, the Chairman noted the meeting which had taken place between local residents and the Bramley Apple when discussions had been held as to what measures could be put in place in an attempt to alleviate some of the issues experienced by local residents. Ms Morris confirmed that she had been in attendance at the meeting.

The Chairman queried what had been the suggested hours that the premise may introduce. Ms Morris advised that the suggested hours had frequently changed during the meeting and it had been difficult to know what had been agreed. She added that despite the meeting the disturbances had continued which had led her to seek advice on how to submit an application to review a premise licence.

Councillor Mrs Woodhead queried where Ms Morris suggested that the aforementioned smoking area should be located, given that there was limited space at the premise. Ms Morris suggested there was sufficient space for it to be located either at the front or garden area at the rear of the premises.

Ms Teasdale suggested that locating such an area at either the front or rear of the premise would cause potential annoyance to someone. Ms Morris stated that she had assumed there was already provision at the front of the premises as ashtrays were provided, adding though that it would be more logical to site a smoking area at the rear at a set distance from the premise.

Presentation by Review Supporters

Kate Cronin

Ms Cronin advised that both herself and Ms Morris were representing local residents affected by the Bramley Apple. She stated that there had been groups of people congregating outside the front of the premises between the 23:00 and 02:00 hours who were shouting and swearing etc. causing residents being unable to sleep. She also highlighted issues associated with vehicle noise and drunken behaviour stating that this was unreasonable in a residential area. Both the elderly and children would likely wish to retire after 21:00 hours, adding that Mr. Tony Dennis, the Licensing Enforcement Officer (LEO), was aware of the concerns.

Ms Cronin stated that the late hours on the premise licence were the reason for the issues. She noted that a large proportion of the income for the premise arose from wet sales, suggesting it was a light-night premise for the purpose of drinking. The customers were not well managed or well behaved and the noise nuisance was constant. Ms Cronin reiterated the comments of Ms Morris in that despite the best efforts of Mr. Rice this remained unchanged and had remained an issue since the late hours were granted.

Questions to Ms Cronin

The Legal Advisor queried whether the issues with alleged noise nuisance had been worse in the past or whether this had deteriorated in recent months. Ms Cronin advised that following the lifting of the Covid-19 national lockdown on 4 July the situation had been bad through from then through to September.

Councillor Mrs Penny Rainbow (Local District Ward Member)

Councillor Mrs Rainbow advised that she had spoken with a number of residents. She had been supplied with diary sheets detailing incidents of disturbance and had also received updates from Mr. Tony Dennis. She stated that the late hours on the licence had contributed to the situation, and that people when to the premise after other establishments in the area had closed.

Councillor Mrs Rainbow commented that it was unfair that residents and neighbours of the premise had to endure the level of disturbance, adding that she hoped that the Panel would give consideration to reducing the hours of the premise licence.

Questions to Councillor Mrs Rainbow

In noting that the premise had been a pub for many years, Councillor Mrs Woodhead queried whether it had always been a problem. Councillor Mrs Rainbow advised that she had been involved with residents and their concerns since she became a district councillor some 5 years previously.

Mr. Rice queried whether the issues Councillor Mrs Rainbow referred to had been about the Church Street area or specifically the Bramley Apple. Councillor Mrs Rainbow confirmed that the discussions she had held had been about customers who frequently the Bramley Apple.

Mr. Rice also queried whether there had been any call outs about other premises on Church Street. Councillor Mrs Rainbow advised that she was not able to answer that as she did not know.

Presentation by Review Objectors

Jonathan Rice (Manager of Bramley Apple)

Mr. Rice advised that it had been his understanding that following the aforementioned meeting in August with residents there was to have been a four week period to see if the agreed measures would improve the situation and that he was unsure as to why this had not happened.

He stated that the Police had only been called to the premise on one occasion and that he himself had requested their presence to disperse people on the street, not customers of the Bramley Apple. He also noted that he had been in contact with Tony Dennis to discuss the issues.

Mr. Rice referred to the membership card scheme they had introduced. This prevented customers from entering the premises unless they had a card. He noted that customers had congregated at the premise attempting to gain entry but that Bramley Apple employees had attempted to disperse them.

In relation to the issues with parking mentioned in the hearing paperwork, Mr. Rice advised that parking on the whole of Church Street was problematic. Efforts were made to prevent cars parking on the double yellow lines at the front of the premise but ultimately it was the Council's responsibility to enforce parking regulations.

In an attempt to address issues raised both verbally and in the paperwork, Mr. Rice advised that he was working with Tony Dennis in an attempt to resolve the issues. He added that Church Street was a magnet for other licensed premises too and stated that the premise was Covid-19 compliant.

In relation to the images circulated of people outside the front of the premises he stated that they could be bed and breakfast guests who were staying at the premise.

In noting the historic nature of some of the complaints he advised that these had occurred prior to himself and the current Designated Premise Supervisor (DPS), Mr. James Kemp, being employed at the Bramley Apple.

Mr. Rice acknowledged the comments of Ms Morris in relation to the designated smoking area, agreeing that such an area should be established.

Questions to Mr. Rice

The Chairman queried whether any Council Parking Enforcement Officers assisted with the issues of on-street parking on Church Street. Mr. Rice advised that they did not. He had reported the issues to the Police who had repeatedly advised that it was the Council's responsibility.

Councillor Mrs Woodhead acknowledged Mr. Rice's comments but added that they appeared to refute all the written complaints. Mr. Rice stated that all premises had some issues, adding that there were other people and licensed premises on Church Street.

The Legal Advisor queried what hours Mr. Rice thought had been agreed at the meeting held in August. Mr. Rice advised that the residents had wanted the terminal hour to be 23:00 hours each night but that he had said 23:00 hours in the week and 00:00 hours at the weekend.

In relation to the membership scheme, the Legal Advisor queried whether it attracted people to the premise attempting to gain entry regardless of whether they were in the scheme or not. Mr. Rice advised that the scheme was limited to staff from other licensed premises, care home staff and a small number of well-behaved customers. Membership of the scheme was offered to them by the Bramley Apple and could not be applied for and the door to the premise was locked at 22:30 hours. Implementation of the scheme had been posted on social media. He added that the behaviour of the card holders had been exemplary. This had initially caused people to try to gain entry but they had been moved on.

The Licensing Officer queried what measures had been put in place to avoid membership cards being passed to another person. Mr. Rice confirmed that they had been issued to people who were known personally to them and if they chose to hand them to someone else, they would have their membership revoked. He also confirmed that the scheme was limited to 30 people but that it had not been properly implemented due to the application to review the premise licence.

Ms Cronin referred to the 15 incidents recorded and submitted as part of her evidence stating that it was her belief that CCTV for all of those had not been viewed but that some could not be refuted. Mr. Rice confirmed that he had not withheld any CCTV footage from being viewed by Mr. Dennis. He added that the photographs submitted were a split second in time and agreed they did not look good.

Mr. Scragg queried whether it would be possible to install some sort of barrier at the front of the premises to prevent people congregating. Mr. Rice advised that there were already signs up but that he would talk to Mr. Scragg outside of the meeting in this regard.

Helen Teasdale (Premise Licence Holder)

Ms Teasdale commenced by stating that she endorsed the previous comments of Mr. Rice. She advised that all the licensed premises on Church Street had standard hours but it was just the Bramley Apple that were choosing to use them, adding that it was the behaviour of customers and not necessarily the hours that was the real issue. She stated that since the introduction of CCTV at the premises the situation had improved and that there were witness statement to back that up.

It was stated that the premise had been a licensed premise since 1913 and provided people with a place to socialise with Ms Teasdale acknowledging that there needed to be a balance between the lateness of the licensed hours and potential disturbance. She noted that Ms Morris did not frequent the establishment and that this may be, in part, why it caused her a disturbance.

Ms Teasdale stated that the Manager and the DPS were attempting to work with the community and that the intended trial period of new measures agreed at the August meeting had not been given a chance as the review application had been submitted 5 days later. She added that she would wish to see the results of a proper trial and whether the membership card scheme would be effective, noting that the Covid-19 Pandemic had affected all such plans. In noting the imminent introduction of Tier 3 local lockdown measures Ms Teasdale suggested that any review be postponed until normal hours were resumed.

Questions to Ms Teasdale

Ms Morris queried what Ms Teasdale had based her comments on in relation to her frequency at the premise and her tolerance to noise. Ms Teasdale advised that she had taken it from the comments of Mr. Rice in that Ms Morris did not go into the premises adding that a person's bedtime would have a bearing on their tolerance to noise disturbance. Ms Morris advised that she had previously frequented the premise when it had been more of a community venue and that regardless of when she retired she would wish to sleep well.

Ms Cronin queried whether Ms Teasdale knew the reasons as to why the application to review had been submitted only 5 days after the August meeting and how she could state that the customers were well behaved when she did not live close to the premise. Ms Teasdale advised that she was not aware of the reasons for the submission and that it was the DPS's goal to ensure good behaviour by customers. She also agreed that the congregation of noisy groups outside the premise was not reasonable.

Mr. Rice acknowledged the licensing experience of Ms Teasdale and asked her to rate both himself and the DPS in comparison to previous employees. Ms Teasdale advised that she considered them to be proactive and imaginative e.g. introduction of the membership card scheme. They were happy to admit when issues had arisen and worked to resolve them. She acknowledged that they should be rightly proud of the work undertaken to ensure that the premises were covid-19 compliant.

At this point in the meeting, the Chairman asked that Mr. Tony Dennis (LEO), address those present to give some background to his involvement with the premise.

Tony Dennis (LEO)

Mr. Dennis advised that he had dealt with numerous issues over the years and that there had been a succession of Managers and DPSs. There had been some 9 complaints in 2018 and he had held a meeting with them in 2019 when measures had been put in place to mitigate these. This had resulted in an improvement to the situation. The national lockdown due to the Covid-19 Pandemic had resulted in the premise being closed with it re-opening in July 2020. He had attended the meeting in August between the Bramley Apple and residents. He stated that he was impressed with the current DPS and the Manager and that they had installed CCTV at the premise. He also acknowledged that he worked with the Police, the pub and the community.

Questions to Mr. Dennis

Councillor Mrs Woodhead queried whether Mr. Dennis considered the premise to be improved from previous years and whether he agreed with late night drinking at any establishment. Mr. Dennis stated that the DPS and Manager had good intentions and that he believed they should have been given the opportunity for the membership card scheme to work. He added that it was his personal opinion that the hours on the premise licence were too late for its location in a residential area.

Ms Cronin queried whether Mr. Dennis had viewed the CCTV in relation to all the entries on her submitted evidence. Mr. Dennis confirmed he had viewed what he could.

Summing Up

Jill Morris

Ms Morris advised that during the forced closing hour of 22:00 hours due to Covid-19 regulations there had been no incidents of nuisance and therefore it could be taken that the late hours on the premise licence created the problems. She stated that a termination hour of 23:00 and 23:30 hours were reasonable and would permit everyone to have a reasonable life. She also commented that it was difficult to believe that all members of the car scheme were care workers.

Kate Cronin

Ms Cronin stated that all supporters of the review would wish to see the hours reduced to 23:00 and 23:30 hours. She added that she had witnessed issues at the Bramley Apple and not at other premises in the area. She clarified that the review application had been submitted when it had because there had been a discrepancy with the hours agreed at the August meeting. She again reiterated that Mr. Rice worked hard to resolve the issues but that young people and drinking at the premise were not controlled.

Councillor Mrs Penny Rainbow

Councillor Mrs Rainbow stated that she had listened to all the verbal submissions and had read the paperwork for the meeting but would still request the Panel to consider reducing the hours on the Premise Licence for the benefit of local residents.

Jonathan Rice

Mr. Rice stated that he wished they had been given the opportunity to carry out the agreed measures from the August meeting as he believed they would have resulted in improvements. He clarified that it was not only care workers who were part of the membership scheme but also employees of other licensed premises. He added that guests of the premise also liked to have a drink in the bar.

Helen Teasdale

Ms Teasdale agreed with the comments of Mr. Rice adding that she would have liked to see the results of the trial prior to the review. She stated that a lot of the issues raised were historic and had nothing to do with the current Manager and DPS. She finished by stating that if the hours were reduced, the other licensed premises on Church Street may well begin to utilise their later hours to take the custom.

Richard Scragg

Mr. Scragg stated that the Bramley Apple did not wish to create issues for local residents. There was now a good team at the premise and he requested that they be given a chance to improve the situation.

Decision

The Decision of the Panel was to add the following conditions to the Premise Licence:

1. No drinks to be taken outside at the front of the premises after 19:00 hours any day of the week.
2. Appropriate signage to be displayed at exits to the premises reminding customers to be considerate of neighbouring residents and to ensure noise levels are kept to a minimum - other alternative wording of the same meaning was acceptable.

The licensing hours remain the same as in the current Premise Licence.

The Panel also made the following recommendations/comments:

- A. The licence holder and management of the premises are reminded that all conditions set out in Appendices 1, 2 and 3 of the Agenda pack applied.
- B. Particular emphasis was placed on reminding the licence holder and management of the premises of condition Annex 3; 4 – The consumption of alcohol in beer gardens or outside areas shall cease at 23:00. This applies to the rear and back garden of the premises as no drinks shall be permitted outside at the front of the premises after 19:00 hours (see 1 above)
- C. The licence holder and management of the premises have indicated that after 22:30 hours each day no customers save for “members” are permitted entry to the premises and last entry for members is 23:00. This is taken by members as a show of “good faith” by the licence holder and management of the premises and although is not enforceable in terms of the licence, is one of the ways they can work with local residents to prevent further issues.
- D. The suggestion of a designated smoking area at the rear of the premises was raised at the meeting. Whilst this was not a compulsory feature to have, it did seem a proposal that the premises were keen to explore and which could solve issues of people gathering outside at the front of the premise causing noise nuisance.

The reasons for the Panel's decision are listed as below:

On the evidence, the Panel found that:

- a) The Licence holder and current manager were clear in their determination and desire to work with residents and to resolve issues that arose.
- b) The panel considered that their idea of limited opening to members and known guests for late night hours was acceptable. Care would need to be taken where the pub had "non-members in" before 22:30 hours as they could remain into members only time and not be asked to leave. The Panel said it was essential this be managed properly.
- c) The conditions imposed by the Panel supported the licensing objectives and should go far enough to reduce issues of noise from the later operating hours of the premises.
- d) The Panel had made recommendations which it felt would also help the Premises Licence holders and Manager to allow the premises to operate and minimise the disturbance to others.
- e) Whilst there had been issues in the past, the Premise Licence holders and management had tried to agree appropriate terms in August 2020 at a meeting and had also taken steps to try to prevent nuisance occurring.
- f) Many issues relating to noise may be dealt with via the Council's Environmental Health Team.
- g) The frustration and anger of the residents was acknowledged and that there had been incidents in recent months where patrons had disturbed their rest or sleep. The Panel did not minimise the impact this would have had on them.
- h) The Panel felt confident that the new management team, the members only scheme for later hours plus CCTV had improved the situation until recently and that further improvement was possible.
- i) The current management team should be given the chance to prove that they were serious and committed to running the pub without allowing patrons to cause nuisance and disturb residents.

Meeting closed at 12.50 pm.