

eight representations were received from “Other” Persons, which mainly related to the potential for noise and noise experienced when temporary event notices had been submitted. She confirmed that there had been no representations received from Responsible Authorities. The Specialist - Licensing referred to the temporary event notices that were held at the premises and confirmed that there had been no objections to the notices and the events had taken place. She advised that each premises could be subject to up to 15 temporary event notices per calendar year, but they may not exceed 21 days in total. She confirmed that the applicant had complied with the advertising of the licence as required under the Licensing Act 2003. Reference was made to the conditions currently attached to the premises licence which were outlined in the agenda report. She concluded by outlining the options available to the Sub-Committee and the right of appeal open to the applicants.

The Committee was addressed by the Applicant in support of his application. He explained that he had held a meeting with seven of the Interested Parties to try and address some of the issues raised. The applicant said that he would be willing to reduce the hours open to the public (Mon-Thurs 11.00am - 9.30pm and Fri-Sat 11.00am - 10.30pm) as the business was only run by himself and his wife. He had only applied for seven days as he planned to open on Christmas Eve, Boxing Day and New Year’s Eve and these days could fall on a Sunday. The Applicant indicated that should the Licensing Sub Committee feel it was more appropriate to grant a four day licence he would be happy to discuss this further. The applicant offered to erect appropriate signage on the gate to address parking problems and close the garden area at 9.00pm which would stop people congregating outside and making a noise. He agreed to erect a 6ft fence at the bottom of the garden to stop overlooking and to also construct a small smoking area to the rear door of the building which would stop noise outside the front of the premises. He confirmed that he would apply signage in three places in the garden area asking patrons to respect the neighbours and keep noise to a minimum.

The Committee was then addressed by four people representing ‘Other Parties’ in objection to the application. Points raised related to following:

- Concern over the premises which was once a café serving food being turned into a pub.
- This type of premises was not suitable in this location.
- Concerns over smoke drifting into adjoining gardens and properties not being able to have their windows open.
- Concerns over noise and rowdy disruption behaviour.
- A lot of noise was experienced on Easter Sunday with raised voices and bad language being heard well after 10.00pm.
- Local residents had the right to enjoy peace and quiet in their homes.
- Concerns over public safety due to a narrow pavement at the front of the property.
- Longer hours would result in difficulties in controlling rowdy behaviour.
- There were approximately 30 properties within 25-30 metres of the premises who would be affected by anti-social behaviour.
- The applicant was acting illegally and was subject to enforcement action.
- Extent of licensable area could not be established.
- Planning conditions had been breached. The business was still registered as an A3 establishment.

The Specialist – Licensing explained that the Licensing Department normally kept a set of plans but unfortunately they had been misplaced so it could not be confirmed if the

garden was part of the current licence. She advised that if members were minded to grant the licence conditions could be attached to restrict the use of the garden.

In response to questions, members were informed of the following:

- The Specialist – Licensing was not aware of any enforcement action but was aware that planning officers had been in touch with the applicant.
- TENs were separate from the existing premises licence.
- The applicant was in the process of applying for change of use.
- The premises was limited to 60 people during the TENs events.
- The garden area would be checked on a regular basis. The bar had a window overlooking the garden. CCTV would also assist with monitoring of the garden area.
- The Fire Risk Assessment allowed up to 80 people on the premises.
- The current DPS was Rebecca Davis. The Applicant was currently being trained. The DPS did not have to be on the premises when it was open to the public.

The Specialist - Licensing and Parties with the exception of the Specialist - Legal and the Case Services Officer – Support Services, attending in an advisory capacity only, withdrew from the meeting to allow the members of the Sub-Committee to consider their decision in private.

Members of the Sub-Committee considered their decision in private session and were mindful of the advice given to them by the Specialist – Legal.

The Chairman asked the Specialist – Legal to give a summary of the advice given to them during the private session. She advised that:

- Any conditions added to the licence should be enforceable.
- Reasons for granting or refusing the licence were required.
- Planning was not the remit of the Licensing Sub Committee.

The Chairman informed those present at the hearing of the decision of the Licensing Sub-Committee:

Decision

In respect of the application to vary the Premises Licence at The Etsome Arms, 6 West Street, Somerton, TA11 7PS under Section 35 of the Licensing Act 2003, the Licensing Sub Committee has determined to GRANT the variation of the premises licence as applied for, but subject to the following conditions to promote the licensing objectives of the prevention of public nuisance.

1. The relevant mandatory conditions under the Licensing Act 2003;
 2. Conditions consistent with the applicant's Operating Schedule;
 3. The voluntary conditions offered by the Applicant;
- The hours opened to the public and the supply of alcohol to be amended to Sunday to Thursday 11.00am to 9.30pm and Friday to Saturday 11.00am to 10.30pm
 - The use of the garden area with the exception to the designed smoking area is restricted for use between the hours of 11.00am to 21.00pm to reduce the potential impact on neighbours of any noise nuisance.

Reasons:

The Sub-Committee took full account of the significant number of representations made by Other Parties in relation to concerns about public nuisance but were mindful of the absence of any official complaints associated with the operation of the current licence, and the lack of any evidence to justify future concerns over the extended hours applied for.

In reaching their decision Members took into account the lack of representation by Responsible Authorities. They balanced the right for local residents' enjoyment of their homes against the right of the applicant to operate their business and were mindful that there is a process for reviewing the licence if any noise issues arise in the future.

The members were mindful that the applicant had voluntarily offered to reduce the opening hours, and to erect fencing and appropriate signage in the garden area of the premises and erect a small smoking area to the rear door. On balance, they were satisfied this would be adequate to promote the Licensing Objective of the Prevention of Public Nuisance.

The members noted that the applicant is in discussion with the Planning Authority but planning is not the remit of the licensing committee.

All parties are reminded that there is a right of appeal against the decision of the Licensing Authority. Such an appeal is to be made within 21 days of the date of receipt of the formal Notice of Determination, and should be made to the South Somerset Magistrates Court.

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Chairman

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Date