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Licensing Sub Committee

Held at Members' Lounge, Ryedale House, Malton
on Friday 12 November 2010

Present

Councillors Mrs Arnold (Chair), Mrs Frank and Hope

Mr S Atkinson – Applicant
Ms L Horrigan – Manager of the Sun Inn
Mr Barnes – Interested Party

In Attendance

Fiona Brown, Ronnie Maclure and Susan Shuttleworth

Minutes

1 **Declarations of Interest**

No declarations of interest were made.

2 **To determine an application to vary a premises Licence from Mr Simon Atkinson for the Sun Inn, 136 Westgate. Pickering**

The Chairman welcomed representatives to the meeting and appropriate introductions were made.

The Chairman reported that the hearing was subject to the prescribed procedure, a copy of which had been circulated with the agenda. Representatives were reminded that opening statements were to be brief as all parties had been afforded the opportunity to make detailed written submissions and to consider the submissions from other parties. The Chairman also advised those present that additional information produced at the hearing without prior disclosure might not be heard if, following objections to its submissions, the Sub Committee so determined.

The Chairman also reminded those present that their representations should be relevant to the licensing objectives under the Licensing Act 2003, namely:

- The Prevention of crime & disorder
- Public Safety
- The Prevention of public nuisance
- The protection of children from harm

The Council's Licensing Officer then presented the report, which had been circulated with the agenda and referred to the relevant points contained in the guidance.

The premises were currently licensed for the supply of alcohol as detailed in the report and also for the Provision of Regulated Entertainment by way of Live Music (limited to two entertainers) and Recorded Music indoors at the premises as follows:

- Sunday to Thursday 11.00 to 23.00 hours
- Friday and Saturday 11.00 – 23.30 hours
- 11.00 – 00.00 hours on the Friday and Saturday of each May, Spring/Whitsun, August and Easter Bank Holiday weekends and for Christmas Even, Boxing Day and New Year's Eve.

The application for the variation to the licence sought to provide the following licensable activities:

- Provision of live music limited to two guitar players/singers in the beer garden to the Premises between 16.00 and 19.30 hours on Friday, Saturday and Sunday during the summer months 1st May to 30th September each year along with all recognised Bank Holidays, Halloween, the Pickering 60s weekend, the Pickering War Weekend and Bonfire Night.

All Responsible Authorities had been consulted and the Licensing Authority had received relevant representations from:

- 20 interested parties (18 in support and 2 opposed to the application)
- a petition signed by 71 people in support of the application.

The two interested parties opposed to the application appeared to be mainly concerned about the potential for noise nuisance caused by regulated entertainment. Copies of all relevant representations received by this Authority were included with the agenda.

Representatives put their respective cases to the Sub Committee Members. Following questions from Members, the representatives summed up their cases prior to the Committee retiring to consider the application, after which the following decision was announced:

Decision

That the application for the variation to the licence to provide the following licensable activities:

- Provision of live music limited to two guitar players/singers in the beer garden to the Premises between 16.00 and 19.30 hours on Friday, Saturday and Sunday during the summer months 1st May to 30th September each year along with all recognised Bank Holidays,

Halloween, the Pickering 60s weekend, the Pickering War Weekend and Bonfire Night

be granted as submitted and that the licence be subject to a review under the Licensing legislation should any complaint or problems arise in the future.

Reasons

The evidence presented to the Sub Committee both written and verbal did not persuade members of the Sub Committee that there was sufficient evidence that the public nuisance licensing objective was not being promoted by the current premises holder. That the application to vary the licence should be granted and that the licence could be subject to a review under the Licensing legislation should any complaints or problems arise in the future. In coming to this decision the members of the Sub Committee noted in particular:-

1. That there has been no substantiated noise complaints since the present premises licence holder took over these premises in March 2010.
2. That the applicant was aware that there had been complaints in the past and has put in place measures to prevent future problems of that nature.
3. The Sub Committee felt that a 19:30 finish was not unreasonable in the circumstances.
4. The Sub Committee is aware that Government Guidance states that the Licensing Authority may not impose any condition unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the Licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute. It is perfectly possible in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are needed to promote the licensing objectives, In this particular case the Sub Committee is aware of the provisions of the Environmental Protection Act 1990 and that this legislation may adequately deal with this type of complaints mentioned by the interested party and thus a specific condition with regard to potential noise nuisance is not required at this stage. The Sub Committee is aware that Ryedale`s Licensing Policy states that "The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employees and operators, for example the

Gambling Act 2005, the Disability Discrimination Act 2004, Health and Safety at Work etc Act 1974, Environmental Protection Act 1990 and the Regulatory Reform (Fire Safety) Order 2005. The Licensing authority will ensure, therefore, that no representations from Responsible Authorities shall overlap and duplicate current legislation and shall avoid attaching conditions that duplicate other regulatory regimes as far as possible”.

5. The Sub Committee recognises that the additional conditions offered by the applicant with regard to the Prevention of Public Nuisance licence objective may help to reduce the potential for noise related incidents.
6. The Sub Committee has also taken into account Government Guidance which states that “any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid unnecessary or disproportional measures that could deter events that are valuable to the community, such as live music”. Further, it also states” where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping”.

The meeting started at 10.00 am and finished at 11.00am.