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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Tuesday 12 February 2019 in the Council Chamber, Town Hall, Matlock at 10.30am

PRESENT

Councillor Jean Monks - In the Chair

Councillors Helen Froggatt and Joyce Pawley

Eileen Tierney (Licensing Manager), Katie Hamill (Senior Solicitor) and Simon Johnson (Democratic & Electoral Services)

Ms Jacqueline Ferguson-Lee (Applicant's Representative for Wirksworth Heritage Centre), Mr Roger Shelley (Applicant for Wirksworth Heritage Centre & General Manager), Ms Sally Barkley-Smith (Applicant's Witness & Chair of Trustees for Wirksworth Heritage Centre), Ms Denise Bristow (Applicant's Witness) and Ms Saskia North (Applicant's Witness).

Councillor Irene Ratcliffe (Witness for Mr Robert & Mrs Alison Baird), Mr Robert & Mrs Alison Baird (Representation), Mr Barry & Mrs Siobhan King (Representation) and Mr Kevin & Mrs Ann Wood (Representation).

Councillor Ann Elliott attended as an observer

335/18 – ELECTION OF CHAIRMAN

It was moved by Councillor Helen Froggatt, seconded by Councillor Joyce Pawley and

RESOLVED
(Unanimously)

That Councillor Jean Monks be elected as Chairman of the Sub-Committee

336/18 – LICENSING ACT 2003 - APPLICATION FOR PREMISES LICENCE: WIRKSWORTH HERITAGE CENTRE, ST JOHN STREET, WIRKSWORTH, DE4 4DS

The Sub-Committee considered an application for a Premises Licence made under section 17 of the Licensing Act 2003, by the General Manager of Wirksworth Heritage Centre, to allow the sale of alcohol for consumption on and off the premises.

The Chairman invited the participants to introduce themselves, asked whether any party

wished the Sub-Committee to consider the application in private and confirmed that the Sub-Committee was quorate.

The Licensing Manager gave an outline of the application.

The Sub-Committee and the other parties were afforded an opportunity to request clarification of the Licensing Manager's report.

Councillor Irene Ratcliffe, in the capacity as witness only, was invited to make representation on behalf of Mr Robert Baird & Mrs Alison Baird to the Committee.

The Sub-Committee had an opportunity to question Councillor Irene Ratcliffe. The Applicant's representative, Ms Jacqueline Ferguson-Lee and the Applicant, Mr Roger Shelley from Wirksworth Heritage Centre, were also afforded the opportunity to request clarification of any points.

Mr Robert Baird was invited to make representation to the Sub-Committee which included the distribution of photographic evidence.

The Sub-Committee had an opportunity to question Mr Robert Baird. The Applicant's representative, Ms Jacqueline Ferguson-Lee and the Applicant, Mr Roger Shelley from Wirksworth Heritage Centre, were also afforded the opportunity to request clarification of any points.

Mr Barry King was invited to make representation to the Sub-Committee.

The Sub-Committee had an opportunity to question Mr Barry King. The Applicant's representative, Ms Jacqueline Ferguson-Lee and the Applicant, Mr Roger Shelley from Wirksworth Heritage Centre, were also afforded the opportunity to request clarification of any points.

For clarification Ms Katie Hamill, Senior Solicitor, informed the Sub-Committee and all present that the grant of a probationary licence was not permissible in law.

Mr Kevin Wood and Mrs Ann Wood were invited to make representation to the Sub-Committee which included the distribution of photographic evidence.

The Sub-Committee had an opportunity to question Mr Kevin Wood and Mrs Ann Wood. The Applicant's representative, Ms Jacqueline Ferguson-Lee and the Applicant, Mr Roger Shelley from Wirksworth Heritage Centre, were also afforded the opportunity to request clarification of any points

Ms Jacqueline Ferguson-Lee and Mr Roger Shelley then presented the case for Wirksworth Heritage Centre calling Ms Sally Barkley-Smith, Ms Denise Bristow and Ms Saskia North as witnesses.

The Sub-Committee had an opportunity to question the Wirksworth Heritage Centre representatives.

All parties were afforded an opportunity to request clarification of any points.

The Sub-Committee members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

337/18 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Jean Monks, seconded by Councillor Joyce Pawley and

RESOLVED (Unanimously)

The Sub-Committee has heard from the Licensing Manager , Ms Eileen Tierney, Mr Roger Shelley the applicant, his representative Jaqueline Ferguson-Lee, the applicant's witnesses and also from Councillor Ratcliffe, Mr Baird, Mr & Mrs King and Mr Wood who objected to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration of the representations put forward the Sub-Committee has resolved to delegate authority to the Licensing Manager to **Grant the application with conditions.**

To ensure the promotion of the licensing objectives the imposition of the following conditions on the licence is necessary:

1. The Sale of Alcohol for consumption on and off the premises shall be permitted Mondays - Saturdays between 09.00 hours and 22.00 hours and on Sundays between the hours of 09.00 hours and 18.00 hours.
2. The premises may be open to members of the public Mondays - Saturdays between 09.00 hours and 22.30 hours and on Sundays between the hours of 09.00 hours and 18.00 hours.

The Mandatory Conditions will be imposed in respect of:

- a. The supply of alcohol
- b. Irresponsible promotions
- c. Free tap water
- d. Proof of age scheme
- e. Requirement to make small alcohol measures available
- f. Sale of alcohol – duty + VAT
- g. Exhibition of Films
- h. Door Supervisors

In addition to the mandatory conditions the Sub-Committee has resolved to amend the conditions contained within the Operating Schedule for certainty in order to promote the licensing objectives.

Prevention of Crime and Disorder:

a) During the evening, the front retail and museum areas as identified on the Plan annexed to the Licence will be isolated from public access, allowing staff to monitor activity in the café and courtyard/ Studio meeting room areas carefully.

b) CCTV camera shall be installed, maintained and operated in areas to which the public have access including the courtyard area with month long recording. There shall be signage explaining this to customers. The CCTV system will be fit for purpose and capable of providing an image of evidential quality. Images shall be retained for at least 31 days and shall be made available to officers of a responsible authority upon request.

c). An incident book will be kept to record all incidents and refusals. The book shall be made available for inspection by the Police and other Responsible Authorities immediately upon request and be retained for a period of 3 years.

d) There shall be two staff panic buttons which shall be maintained to good working order.

e) Staff shall be trained during their induction in understanding acceptable and unacceptable behaviour, and to spot signs of excessive alcohol consumption, with guidance notes on serving of alcohol issued by the qualified personal licence holder (the Designated Premises Supervisor).

f) Staff training shall be held regularly for all members of staff and shall include Challenge 25 policy, drugs policy, serving to and dealing with drunken customers policy and training records will be kept on the premises and made available to officers of a responsible authority upon request.

g) Except during pre-advertised events; Alcohol will only be sold for consumption on premises to those customers ordering food and through retail in the shop for consumption off premises.

The conditions in the Operating Schedule relating to Public Safety are as stated

Prevention of public nuisance:

a) A minimum of 2 trained staff will remind customers to leave quietly at closing time.

b) Prominent Signage will be displayed at the premises including the courtyard reminding customers to respect neighbours and keep noise to a minimum, including when leaving the premises.

The conditions in the Operating Schedule relating to The Protection of Children from Harm remain as stated

Delegation is given to the Licensing Manager to remove the condition for external CCTV if it cannot be facilitated.

The Sub-Committee are mindful of the fact that if any issues arose as a result of the operation of the premises, residents and responsible authorities would be able to bring a review of the premises licence which would bring the matter back before the Sub-Committee.

A full decision notice will be issued and sent out with 5 working days.

Rights of Appeal against this decision should be made to the Magistrates' Court acting for the petty sessional area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.

Meeting Closed 1.43pm

337/18 LICENSING & APPEALS SUB-COMMITTEE DECISION (Licensing Act 2003)

**Record of proceedings of the Derbyshire Dales District Council's
Licensing & Appeals Sub-Committee held on Tuesday 12 February 2019
at 10.30am.**

Full name of Applicant: Wirksworth Heritage Centre

Premises Address: 31 St. John's Street, Wirksworth, Derbyshire DE4 4DS

Reason for attendance at the Sub Committee: To determine an application for a Premises Licence made under section 17 of the Licensing Act 2003, to allow the sale of alcohol for consumption on and off the premises.

CONSTITUTION OF COMMITTEE

Councillor Jean Monks (Chair)
Councillor Helen Froggatt
Councillor Joyce Pawley

REPRESENTATIONS MADE BY

Councillor Irene Ratcliffe on behalf of Mr Robert Baird and Mrs Alison Baird.
Mr Robert Baird
Mr Barry King
Mr Kevin Wood & Mrs Ann Wood

NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Eileen Tierney – Licensing Manager
Katie Hamill – Senior Solicitor
Simon Johnson – Democratic & Electoral Services
Councillor Ann Elliott - Observer

PREMISES REPRESENTATIVES

Ms Jacqueline Ferguson-Lee
Mr Roger Shelley - General Manager
Ms Sally Barkley-Smith – Chair of Trustees

1. The meeting was conducted in public, with the agreement of all parties.

The Sub-Committee withdrew into private session to consider its decision and were advised by the Sub-Committee legal representative that only evidence that was relevant to the four

licensing objectives could be taken into consideration and that it was important that any conditions attached to a licence should be to promote the licensing objectives.

2. Chairpersons note of evidence (i.e. concise details of all oral and written details put before the Committee)

The Sub-Committee considered the report and comments made by the Licensing Manager including details of the application process and that the objection from Derbyshire County Council Trading Standards had been withdrawn following agreement by the applicant to incorporate suitable conditions into the Operating Schedule.

The Sub-Committee heard from the Licensing Manager that there had not been any objection from Environmental Health and that the Applicant had applied for three Temporary Event Notices within 3 months and that no complaints were received by the Council for the use of the premises during those events.

The Sub-Committee listened carefully to the representations by Councillor Irene Ratcliffe, Mr Robert Baird, Mr Barry King, Mr Kevin Wood and Mrs Ann Wood on the current level of light pollution, noise nuisance and disruption including traffic congestion to the residents as a result of the use of Wirksworth Heritage Centre.

Councillor Ratcliffe clarified the position of a nearby restaurant in respect of residential properties and explained that the Courtyard of the Wirksworth Heritage Centre is approximately 8 yards from a residential property and asked the Sub-Committee to give consideration to the impact of noise should the licence granted and hours of operation be extended.

Mr Baird clarified the location of his property and provided photographic evidence of the premises. Mr Baird made representations about the impact of longer opening hours and how he believed noise nuisance and light pollution would be intrusive. Mr Baird requested that the Sub-Committee considered restricting the hours of use. Mr Baird confirmed that he didn't experience any issues with the use of the premises during the events which were subject to a Temporary Event Notice but highlighted that at this time of year there is little use of the Courtyard.

Mr King made representations concerning the potential for noise pollution when customers leave the premises and that he has experience disturbance on one occasion by customers speaking loudly when saying their farewells. Mr King appreciated the use of signs and the conditions put forward but had concerns about nuisance and increased traffic on a narrow road. Mr King requested that the Sub-Committee consider the imposition of a probationary licence.

Mrs Wood clarified the location of her property and provided photographic evidence of the proximity of the Courtyard. Mrs Wood confirmed that the café was not an issue but that there is noise during the day when customers sit in the courtyard which can be heard from her property. Mrs Wood highlighted her concerns that this noise would continue late into the evening if the licence were to be granted.

Mr Wood made representations concerning public safety including the structural safety of the boundary wall.

Ms Ferguson-Lee outlined the application and made representations concerning the types of events anticipated to be held at the venue. Ms Ferguson-Lee explained that she was aware of the proximity of her neighbours and that blue screening, blinds and (subject to further planning permission) courtyard screening, had and will be put in place to mitigate the light and noise pollution experienced by neighbouring residents. Ms Ferguson-Lee explained that events are advertised and handed forward a leaflet containing the upcoming events at the premises.

Mr Shelley explained to the Sub-Committee that the premises already had planning permission to operate up to 22.30 hours Monday-Saturday and up to 18.00 hours on Sundays and that the café is currently open until 17.00 hours. Mr Shelley informed the Sub-Committee that all events at the venue were carefully controlled by two members of staff, covering up to a capacity of 30 people inside the lower floor of the building and 16 people outside; if there was an additional event on the upstairs floor then an extra member of staff or volunteer would be at hand. Mr Shelley explained that they had procedures in place to minimise noise when customers left the premises and would ensure blinds were shut to minimise any light pollution. Mr Shelley offered to reduce the hours sought for the sale of alcohol between 09.00 hours to 22.00 hours Monday to Saturday and 09.00 hours to 18.00 hours on Sundays.

Ms Ferguson-Lee and Mr Shelley were questioned by both the Sub-Committee, Mr Robert Baird and Mr Kevin Wood on the following points:

- Likely capacity figure
- Traffic travelling down St Mary's Gate.
- Experience of previous events with alcohol
- Location of a smoking area
- Management of guests arriving and leaving the building.

Mr Shelley confirmed that whilst the intention was to open the café on Thursday, Friday and Saturdays to 22.30 hours they may open the café on other dates and therefore sought a licence which enabled the sale of alcohol without applying for Temporary Event Notices on each occasion. Mr Shelley explained that his planning consent enabled the café to be open to 22.30 hours and this application sought to permit the sale of alcohol to complement that permission and the activities at the premises.

3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available)

The Sub-Committee found that:

The Applicant had volunteered conditions within the operating schedule part of the application and these had been modified and were accepted by the Licensing Manager

Derbyshire County Council Trading Standards had initially opposed the application on the basis that the steps described in the Operating Schedule were not sufficiently precise and clear about the measures the premises licence holder intends to adopt, particularly to protect children from harm. The Sub-Committee noted that the applicant had agreed suitable conditions and the objection had been withdrawn.

Derbyshire Local Safeguarding Children board made representations which proposed that the safeguarding policy should be reviewed and updated in line with the requirements of Working Together 2018, Keeping Children Safe in Education 2018 and GDPR and it should be reviewed annually thereafter. The Sub-Committee noted that a DBS check should be carried out for members of staff who supervise sessions attended by children.

There were no further representations from any of the Responsible Authorities.

Councillor Irene Ratcliffe, Mr Robert Baird, Mr Barry King, Mr Kevin Wood and Mrs Ann Wood all gave evidence of the current level of light pollution, noise nuisance and disruption including traffic congestion to the residents as a result of the use of Wirksworth Heritage Centre.

Wirksworth Heritage Centre have previously held 6 events which included the use of the outdoor courtyard, which the use of is covered under the original planning consent.

The maximum capacity for the building under planning consent is 200 people.

That the premises can currently be utilised until 22.30 hours under its planning permission and that the owners could utilise Bring Your Own Bottle to enable its customers to consume alcohol whilst enjoying a meal.

That it was not intended to utilise the premises as a public house and that there were conditions proposed to restrict the sale of alcohol to those consuming food at the premises unless attending for an event.

That there had been no objections from Environmental Health to the application in respect of noise and that no complaints had been received in respect of the Temporary Event Notices granted. It was noted that Mr King had stated he was affected by noise on one occasion but had not reported the incident to the Council.

That signage was proposed for the premises to remind customers to leave quietly and that staff members would also assist in verbally reminding customers to be respectful to neighbouring properties.

That although residential premises are nearby, the premises can currently operate until 22.30 hours and the Sub-Committee found that the introduction of alcohol is unlikely to alter the present situation in respect of potential nuisance.

That CCTV was present within the premises and that consideration is given to extending this into the Courtyard to monitor any incidents. Any CCTV would need to be respectful to neighbouring property's privacy and that delegation should be given to the Licensing Manager to include a condition on the licence if it can be achieved.

That, although the Sub-Committee noted the concerns raised about public safety of the wall; this was being resolved by the applicant and the Sub-Committee did not have concerns in respect of this application.

4. Full text of unanimous decision

RESOLVED
(Unanimously)

The Sub-Committee has heard from the Licensing Manager, Ms Eileen Tierney, Mr Roger Shelley the applicant, his representative Jaqueline Ferguson-Lee, the applicant's witnesses and also from Councillor Ratcliffe, Mr Baird, Mr & Mrs King and Mr Wood who objected to the application. The Sub-Committee has also considered the written representations appended to the Report. Following careful consideration of the representations put forward the Sub-Committee has resolved to delegate authority to the Licensing Manager to **Grant the application with conditions.** To ensure the promotion of the licensing objectives the imposition of the following conditions on the licence is necessary:

1. The Sale of Alcohol for consumption on and off the premises shall be permitted Mondays - Saturdays between 9.00 hours and 22.00 hours and on Sundays between the hours of 9.00 hours and 18.00 hours.
2. The premises may be open to members of the public Mondays - Saturdays between 09.00 hours and 22.30 hours and on Sundays between the hours of 09.00 hours and 18.00 hours.

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- f. Sale of alcohol – duty + VAT
- g. Exhibition of Films
- h. Door Supervisors

In addition to the mandatory conditions the sub-committee has resolved to amend the conditions contained within the operating schedule for certainty in order to promote the licensing objectives.

Prevention of Crime and Disorder:

- a) During the evening, the front retail and museum areas as identified on the Plan annexed to the Licence will be isolated from public access, allowing staff to monitor activity in the café and courtyard/ Studio meeting room areas carefully.
- b) CCTV camera shall be installed, maintained and operated in areas to which the public have access including the courtyard area with month long recording. There shall be signage explaining this to customers. The CCTV system will be fit for purpose and capable of providing an image of evidential quality. Images shall be retained for at least 31 days and shall be made available to officers of a responsible authority upon request.

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e) Staff shall be trained during their induction in understanding acceptable and unacceptable behaviour, and to spot signs of excessive alcohol consumption, with guidance notes on serving of alcohol issued by the qualified personal licence holder (the Designated Premises Supervisor).

f) Staff training shall be held regularly for all members of staff and shall include Challenge 25 policy, drugs policy, serving to and dealing with drunken customers policy and training records will be kept on the premises and made available to officers of a responsible authority upon request.

g) Except during pre-advertised events; Alcohol will only be sold for consumption on premises to those customers ordering food and through retail in the shop for consumption off premises.

The conditions in the Operating Schedule relating to Public Safety are as stated

Prevention of public nuisance:

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The conditions in the Operating Schedule relating to The Protection of Children from Harm remain as stated

Delegation is given to the Licensing Manager to remove the condition for external CCTV if it cannot be facilitated.

The Sub-Committee are mindful of the fact that if any issues arose as a result of the operation of the premises, residents and responsible authorities would be able to bring a review of the premises licence which would bring the matter back before the Sub-Committee.

A full decision notice will be issued and sent out with 5 working days.

Rights of Appeal against this decision should be made to the Magistrates' Court acting for the petty sessional area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.

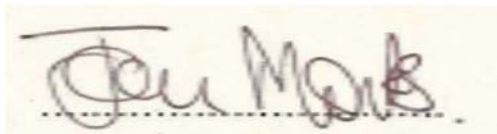
Reasons for Decision

The Sub-Committee gave weight to the representations made by Councillor Ratcliffe, Mr Baird, Mr & Mrs King and Mr Wood but were satisfied following the consideration of oral and written submissions on behalf of the Applicant, that the application should be granted.

The Sub-Committee noted that the premises can remain open for use until 22.30 hours Monday-Saturday under its planning consent and found that the introduction of the sale and consumption of alcohol on the premises would not alter the present situation in respect of potential nuisance. The Sub-Committee noted that the trial Temporary Event Notices had worked well in practice and considered that the imposition of conditions on the licence could overcome their concerns of the potential for nuisance to neighbouring properties.

As such, to ensure the promotion of the licensing objectives and in particular to minimise nuisance and disturbance to local residents, the Sub-Committee were of the opinion that conditions should be imposed on the Licence.

Chairman

A handwritten signature in dark ink on a light-colored background. The signature is written in a cursive style and appears to read "John Wood". There is a horizontal line above the signature and a dashed horizontal line below it.

Date 12/02/2019