

Minutes

LICENSING SUB-COMMITTEE

10 February 2021



Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London

	<p>Committee Members Present: Councillors Simon Arnold (Chairman) Colleen Sullivan Janet Gardner</p> <p>LBH Officers Present: Mark McDermott, Licensing Officer Kerrie Munro, Legal Officer Steve Clarke, Democratic Services Officer Neil Fraser, Democratic Services Officer</p> <p>Also Present: James Anderson, License Holder's Representative Chamith Mudiyansele, Designated Premises Supervisor Samuel Walter, License Holder's Business Development Manager Steven Kennedy, Local Resident</p>
11.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>All Members were present.</p>
12.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
13.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items would be considered in public.</p>
14.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
15.	<p>APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: THE WHITE HART, 158 HIGH STREET, HARLINGTON, UB3 5DP (<i>Agenda Item 5</i>)</p> <p>INTRODUCTION</p> <p>Mark McDermott, Licensing Officer, introduced the application for the variation of a Premises Licence in respect of The White Hart, 158 High Street, Harlington, UB3 5DP.</p>

The application sought approval for a proposal to amend and add a condition to allow the use of the rear garden area to be extended from 21.00 until 22.30 hours.

The application had been submitted by Poppelston Allen Solicitors, on behalf of the Licence Holder – Fuller, Smith & Turner Plc. One representation had been received from local resident, Mr Steven Kennedy, in relation to the potential increase in public nuisance. It was highlighted that informal discussions had taken place between Mr Kennedy and the Designated Premises Supervisor, Mr Chamith Mudiyansele.

It was noted that the officer's recommendation was to grant the application subject to the conditions set out in the officer's report.

THE APPLICANT

The License Holder's representative, James Anderson, addressed the Sub-Committee alongside the Designated Premises Supervisor, Chamith Mudiyansele, and the license holder's Business Development Manager, Samuel Walter. It was noted that The White Hart had been a family run business for the past three years, the Designated Premises Supervisor was also the Tenant of the building and lived there with his family. The Sub-Committee were informed that Fuller's had a strong working relationship with Mr Mudiyansele and that there had been no issues with his operations at the pub. It was noted that there were three more years left on Mr Mudiyansele's agreement and Fuller's would hope to extend their contract with Mr Mudiyansele for another six years in light of his successful running of The White Hart.

Members attention was drawn to the rear garden area, which was the focus of the application. It was noted that the current 21.00 limit for closing off the rear garden to patrons was quite restrictive and had been in place for over 15 years. Assuming it took one hour for a customer to enjoy a meal, if a patron ordered a meal at 20.00 hours, they would not be able to enjoy the meal in the pub's rear garden. It was deemed that the proposed change to 22.30 was a reasonable request.

Mr Anderson confirmed that he had a virtual tour of the Public House land and could not physically attend the site due to the current circumstances with lockdown. Member's attention was drawn to a number of pictures listed as Appendix 6 to the report and located on page two of the published addendum. The rear garden was outlined along with the trees and fence that formed the boundary between the rear garden and edge of Mr Kennedy's property. It was noted that there was a thin strip of land, shown on Appendix 5, making a small natural barrier between the two properties; it was highlighted that this formed more of a border than could usually be found elsewhere between most pub gardens and their neighbours.

The License Holder's representative noted that they would be happy to agree to the proposed additional conditions recommended in the officer report. It was made known that this was a community pub, focussed predominantly on dining and the sale of real ales; there were no promotions whereby customers were encouraged to purchase drinks with a higher alcohol content such as spirits.

By way of clarification, Mr Mudiyansele confirmed that focus of the business was on food trade and the rear garden was a valuable asset in terms of creating an enjoyable dining experience, and the 21.00 restriction led to a loss of income with regard to dining capacity. It was highlighted that, by having Mr Mudiyansele as the Tenant of the property, it offered greater stability for the business.

When queried by Members, it was highlighted that the pub was not currently in operation due to the national lockdown as a result of Covid-19 restrictions; however, they hoped to open for takeaway meals in the near future. It was further noted that there had been a pub on the site since the early 19th Century.

With regard to security at the premises, Members queried the whereabouts of CCTV cameras on the premises and for how long the recordings were maintained. The Sub-Committee were informed that CCTV cameras covered all indoor areas except for the kitchen and toilet areas, and with regard to the external areas there was coverage of the front terrace, rear garden and car park. CCTV recordings were maintained for one month.

In relation to the capacity of the rear garden at peak times, Members were informed that there were around 15 tables in the garden and the garden as a whole had a maximum capacity of 60 people. Members questioned how staff would monitor the potential issue of underage drinkers in the rear garden area; they were informed that notices were prominently displayed notifying patrons that staff would not sell alcohol to anyone under the age of 18, that staff were trained regularly to that regard and that there had been no previous issues at the premises pertaining to underage drinking.

OTHER PARTIES

Steven Kennedy, a local resident, had submitted representations in relation to the application and addressed the Sub-Committee. Members were informed that he had lived adjacent to the pub for almost three decades and had seen many managers come and go as a result of personnel changes; the relationship between Mr Kennedy and some of the previous premises operators had varied and, although it was noted that the neighbourly relationship with Mr Mudiyanselage was good, there were concerns that should the premises change hands again in the future, there were no guarantees that they would be as understanding. Mr Kennedy desired for Mr Anderson to have physically attended the premises to see the arrangement in person, and that he wished he had submitted his papers and plans in advance, for the Sub-Committee to consider.

It was highlighted that previously, the pub's rear garden was only ever used for private use by the Tenant of the property; this had changed some time ago to allow patrons to use the garden until 21.00. Mr Kennedy highlighted that there had been instances of him refraining from formally complaining to the authorities about public disturbances as he felt there was a certain level of understanding being a neighbour to a pub. However, he felt that understanding should go both ways and respect should be shown to the pub's neighbours in return; further noting that his own private amenity space should be deemed as important as the pub's.

The Sub-Committee were informed that Mr Kennedy was not objecting outright to the proposals but felt the need to protect himself; he noted that, a few people drinking in the rear garden was fine but when this increased to 50 or 60 late into the evening on an everyday basis, would be unacceptable and difficult to control. Mr Kennedy confirmed that he enjoyed attending the Public House himself, and wished that he could formally meet with the Applicant/DPS/Agent to mediate his concerns and come to a resolution and felt this could have been explored to their benefit.

Mr Kennedy said that he did not complain about incidents that have happened in the past, as he just gets on with things.

DISCUSSION

The Legal Officer queried whether Mr Kennedy would have any suggestions with regard to what kind of conditions he would like to see if the application were to be granted. Mr Kennedy noted that he was happy to agree to the proposals if they were monitored by the Council on a regular basis; it was noted that the Council would only conduct monitoring exercises if there was evidence of public nuisance as a result of the extended rear garden operating times. Should it be found that there were instances of general public nuisance, any person with a relevant interest in the property could request that the Council review the licensing arrangements.

Upon suggesting potential conditions that would alleviate Mr Kennedy's concerns he noted the following areas: the siting and number of tables in the garden, the management of the tables, the management of noise and security.

Mr Kennedy questioned Fuller's corporate policy with regard to the treatment of neighbours to their establishments. It was highlighted that the 'Good Neighbour Policy' circulated in the addendum was based upon a similar policy made by a Fuller's establishment in Teddington which was then tailored for The White Hart by Mr Mudiyansele.

With regard to security, it was noted that The White Hart was a family establishment with no history of security issues, they did not hire doormen as this was deemed unnecessary. The business was fire safe compliant, with a variety of different exits. It was also noted that the car park was gated and that the Tenant's family lived at the premises, including young children therefore there was a vested interest by Mr Mudiyansele to keep the premises harmonious.

CLOSING REMARKS

Upon making closing remarks, Mr Anderson reiterated that if Mr Kennedy were to experience a public nuisance as a result of the extension to the rear garden's operating times, he would be within his rights to request that the Licensing Authority review the premises' licensing arrangements. It was also highlighted that a conscious effort was already made to ensure that no tables were placed next to Mr Kennedy's fence, this created a further barrier to patrons occupying the vicinity of the fence.

Mr Mudiyansele addressed the Sub-Committee noting that he had built up a good relationship with neighbours, including Mr Kennedy, over the three years that he had been at the premises and it was important to him that the positive relationship continue into the future.

Mr Kennedy noted that perhaps an earlier meeting between himself and the Fuller's representatives would have garnered a positive outcome and made the need for a formal licensing hearing unnecessary. It was also noted that he was happy to have the application be granted subject to conditions that would help to alleviate his concerns. The Sub-Committee recommended that the parties liaise with each other to resolve any issues as good practice going forward, and this should have been adopted pending the hearing.

THE DECISION

The Sub-Committee considered all advance relevant written evidence and verbal

submissions at the hearing.

In doing so, the Sub-Committee took into account the Licensing Objectives, the Licensing Act 2003 as amended, Hillingdon's Statement and Licensing Policy, and Statutory Guidance issued by the Secretary of State under Section 182 of the Act, in particular paragraphs 2.15 – 2.21, 8.35 – 8.37, 9.42 – 9.44, 10.2, 10.8 and 10.10. The Sub-Committee had due regard to its Public Sector Equality Duty, under s.149 of the Equality Act 2010, as amended.

After deliberations in private session, the decision of the Sub-Committee was to **grant the variation of a Premises License**, subject to the below conditions. The Sub-Committee's reasons for this decision would be published in the written Decision Notice.

- 1) The Premises Licence shall be amended to permit trading in the external rear garden until 22:30 hours Monday to Sunday;
- 2) There shall be a limit of 40 patrons in the external rear garden after 21:00 hours;
- 3) Management and staff will exercise vigilance and regularly monitor customers using the external rear area and ensure patrons do not cause a public nuisance; and
- 4) Notices shall be prominently displayed at all external areas, requesting patrons to respect the needs of local residents.

RIGHT OF APPEAL

If any individual who made relevant representations to the application feels aggrieved by the decision of the Sub-committee to grant the application, they may appeal to the Justice Clerk under section 181 and schedule 5 of the Licensing Act 2003 to Uxbridge Magistrates' Court, The Court House, Harefield Road, Uxbridge, UB8 1PQ, within twenty-one days of the date of notification of the decision.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The meeting, which commenced at 2.00 pm, closed at 3.32 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services - 01895 250636 or email: democratic@hillingdon.gov.uk on . Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.