

REGULATORY SUB COMMITTEE

At a meeting of the Regulatory Sub Committee on Monday, 30 September 2024 at The Board Room - Municipal Building, Widnes

Present: Councillors Wallace (Chair) and Bramwell

Apologies for Absence: Councillor Abbott

Absence declared on Council business: None

Officers present: K. Hesketh, W. Pringle, A. Strickland and P. Wilson

ITEM DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

Action

REGS6 MINUTES

The minutes of the meeting held on the 12 June 2024 having been circulated were signed as a correct record.

REGS7 APPLICATION FOR TO VARY A PREMISES LICENCE – BANKSEY'S BAR, 75 ALBERT ROAD, WIDNES, WA8 6JS

A meeting of the Regulatory Sub-Committee (acting as Licensing Committee under the Licensing Act 2003) of Halton Borough Council was held at Municipal Building, Widnes on Monday 30th September 2024 commencing at 4.30pm.

The meeting was held to hear an application made under section 34 of the Licensing Act 2003 for the variation of a Premises Licence at Banksy's Bar Widnes. The application was amended during the hearing by the Applicant to reduce the end time to 11pm on Live Music, Recorded Music and Dance, and to include the condition on noise limiters agreed with the Environmental Health Department (wording annexed hereto) and the condition on admission of children to the premises agreed with Cheshire Police (wording annexed hereto) with all other matters remaining as set out in the Operating Schedule to the variation application. It was this amended application that

was determined by the Sub Committee.

In attendance were: -

- Members of the Regulatory Sub Committee comprising Cllr Pamela Wallace (Chair) and Cllr Irene Bramwell. (Cllr John Abbott sent apologies) ('the Sub Committee')
- Piers Warne, (TLT Solicitors, Bristol) representing the Applicant - namely Bethany Owens ('the Applicant')
- Kim Hesketh (Licensing Manager)
- Alex Strickland (Legal Adviser)
- Wendy Pringle (Taxi Enforcement Officer – to observe proceedings)
- Philip Wilson (Environmental Health)
- Lynn Fletcher, Jane Hargreaves and Mr & Mrs Jones ('Residents')

The hearing was triggered as a result of the objections by the Residents who attended the hearing and others who did not, namely James Howard Smith and Jeanette Everitt. Councillor Eddie Jones also lodged an objection but was not able to be present at the hearing due to scheduling difficulties.

There were no representations from Responsible Authorities, other than for a condition on noise limiters suggested by the Environmental Health Department, the wording of which was agreed by the Applicant before the hearing and for a condition in respect of children being present on the premises which was agreed before the hearing by Cheshire Police.

After the Chair of the Sub Committee had introduced the parties, the Legal Adviser outlined the procedure to be followed. The Licensing Manager presented the Licensing Report with appendices including Location Plan (Appendix A), the schedule of Licensed Premises in the local area (Appendix B), copy of the current Premises Licence with summary (Appendix C), the Variation Application (Appendix D), a copy of the objections (Appendix E) and extracts from policy and guidance (Appendix F) - setting out the nature of the application, noting that there had been no objections from responsible authorities, including Cheshire Police in respect of the prevention of crime and disorder/anti-social behaviour statutory licensing objectives (or otherwise) and that conditions had been agreed between the Applicant and Cheshire Police (regarding Children) and Environmental Health (regarding noise limiters).

DETAILS OF THE APPLICATION (AS AMENDED DURING THE HEARING)

Opening Hours

Monday – Thursday	11.00 to 00.30
Friday & Saturday	11.00 to 01.30
Sunday	11.00 to 00.30

Live Music

Monday – Thursday	11.00 to 23.00
Friday & Saturday	11.00 to 23.00
Sunday	11.00 to 23.00

Recorded Music

Monday – Thursday	11.00 to 23.00
Friday & Saturday	11.00 to 23.00
Sunday	11.00 to 23.00

Dance

Monday – Thursday	11.00 to 23.00
Friday & Saturday	11.00 to 23.00
Sunday	11.00 to 23.00

Late Night Refreshment

Monday – Thursday	23.00 to 00.00
Friday & Saturday	23.00 to 01.00
Sunday	23.00 to 00.00

Supply of Alcohol

Monday – Thursday	11.00 to 00.00
Friday & Saturday	11.00 to 01.00
Sunday	11.00 to 00.00

THE HEARING

The Applicant started to present their case by pointing out that there had been no complaints in respect of the Premises over the past 12 months. Further it was noted that there were no objections to the variation by Responsible Authorities and that appropriate conditions had been agreed with Cheshire Police (regarding the presence of children on the Premises) and with the Environmental Health Department (regarding a noise limiter to mitigate potential noise nuisance). It was underlined that the basis of the

variation application was only to seek an extra hour per day that was being requested when compared to opening times on the current licence (in addition to the new provision of regulated entertainment).

Following questions from the Sub Committee, the Applicant agreed to amend the variation application to ensure that Live Music, Recorded Music and Dance finished by 11pm daily.

The Applicant offered that the condition on the licence that required closing of windows/doors have further wording added to ensure that they were closed during times of regulated entertainment.

The Applicant made clear that any decision must be based on evidence.

The Residents took turns to address the Sub Committee. They related points that were drawn from their written representations, expressing concern about the increased hours and the new introduction of regulated entertainment.

The Environmental Health Officer informed the hearing that whilst there had been no noise complaints in respect of the Premises under the current management, a condition had been agreed with the Applicant to mitigate potential noise nuisance in the future, in order to protect the living environment of nearby residents.

THE DETERMINATION

The Sub Committee resolved to grant the (amended) application for the variation of the Premises Licence on the terms set out in section 2 of this Notice with the inclusion of the conditions agreed between the Applicant and Cheshire Police relating to children and that agreed between the Applicant and Environmental Health relating to noise limiters and with the maintenance of the current condition in relation to closing of doors and windows at 9pm with the additional wording 'unless regulated entertainment is taking place in which case they shall remain closed'. All other conditions are to remain as per current licence and the operating schedule submitted for this variation application.

SPECIFIC REASONS FOR THE DETERMINATION

In making its determination, the Sub Committee had regard to the statutory licensing objectives, the statutory

guidance and Halton Council's own Statement of Licensing Policy.

The Sub Committee found that: -

1. Whilst the Sub Committee was sympathetic to the issues raised by Residents, it was conscious that there was none or no sufficient evidence advanced to ground these objections that would link them to the premises under operation of the current management. In fact, the Residents during the hearing expressed general satisfaction with the way the premises are currently managed and there was acknowledgement that the current management is effective, and the situation had greatly improved from the previous management. The Sub Committee took account of the need for evidence to impose restrictions (in particular paragraph 9.43 of the statutory section 182 Guidance) and was mindful of the court decisions in Daniel Thwaites plc v Wirral Borough Magistrates Court and Hall & Woodhouse Ltd v Poole BC in respect of this and concluded there was no or no sufficient evidence to refuse the request for an extended hour per day.
2. The Sub Committee was encouraged by and gave particular weight to the fact that the Applicant was a responsible operator, and the Sub Committee took note of her promise to continue to manage the premises in a responsible way and they attached considerable weight to this assurance.
3. The Sub Committee was further encouraged by the undertaking given by the Applicant to move the door of the Premises to a more suitable location (to mitigate against any potential noise nuisance) in due course.
4. As set out in the statutory guidance, the Sub Committee looks to Cheshire Police as the main source of advice on crime and disorder and anti-social behaviour issues. The Sub Committee noted that the police regarded the application as satisfactory, to the extent that they did not make any representations on the variation application (other than to agree with the applicant a condition relating to the presence of children at the premises).
5. The Sub Committee noted that there had been no complaints to the Environmental Health Department

in respect of noise from the Premises. Notwithstanding that, a condition had been agreed with the Applicant in respect of a noise limiter which should assist, should any noise nuisance be identified in the future.

6. On balance, the Sub Committee therefore finds that the variation application (as amended) does not undermine the licensing objectives.

It was noted and made clear to Residents that there are powers to deal with premises if the operation of a licence leads to the licensing objectives being undermined, including the possibility of a formal review of the Premises Licence should that be necessary. Furthermore, it was underlined, that any noise complaints should be made to the Environmental Health Department and any issues of crime/anti-social behaviour should be raised with Cheshire Police immediately to allow an appropriate investigation to take place.

TIME THAT THE DETERMINATION SHALL TAKE EFFECT

Forthwith.

Meeting ended at 6.40 p.m.