

LICENSING SUB COMMITTEE

19 JUNE 2014

Present: Councillor J Brown (Chair)
Councillors J Connal and P Jeffree

Also present: Mr Craig Fabian, Applicant and Designated Premises
Supervisor
Mr Nigel Adron, Applicant
Mr Jeremy Phillips, Counsel for the Applicant
Councillor Jeanette Aron, Ward Councillor
Councillor Mark Watkin, Ward Councillor
Councillor Ian Brown, Observer
Mrs Celia Rowbotham, Interested Party
Mr Martin Ramirez, Interested Party
Mr William Miller, Interested Party
Mr Jim Newell, Interested Party
Ms Briony Tomlinson, Interested Party
Mr Ian Green, Interested Party
Mr Alan Kemp, Interested Party
Ms Fiona Ettridge, Interested Party
Mr Kevin O'Brien, Interested Party
Ms Christine Wilkinson, Interested Party
Mr Gareth Gibson, Interested Party
Ms Charlotte Ivoen, Watford Observer
Mr Michael Knowles, Watford Observer
Hardesh Bhatti, Environmental Health

Officers: Solicitor
Licensing Manager
Licensing Officer (PS)
Committee and Scrutiny Support Officer (RW)

1 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub Committee would comprise Councillors J Brown, Connal and Jeffree.

The Sub-Committee was asked to elect a Chair for the Hearing.

RESOLVED –

that Councillor J Brown be elected Chair for this Hearing.

2 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

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**APPLICATION TO VARY A PREMISES LICENCE APPLICATION:
NASCOT ARMS, 11 STAMFORD ROAD, WATFORD, WD17 4QS
(14/00468/LAPRE)**

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of an application to vary the premises licence at the above premises and also of the representations received.

The Licensing Officer explained that for one of the representations, a page had been omitted from the agenda. She passed the relevant page to Mr Phillips who confirmed that he was happy to accept this late information.

The Licensing Officer then outlined the application. She explained that the Nascot Arms was situated in a mainly residential area in close proximity to a children's playground. The only outside space for the premises was a rear courtyard which was used as a smoking area for customers.

The Licensing Officer advised that the application had been made by Greene King Retailing Limited and that 38 representations had been received from local residents. She added that a representation had also been received from Environmental Health as a Responsible Authority; this representation had been omitted from the agenda and was passed to attendees although details had been included in the report itself.

Objections to the application had centred mainly on the impact which the extension of hours would have on local residents: increase in noise, public nuisance and anti-social behaviour.

The Licensing Officer outlined the extended hours as specified in the report and noted that there was no licence for late night refreshments at the current time. The Officer then drew attention to Annex 2 of the report and explained that the Applicant had requested the removal of Condition 12 and a condition to be inserted that accompanied children could stay only until 9.00 p.m. unless taking a meal or at a function when they could remain until the end of the meal or event.

The Licensing Officer further noted that paragraph 7.2 of the report - Chapter 10 – should read:

‘This chapter looks at best practice in relation to conditions that may be attached to a premises licence by the sub-committee, should they believe that these are **appropriate** to promote the licensing objectives’.

The meeting noted the hours proposed by Environmental Health (paragraph 6.3 of the report) which had been stated under paragraph 10.3 as:

'No more than five persons will be permitted in the smoking yard between 11:00 p.m. and 9:00 a.m.'

Subsequent to submission of the application there had been discussions between the Applicant and Environmental Health regarding control over potential public nuisance.

The Licensing Officer noted that since 2010 there had been one complaint regarding public nuisance in that drinks had been taken into the children's playground, contrary to the licensing objective of preventing harm to children. The interested parties had also highlighted this concern and the Committee could impose conditions as they thought appropriate and proportionate.

The Licensing Officer mentioned that the applicant had written to residents setting out their proposed concessions and amendments to the application.

The Licensing Officer highlighted that residents were concerned about crime and disorder. However, the Police, being expert in this area, had not made any representations.

The Licensing Officer further highlighted that the applicant had applied for a Temporary Event Notice from the 12 June – 18 June 2014; there had been no objections or complaints. Mr Fabian had been a Designated Premises Supervisor since 2005 and had not had any complaints made against him.

The Licensing Officer advised that during a visit by Council officers, Mr Fabian had given an undertaking that there would be no live music.

Following a question from the Chair, the Licensing Officer explained that where occupation of the premises was under 200 persons, there was an exemption to provide live music without a licence between 8.00 a.m. and 11.00 p.m.

The Chair invited questions for the officer.

Councillor Jeffree asked for clarification of the layout of the premises.

Mr Phillips explained that a small area had been designated as 'new dining area' on the plan and that the kitchen would be doubled in size; both these areas had not previously been used for trading: the kitchen extension had been part of the cellar, the new dining area had similarly been part of the cellar and the restaurant had previously been used for storage.

The Chair asked the Licensing Officer to confirm that the licensing objectives of the Protection of Children from Harm and Public Safety referred to children and the public on the premises only. The Licensing Officer confirmed that this was so.

Mr Phillips referred to the conditions suggested at paragraph 10.6 and stated that Mr Fabian had had no complaints regarding patrons drinking in outdoor

areas; he asked whether it was appropriate to impose such conditions when there had been no problems in the past.

The Licensing Manager counselled that it was for the Sub-Committee to determine whether this was necessary after having considered the evidence.

Councillor Watkin asked what Licensing conditions would apply should the Sub-Committee reject the application.

The Chair advised that were the application to be wholly rejected the original terms of the licence could not be altered. If the Application were granted, however, additional conditions could be appended.

The Solicitor added that whilst, in the event of a rejection, the terms of the licence would remain as at the current time, there was the right of appeal for the Applicant regarding this application or the premises could be the subject of a review.

The Chair invited Councillor Watkin to address the Sub-Committee.

Councillor Watkin commended the Nascot Arms as the premises of choice for local residents and as a traditional public house which had rarely been of cause for concern for neighbours. He noted, however, that the change to serving Thai food would lead to late night collection of take-away orders resulting in noise, and consequently disturbance, for residents.

Councillor Watkin noted the complaints from residents who had expressed concern regarding alcoholic drinks having been consumed in the children's playground opposite the premises. He stressed that it was imperative that the management of the Nascot Arms engage with councillors, the Nascot Residents' Association (NRA) and residents.

Councillor Watkin said that he objected to the late hours proposed for serving of food: this would inevitably result in disturbance for residents and, as such, would be contrary to Licensing Policy LP8. Similarly, the removal of Condition 12 would be contrary to Licensing Policy LP9.

Councillor Watkin asked what extra business would follow from these extra hours and at what cost? He said 'This is not Spain. This is a quiet back street in Watford where all the neighbours ask is that they can enjoy an undisturbed night's sleep'.

Councillor Watkin concluded by stating that the premises served good food in a pleasant atmosphere; in a town centre such premises would be welcomed. In a residential area, however, the small changes proposed would greatly impact on residents. He asked that the Sub-Committee address the issues of concerned residents.

The Chair then asked attendees if they had any questions for Councillor Watkin.

The Environmental Health Officer reiterated Councillor Watkin's concerns and asked that the hours for the sale of alcohol be reduced on Sundays and that there be a limit of five people allowed to use the smoking area at any one time.

The Chair asked Mr Phillips if he had any questions on the previous statements and concerns.

Mr Phillips said that the 'smoking yard' had formerly been in use as a somewhat larger beer garden. This area had been reduced in size, it was enclosed by rooms on all sides which would prevent noise disturbance for neighbours; he considered that a limit of ten people at any one time would be appropriate.

The Environmental Health Officer considered that this would equate to too many people: five smokers would return more quickly to the restaurant and would not be tempted to remain outside.

The Chair then invited Mrs Rowbotham to speak to the hearing.

Mrs Rowbotham advised that she was a local resident and a member of the NRA. She noted that, at their last AGM, 34 members had stated that they wished to register an objection to the application.

Mrs Rowbotham stressed that there had been no concerns regarding either the food or the premises themselves. Objections had been raised merely in connection with the proposed extension of hours which were inappropriate in a residential area.

Mrs Rowbotham expressed concern with respect to the extension of hours which, she considered, would encourage an increase in the take-away trade, leading to additional traffic. Drawing attention to the small gardens in the vicinity and the limited insulation, she considered that the extra traffic late at night would result in additional problems for residents in the form of noise and public nuisance.

Mr Phillips suggested that a condition could be added to the licence such that there be no take-away service after 10.00 p.m.

Mrs Rowbotham agreed that this would be more acceptable to residents.

Members of the Sub-Committee discussed practicalities regarding the take-away service. Mr Phillips advised that the kitchen closed at 10.00 p.m. It was agreed that patrons who were in the bar then could collect food after this time but that no 'outside' trade should access food after 10.00 p.m.

The Chair then asked Councillors Jeffree and Connal, the legal representative and licensing officers and the Environmental Health Officer if they had any questions for Mrs. Rowbotham. They did not.

Mr. Phillips indicated that he had no further questions for Mrs. Rowbotham.

The Chair invited Mr Alan Kemp to speak to the Sub-Committee.

Mr Kemp said that he had no objections to the management of the Nascot Arms. He noted, however, that he was opposed to the extension in hours and advised that the dining area was in a small shed close to residents' gardens. Mr Kemp stated that proximity to the premises had affected the enjoyment of residents in their homes through noise and disturbance.

Mr Kemp added that he had further concerns regarding the well-being of children as a result of the extension of hours: both for those living nearby and those who would have access to the public house for a later period of time.

Mr Kemp concluded by expressing worries over drinking glasses being taken into the children's play area. He asked whether a condition could be added such that only plastic containers were used outside.

The Chair and the Licensing Manager advised that were the application to be turned down, current conditions would remain in place. A new licence could have conditions added to encompass the use of plastic 'glasses'.

Replying to Mr Kemp's concerns regarding patrons drinking outside, Mr Fabian said that the numbers of patrons drinking outside after 11.00 p.m. could be limited to 10 persons drinking in the courtyard.

Mr Phillips affirmed that the condition of no drinking outside the front of the premises after 11.00 p.m. was acceptable and asked whether a maximum of 10 persons in the courtyard at any one time would be acceptable. Mr Kemp felt that five would be a more suitable number.

The Chair agreed that Mrs Christine Wilkinson could speak to the Sub-Committee.

Mrs Wilkinson asked that the light at the back of the premises be switched off at 11.00 p.m. She noted that many patrons arrived by car in an area where there was limited parking space for residents. Mrs Wilkinson added that whilst she had made no complaints to date she would report any concerns from the date of the hearing.

The Chair then invited attendees to question Mrs. Wilkinson. There were no questions.

Mr Martin Ramirez was then invited to speak to the Sub-Committee.

Mr Ramirez said that the requested increase in hours would result in an intensification of trading in a primarily residential area and noted that there had been numerous objections from local residents.

The Chair then invited attendees to question Mr. Ramirez. There were no questions.

The Chair then invited Mr William Miller to address the hearing.

Mr Miller noted that 38 objections had been received from local residents many of whom used the premises on a regular basis and wished for its success. He referred to a letter from the Applicant's solicitor which stated that it was not intended to make the Nascot Arms a venue for late night drinking.

Mr Miller considered, however, that were drinkers to stay within the premises after 11.00 p.m. emerging at 00.30 a.m. the resultant noise would greatly disturb residents in their homes. He added that whilst 00.30 a.m. would be the time for patrons to leave, it was likely that 'clearing up time' would continue until approximately 1.00 a.m. adding further disturbance for neighbours.

Mr Miller referred to proposed Sunday hours which he said were too late. He noted that other, similar, premises did not trade as late as the Nascot Arms currently did. He reiterated that it was inappropriate for premises in this location to be open so late at night.

Mr Phillips noted that the Environmental Health Officer had received no complaints regarding the Nascot Arms. He asked whether Mr Miller had written to residents suggesting that they sent objections to the application.

Mr Miller replied that many residents had not seen the notice of proposed hours and that he had drawn their attention to it. He added that many of those residents who lived closest to the premises had not had sight of the notice nor a letter of information.

The Licensing Officer explained that there had been an error and that apologies had been offered. At the Chair's suggestion, the Licensing Officer agreed to speak to Mr Miller at the end of the meeting.

Referring to Mr Miller's concerns regarding noise at 'closing time', Mr Phillips stated that at this time it was usual for only about 25 patrons to be still on the premises; exiting into the road and tidying the premises would not take long and would generate little noise. He added that a condition could be added that the take-away service would stop at 10.00 p.m. for those collecting food by car.

The Chair then invited attendees to question Mr. Miller. There were no further questions.

Mr Jim Newell was then invited to speak to the Sub-Committee.

Mr Newell noted that whilst an extension of only half an hour had been proposed this time was crucial for nearby residents. He added that the hearing was considering the current proposal with no projection towards future changes. He suggested that a review be conducted after three months.

The Chair then invited attendees to question Mr. Newell. There were no questions.

The Chair invited Mr Gareth Gibson to speak to the Sub-Committee.

Mr Gibson expressed concern that patrons would park in local streets and then leave their vehicles overnight. This would result in the permit holders being unable to park.

The Chair then invited attendees to question Mr. Gibson. There were no questions.

The Chair then proposed an adjournment.

When the hearing restarted, Mr Phillips addressed the Sub-Committee.

Mr Phillips advised that Mr Fabian had worked at the Nascot Arms for 10 years as Manager and was now the tenant and Designated Premises Supervisor. He said that Mr Fabian had transformed the Nascot Arms to a good quality venue which included the provision of Thai food.

Mr Phillips explained that the hours sought for opening would add an extra half an hour on Monday to Thursday nights, there would be no change on Fridays and Saturdays and an extra hour and a half on Sundays. This would ensure a standard closing time throughout the week. Mr Phillips added that the late night refreshment licence application referred to hot drinks and that last orders for alcohol would be at 11.30 p.m.

Mr Phillips advised on the conditions as tabled at Annex 2 on page 28 of the report:

Condition 14: Mr Fabian would be prepared to agree that children were permitted until 8.00 p.m. only.

Condition 15: Mr Fabian would be prepared to attach a condition regarding display of notices as detailed.

Condition 16: Mr Fabian would be similarly agreeable to this condition.

Conditions 17&18:

Whilst Condition 17 would prevent patrons from going outside the premises after 9.00 p.m., it should be noted that no complaints had been received and patrons rarely congregated at the front of the premises. It would be acceptable to stop patrons standing at the front of the premises from 11.p.m. and to go into the smoking area after that time.

Mr Phillips agreed that patrons should not go into the children's playground.

Condition 18 (2): Mr Phillips referred to the request for a maximum of five persons to be allowed in the smoking area at any one time and stated that this was not an appropriate figure. He argued that five would be disproportionate to the number of customers and that a maximum of 10 persons would be more suitable.

Mr Phillips then agreed that condition 19 and the five additional conditions detailed under paragraph 9.10 of the report were acceptable with the proviso that number 4 should read:

‘ Signs will be installed asking customers not to take drinks outside **after 11.00 p.m.**’

The Chair then invited attendees to question Mr. Phillips. There were no further questions.

Mr Fabian then addressed the Sub-Committee and informed them about the history of the Nascot Arms since he had managed the premises. He explained that the introduction of Thai food had been very successful and it had been decided to reduce the size of the bar and to expand the dining element. The proposed changes would ensure that the restaurant and the bar would remain separate; children would consequently have no reason to access the bar.

Mr Fabian explained the reason for a standard closing time throughout the week: since the restaurant would have a larger capacity, this would allow more time for all customers to disperse and would result in a quieter end to the night. He added that patrons had been accustomed to drinking outside during warm weather; on Fridays and Saturdays a maximum of 20 people could be outside but considerably fewer on other nights. There had been very few complaints.

With regard to the smoking area, Mr Fabian advised that no alcohol would be allowed in the courtyard after 11.00 p.m. He pointed out that at a table of ten people most people would wish to go out to smoke together: ten would be a more reasonable number than five.

Mr Fabian also agreed to the conditions regarding the provision of signs asking patrons to be considerate when parking and that no take-away customers would be served after 10.00 p.m. although customers could order their meals before 10.00 p.m. and take them when they leave.

The Chair invited attendees to question Mr Fabian.

Mr Miller noted that the kitchen would close at 10.00 p.m. and asked what would be served late at night.

Mr Fabian replied that only hot drinks would be served. In response to a further question on late opening, Mr Fabian advised that many customers wished to see the end of Match of the Day and had asked to stay until the programme had finished.

Mr Ramirez asked who would monitor the premises and ensure that conditions would be complied with.

Mr Phillips explained that the management had a duty to monitor the premises. He added that were conditions not adhered to, both Greene King Retail Limited and the Designated Premises Supervisor would be liable for a fine. Where the conditions of the licence were broken, then residents could make a complaint to the Licensing Authority and a review by a Licensing Sub-Committee would be initiated.

The Licensing Manager advised that the Council worked closely with the Police; a team of special constables had been given training to make frequent 'spot checks'.

Mr Kevin O'Brien, an interested party, indicated to the Chair that he now wished to say something. The Chair allowed him to speak.

Mr O'Brien said that he lived on the other side of the premises and expressed concerns regarding the needs of residents. He stated that the majority of those who lived in close proximity to the Nascot Arms had made an objection.

In response to Mr O'Brien's request that that staff sweep outside the premises at the end of the night, Mr Fabian said that it would be difficult to do this. The Chair commented that to sweep outside at night would probably cause more nuisance and that it would be more practical for Mr. Fabian to sweep outside first thing in the morning. Mr. Fabian agreed to this. Mr O'Brien then noted that even users of mobile phones outside the premises late at night were a problem: not only on account of the ensuing noise but additionally because these patrons tended to stand on the footpaths and consequently caused obstruction for passers-by.

Mr Fabian then proffered information regarding the food and the kitchen in the premises. He advised that children were served in an area separate from the bar.

In reply to a question from the Chair, Mr Fabian agreed that children would be served only in the restaurant and not in the dining area of the bar.

Responding to a question from Councillor Jeffree regarding the ventilation system, Mr Adron assured the hearing that the system was subject to a deep clean every 12 months and that this was part of the maintenance agreement. As the system was new, he undertook to ask the installers to re-examine the noise it was making.

In reply to a further question from Councillor Connal, Mr Adron advised that there was no currently no double glazing at the premises but that the new area would be fitted with double glazed units and would be permanently closed.

The hearing also established that there was no licence for music – only background music would be permitted.

The Chair pointed out that one complaint had centred on the fact that chairs and tables had been placed on the footpath.

Mr Fabian explained that this arrangement had been for a charity day on behalf of the Peace Hospice and that a complaint had been received the following day.

The Chair reminded Mr Fabian that a pavement licence would be needed if tables and chairs were to be placed on the highway in future.

The Chair noted that the courtyard for smoking was very small and that ten patrons plus staff would result in an extremely crowded area which would doubtless cause annoyance for neighbours. She pointed out that even at a table of 14 persons, not all of them would wish to smoke. She suggested that customers be encouraged to stagger their smoking times.

The hearing discussed the numbers of smokers who would use the courtyard at any one time. The Environmental Health Officer pointed out that the fewer the number of patrons gathered in the smoking area, the more quickly they would wish to go back inside.

The Solicitor noted condition 20 on page 28 of the report which specified that doors and windows would be kept closed and asked whether any complaints had been made. Mr Fabian confirmed that no complaints had been made about the ventilation system.

The Chair asked for final comments from those present.

Mr Miller said that residents were yet to experience the effects of the extension in hours; he considered that the premises would be very successful after the new areas were opened and that there was no need for extended hours.

Mr Phillips commended the application and the management of the premises. He said that in the time that Mr Fabian had been managing the Nascot Arms, the food had improved considerably whilst retaining the traditional drinks and he praised Mr Fabian's excellent organisational skills.

Mr Phillips counselled that no concerns had been raised by the Police Authority, the Highways Authority or Environmental Health. He said that it would be not inappropriate for Mr Fabian to be invited to attend meetings of the NRA and suggested that this be on a quarterly basis.

The Sub Committee retired to consider their decision.

On the Sub Committee's return the Chair announced the decision.

RESOLVED –

Having heard the evidence from the Interested Parties, the Responsible Authority and the Applicant, the Sub Committee grants the application as follows:

| | |
|---------------------|-----------------------------|
| Monday to Thursday: | hours as requested |
| Sundays: | 11.00 a.m. until 11.00 p.m. |

Late Night Refreshments hours are granted on Monday to Saturdays as requested but Sunday hours will be from 11.00 p.m. to 11.30 p.m.

The Sub Committee agreed to vary the layout and design of the premises in accordance with the submitted plan and the removal of existing Condition 12

of Annex 2 “children only on the premises between 11.00 a.m. and 8.00 p.m. is agreed”.

The following conditions are to apply:

No orders for take-away food are to be accepted by telephone after 9.30 p.m. and no take-aways shall be collected from the premises by any person entering after 10.00 p.m.

Accompanied children shall be permitted in the dining area as identified on the plan at Annex 4 of the premises licence at any time but may only be permitted in the bar area accompanied by an adult until 8.00 p.m.

The sale of late night refreshments shall be limited to hot drinks only.

The Designated Premises Supervisor to print notices on the restaurant menus to encourage considerate parking and for customers not to park on double yellow lines.

The Designated Premises Supervisor shall attend meetings of the Nascot Residents' Association on at least a quarterly basis if so invited.

A direct telephone number for the manager of the premises shall be publicly available at the premises at all times the premises are open. This telephone number is to be made available to residents in the vicinity.

These conditions, as well as conditions consistent with the operating schedule as amended i.e. :

Number 9 of the schedule is superseded by condition 42 of the Pool of Model Conditions.

Condition number 14 is deleted.

Condition number 17 is amended from 9.00 p.m. to 11.00 p.m.

The first Condition number 18 that the Licensee shall make arrangements to ensure so far as is reasonable practicable that no customers shall be permitted to remove from the Premises any open bottles, glasses or foodstuff for consumption or disposal outside the Premises other than take away food and drink sales is deleted.

The second Condition number 18 is amended to read “between 11.00 p.m. and 9.00 a.m. patrons must only smoke within the rear yard. Between this time only seven patrons will be permitted to be in this area.

The Sub Committee attaches the Conditions shown at point 9.10 on page 13 as amended. These are:

1. Staff shall sweep away any rubbish outside the premises at the start of each day.
2. Cigarette bins will be installed by the entrances of the premises.
3. No bottling out or disposal or refuse will take place after 10.00 p.m.
4. Signs will be installed asking customers not to take drinks outside after 11.00 p.m.

In reaching this decision the Sub Committee has taken into account the provisions of the Licensing Act 2003, the Secretary of State's Guidance and the Statement of the Council's Licensing Policy 2013.

Chair

The Meeting started at 10.30 am
and finished at 4.00 pm