

LICENSING SUB-COMMITTEE

NOTICE OF DECISION

NAME: - Button Hole Cafe

ADDRESS: Wing Hall, Wing Hall Drive, Wing, Oakham, LE15 8RQ

The Sub-Committee has considered an application for the Grant of a Premises Licence for:

Button Hole Café, Wing Hall, Wing Hall Drive, Wing, Oakham, LE15 8RQ

The Sub-Committee has heard evidence from:

- Hegarty Solicitors representing the Applicant
- Bianca Curley the Applicant
- Susannah Fish, Local resident, Objector

Although Mrs Fish gave verbal evidence from Nigel Rixon at Leicestershire Police, this was not taken into consideration by the Panel as representations had not been made by the Responsible Authorities during the consultation period.

The Decision

In making its decision, the Sub-Committee has had regard to Rutland County Council's Licensing Policy, the guidance issued under section 182 of the Licensing Act 2003 and the Human Rights Act 1998 and has carefully considered all the evidence presented to it.

The Sub-Committee has made this decision to promote all four of the Licensing Objectives.

The Sub-Committee has **RESOLVED** the following:

That the application for a premises licence be granted with four further imposed conditions. The Sub-Committee found that the following additional conditions would be imposed on a licence which would achieve the satisfactory promotion of the Licensing Objectives.

1. Signs will be displayed in the café and around the outdoor area of the premises requesting that patrons are respectful of neighbours in the surrounding area and keep the noise to a minimum.
2. Noise levels will be maintained to a level which will not cause nuisance to neighbours in the surrounding area.

3. The licence holders will keep monitoring records of sound levels for a period of 12 months from the date of the recording which shall be made available to responsible authorities upon a reasonable request.

4. The number of persons allowed on the lawn area will be limited to 200 at any one time.

The reasons for this decision are: -

The Sub-Committee considered the oral evidence and the written representations and correspondence contained in the covering report.

The Sub-Committee noted the conditions put forward by the Applicant.

There have been a number of matters raised in the oral submissions which cannot be considered by the Sub-Committee as the Licensing Authority. Some of these are matters for the Local Planning Authority. Further representations were raised in relation to noise issues that had been reported to the Local Authority. The Sub-Committee confirms that it has had no regard to those factors in reaching its conclusions on the application.

The objector raised additional issues which were not raised as part of the Original submission made during the period of consultation. These were also not considered by the Licensing Committee.

Paragraph 9.42 of the Statutory Guidance issued under Section 182 of the Licensing Act 2003 states that the Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Paragraph 1.17 requires that each application must be considered on its own merits and in accordance with the Licensing Authority's Statement of Licensing Policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

Mrs Fish expressed concerns in respect of noise nuisance emanating from the premises (in particular from the lawn area) and its impact on the licensing objective "Prevention of Public Nuisance". It is noted that Environmental Services has not submitted an objection to the application.

In evidence the Applicant stated that although the application was for licensable hours to 11pm for the sale of alcohol, the campsite rules specify that persons staying should be quiet after 9pm. She intended on having music approximately 12 times per year and her intention was that this would be between the hours of 6-8pm. She also said that she would try to position any live act facing away from the Objectors properties and implement such measures as appropriate to try to limit any effect on them.

With regard to the concerns about noise nuisance, the Sub-Committee was of the view that it was proportionate to require the Applicant to maintain records of sound levels so that appropriate enforcement action could be taken should the Responsible Authority determine it necessary. Maintaining such records should put the requirement to consider noise nuisance to neighbours at the forefront of the Applicants' minds and provide the responsible authority with the evidence they need to take enforcement action if determined necessary.

The Sub-Committee was also of the view that conditions in relation to signage and a limit on the number of persons allowed on the lawn area would alleviate any potential noise issues.

There is no evidence which persuades the Sub-Committee that robust conditions in terms of setting decibel levels which are within its remit (but were not raised as a solution by the Objectors) would be appropriate at this time as there was limited evidence that noise would be a nuisance to neighbours. However, the Sub-Committee would advise the Applicant to ensure that they follow the comments they made at the Hearing that there would be effective and robust management of this aspect of the premises' operation to ensure that the needs of nearby residents are taken into account.

Mrs Fish also expressed concerns in respect of the other Licensing objectives, however the Sub-Committee did not feel that there was evidence that these objectives would not be met and it would not therefore be proportionate to impose conditions in respect of them. The Sub-Committee did however find that the Applicant would implement "Challenge 21" at the premises when serving alcohol.

The Sub-Committee considers that these conditions are appropriate in order to promote the licensing objectives and to allay the concerns of the Objectors in respect of noise nuisance. The aim of these conditions is to ensure that noise from regulated entertainment does not cause a nuisance to the residents of the surrounding area. It is the view of the Sub-Committee that these licensing conditions are sufficiently robust to balance the interests of local residents in respect of noise emanating from the premises and the need of the applicant to operate a viable business.

Date of Decision: 19th April 2018

Members of the Licensing Sub-Committee:

Chairman: Cllr G Conde
Cllr R. Gale
Cllr W Cross

Signed: 
Chairman:

Dated: 24 APRIL 18

Guidance on how you can appeal this decision is attached.

GUIDANCE NOTES ON APPEALING AGAINST THE COUNCIL'S DECISION

Please read these notes carefully

If you wish to appeal against this decision Schedule 5 to the Licensing Act 2003 governs how you should make the appeal.

The appeal must be commenced by **Notice of Appeal to the Leicester Magistrates Court** which is situated at **15 Pocklington Walk Leicester Leicestershire LE1 6BT**

You should contact the Magistrates' Court or your Solicitor immediately to obtain the correct documentation to ensure that your appeal is made correctly.

Unless you are exempt, **the Magistrates' Court will require you to pay a fee when you lodge your appeal.** You should contact the Magistrates' Court or your Solicitor immediately to find out how much you will have to pay.

You must lodge your appeal with the Court within the period of 21 days beginning with the day on which you were notified of the decision. This means that the signed Notice of Appeal and court fee [if applicable] must reach the Court within 21 days. The Court cannot accept appeals lodged once this appeal period has expired.

On appeal, the Magistrates' Court may-

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority;
- (c) remit the case to the Licensing Authority to dispose of it in accordance with the discretion of the Court;
- (d) make such order for costs as it thinks fit.

You are strongly advised to take this decision notice to the Magistrates Court or your Solicitor when seeking advice on how to appeal.