

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE ALCOHOL AND GAMBLING LICENSING COMMITTEE

18 July 2022

Present: Councillor D Clews in the Chair

Councillors Farrow, Hancocks, M Humphreys, Jordan,
McLaughlan, O Phillips, Rose and S Smith

Apologies for absence were received from Councillors Jenns,
Macdonald, Moss, Osbourne, Parker and A Wright.

1 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

2 **Minutes**

The minutes of the meeting held on 25 January 2022, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

3 **Application to Review a Premises Licence Hearing – The Coach Hotel, Coleshill**

The Committee considered an application by Mr Dean Poulton dated 25th May 2022, to review the Premises Licence for the Coach Hotel, stating that the licensing objectives in the Licensing Act 2003 had been undermined in the following ways:

1. the prevention of crime and disorder - The premises heightens crime and disorder. Every evening as people leave there always ends up being fighting, smashed bottle in the street and excessive noise. Calling the police when a fight ensues is never carried out by the Coach Hotel. The police can confirm when there is a problem they are just thrown out onto the street for them to deal with off their premises. One customer leaving the Coach Hotel threw a bottle at my property, smashing a tile and a window. The town council are happy to obtain photos from their security camera of this. Cars of people who attend the coach, park on double yellow lines and have no care for others.
2. public safety - the locals do not feel safe around the Coach Hotel or the people that gather in this establishment. Many locals who they cross the road to avoid passing this place in fear. The 'B46 Updates' on Facebook mention a number of times the smashed bottles or glasses in the road and footpaths which is a hazard to their dogs and children.

3. prevention of public nuisance - is probably most significant point in this review, if a survey was done from the local residents, there wouldn't be many in support of this establishment. It has for many years been associated with all the problems in the town. I spoke with the police, the MP and town council and they are all aware of its presence and problems.
4. the protection of children from harm - Whilst I hope people that attend are above age and the issues arise late in the day, I would not like to bring up children in this area through fear of what happens on and around this premises.

A number of representations were received during the 28 day period allowed under the Act, copies of which were received and considered by the Committee, both stating that there were issues at the premises which undermined the licensing objectives, and in support of the Coach Hotel.

At the hearing the premises licence holder was represented by Duncan Craig, barrister, who was accompanied by Antoin McGroaty, Designated Premises Supervisor and Leo McGroaty Managing Director of Briskland Limited.

The following persons who made representations were present:

Sergeant Oakley and Sergeant Wrighting, Warks Police

Caroline Symonds, on behalf of Coleshill Town Council,

Vanessa Broadway

Georgina Twist

Ken Dicken

Dale Glastonbury, @ the Café on the Hill

The report was presented by David Dyde, Licensing Officer, who set out the background to the application.

The hearing was conducted in accordance with the Council's Procedure for Licensing Hearings.

The applicant was not present so Sergeant Oakley presented the police representation first, which can be summarised as follows:

There have been 13 incidents at the premises in the 15 months prior to the review. On the previous review in 2018 since serious incidents had occurred, the Council added further conditions to the licence.

He referred to the Table on Page 18 of the police representation which showed that there had been more incidents reported to the police which were connected to the Coach than to any other pub in Coleshill Town Centre. He also took members through the table on pages 15 and 16 which showed the history of the incidents.

Sergeant Oakley stated that the website for the Coach indicates that it is open until 1.00 a.m. which is a breach of the licence conditions. The police proposed that the premises should have the conditions on its licence amended to close one hour earlier as this would lessen the impact of these incidents on the community.

Members and Mr Craig asked Sergeant Oakley questions, the responses to which can be summarised as follows:

He had not told the Coach about the problem with its website. A lot of police time has been spent responding to call outs to the premises,

particularly on Friday and Saturday. If a phone call is made to the police reporting a fight, the call would be recorded by the police as relating to a fight even if, when they attended there was no evidence found of a fight. Most calls to the police were from neighbours, 2 from ambulance crews, 1 from West Midlands Police and one from the Coach itself. When police attended in relation to some incidents, no evidence of offences was found. There are other licensed premises nearby which may contribute to the issues. The views of neighbours who support the Coach were as important as those who oppose it. No bodycam footage was produced in relation to an incident on which the police attended. There was an arrest at the Coleshill Hotel in December following a fight which did not result in a review application. For the size of the Town, the Coach had a disproportionate number of call outs. CCTV would be available from Coleshill Town Council in relation to the incidents outside the premises however, this had not been obtained.

Councillor Symonds then presented the representation on behalf of the Town Council and, in summary, stated the following:

Many issues have been raised locally with the Town Council regarding the Coach and have reported a lot of disruption because of incidents there; they say they receive no response from those who run the premises. The DPS previously made an effort but this has come to nothing. The Town Council supported the planning application by the Coach as they believed it would change the character of the premises. It is not just local residents who have issues, often the road is blocked.

In summary, Councillor Symonds responded to questions as follows:

The CCTV which showed the whole of the High Street had not been served and it may have helped. She had not seen all the representations made by others but had been contacted by concerned residents – it is not common for people to contact Councillor when they are happy with something. Complaints were sent to the Clerk who made the representation on the Council's behalf. The Town Council supports local businesses however, she had not seen the documents regarding the planning application. She spoke to the DPS before the last review. It helps if the DPS engages with the public.

Vanessa Broadway then presented her representation which can be summarised as follows:

She lives next door to the Coach Hotel and cannot use her garden at time due to noise and the smell of drugs being smoked. Glasses have been thrown over her wall. Her gateway has been used as a toilet by people who she has then witnessed returning to the Coach Hotel.

Customers park their cars on her drive and block access; when she asks them to move she has been threatened. She has seen fights outside the Coach Hotel as late as 1.00 a.m. She believes Town Council CCTV would show evidence of these things. She said she had raised issues with the DPS and his father and they were rude to her.

In summary, Ms Broadway responded to questions asked by members and the other parties as follows:

She has been to the premises 7 or 8 times to speak about issues; door staff told her that it was not their problem and the DPS said he knew whose car was blocking her drive but they would be finished soon. The Coach

Hotel staff are aware about the bottles and glasses being thrown into her garden.

On behalf of the premises licence holder Mr Craig stated, in summary, the following:

The Committee were shown of CCTV footage which allegedly showed the review applicant throwing a glass into the foyer of the Coach Hotel which broke leaving glass littering the floor around the entrance. Other footage showed the DPS taking noise level readings whilst music was played both, inside when the level was approximately 85 dB; then in the street where the reading was approximately 58 dB, reducing to 49 as he walked away. Another clip showed comparative noise readings in the street during the morning when the reading was around 64 dB.

The applicant threw the glass in the premises 3 days after the application was made. Applications of that nature should be made in good faith. There was no evidence to back up anything the application said. Representations were made by many showed a significant level of support which was rare in applications of this nature.

Mr Craig then turned to the individual representations raising concerns about the Coach and stated:

Mr Cole says nothing specific about the Coach. Mr De Maqua is the partner of the review applicant and says that all residents are adversely affected; which not the case as many support the Coach. Ms Broadway raises various matters however, the DPS can not recall meeting her and denies drugs were smoked in the garden. Ms Groves says nothing which links actual incidents to the premises. Several anonymous representations, which were provided to him but were not accepted by the Council contain almost identical wording to that used by Ms Groves.

Of the incidents recorded by the police, on one occasion it was a member of staff from the Coach who was assaulted, on another a member of staff helped the victim of a traffic accident outside the premises which had no connection to them or the staff. At best, 3 or 4 incidents can be linked to the premises in the last 12 months.

The supporting documentation submitted by the licence holder shows other premises nearby open later. Approximately £0.5M has been invested in the premises; development of the rear garden to prevent nuisance to neighbours costs approximately £5000 per month in takings. Questions were asked by members of the Committee, the responses to which can be summarised as:

It is not claimed that there are no incidents relating to the premises, just that these are relatively few and not significant. It may be appropriate to attach less weight to the supporting representations made by businesses which profit from their relationship with the premises. There was a DJ playing music on the night of the noise readings. They cater for a wide age range having an admission policy of over 21s up to recently hosting a 70th birthday party. The premises are still not trading at their pre-covid levels and the business has struggled as a result. 11 staff are employed in total; door staff are sourced via an agency and cost approximately £900 per month. The DPS asked Environmental Health to monitor noise from the premises and no problems have been found as is evidenced from the

Those who made representations in support of the premises said, in summary, the following:

Ms Twist; I live near and worked their years ago. Other places cause problems, I live next door to the Red Lion and accept that you get disturbance if you live next to a pub. I have children and am happy for them to frequent premises in Coleshill rather than go into Birmingham. Coach door staff are strict and search bags and stop people taking drinks out the premises. She believes reporting of problems is unfair toward the Coach.

Kenneth Dicken; I recognise how difficult it can be at times to run licensed premises and it can be problematic for those who live nearby. Prior to the current owners the premises were owned by a bank who only cared about profit. The current owners have invested in the premises, run them well and give something back to the community.

Dale Glastonbury; I get business from the Coach but don't favour any party in relation to this review as I also get business elsewhere. There is usually noise and issues late on Friday and Saturday nights however, there are lots of pubs nearby and the Coach is not to blame for it all.

The parties summed up as follows:

Sergeant Oakley: if calls to the police were believed to be fake they would be investigated; there is nothing to say that is the case. There were issues getting CCTV footage however, he had viewed some of it which showed an argument and fighting near the Coach.

Councillor Symonds: the premises are almost two pubs in one; weekdays are fine but Friday and Saturday nights are very different, when problems occur; that is why action needs to be taken to bring those nights into line with the rest of the week.

Ms Broadway: agrees that if the premises would get Friday and Saturday nights in line with the rest of the week then that would be good.

Mr Craig: this turns on the police log of incidents since lifting of lockdown. At best 5 incidents in the last 12 months were connected to the premises in some way. It is not right to speculate as it is not certain that some others do; this not enough to demonstrate a problem at the premises which justifies action.

Ms Twist: I live as close to the pub as many of those who are objecting and it is not as bad as they make out.

The Clerk to the Committee gave legal advice which can be summarised as follows:

1. You have heard from most of the parties and have read the application, written representations and other documents submitted in relation to the review
2. The applicant for the review has a right to attend the hearing however, he is not obliged to and the Committee must still consider the application.
3. You have been shown footage of the applicant apparently throwing a glass into the foyer of the Coach Hotel; even if you find that he did so and that this in turn undermines what he says in his application, you

- must still consider what it said by all those others who have made representations in support of and against the premises.
4. Having considered this you should ask yourself whether this shows that anything which is said in the application or by others who have made representations shows that the licensing objectives have been undermined at the premises.
 5. If you do find that the licensing objectives have been undermined you must decide whether this is due to the manner in which the premises are managed and, if so, is action required to address those issues.
 6. The parties have suggested some steps which might address the issues however, if action is appropriate you are not constrained by these suggestions and may take such steps as are appropriate from the options set out in the report.
 7. A premises licence is a possession for the purposes of the Human Rights Act and that means that any action which might impact on the licence must be both necessary and proportionate to any problems that are being caused; therefore if action has to be taken it should be the minimum steps that are necessary to ensure that the licensing objectives are undermined. Members should therefore consider the options in order, starting with whether modifying the conditions would address the issues and, if not, work through the options in turn until an appropriate outcome is achieved.
 8. Paragraph 11.23 of the Guidance issued under the Act states that the licensing authority must consider any financial impact that may result from its decision and seek to minimise this if possible however, this should not stop the Committee taking tough action if it is justified in all other respects.
 9. The fact that some of those who have complained about the premises have moved to a property close to a pub does not mean that they do not have protection from any nuisance caused at the premises and

Recommendation

The members then retired to make their decision and all others left the room other than the Head of Legal Services who was advising the Committee and the Democratic Services Officer.

After members had deliberated, the parties returned to the room and the Committee notified the parties of their decision.

Having taken account of the application for review, written representations and all material before us, and having considered what has been said by those present at the hearing, the Committee made the following findings: We were required to consider whether the Coach Hotel was being managed and operated in such a way that the licensing objectives were being undermined and:

- a. causing crime and disorder to occur (including fights, threats to neighbours and drug taking);
- b. causing a nuisance to those living in the vicinity (including from loud music played at the premises and from the actions of its customers) to impact on neighbouring occupiers;

- c. causing a risk to public safety (including due to smashed beer glasses and bottles); and
- d. placing children at risk or harm (including through the crime and disorder referred to above and general anti-social behaviour at the premises).

The Committee has decided that:

There are a number of issues arising in the vicinity of the Coach Hotel, including incidents of crime, behaviour causing nuisance to nearby occupiers, and risk to public safety due to smashed glasses etc. This is clear from the application for review, representations by those affected and in the high number of reports to the police regarding offences and the subsequent high level of police deployment to the premises. All these matters have a significant effect on those living in the vicinity, no doubt negatively impacting on their lives and clearly undermining the licensing objectives referred to above.

The Committee noted that the Coach Hotel is located on the High Street and that there are several other licensed premises close by. There is however, no clear evidence before the Committee that these issues are directly caused by customers of the Coach Hotel and/or as a result of failings by the licence holder and/or DPS to operate the premises in accordance with the licence.

As a result, on the information before it at the hearing, the Committee is unable to attribute these problems to the Coach Hotel and it is therefore not appropriate for the licensing authority to take any of the steps set out in the report before it for the purpose of promoting the licensing objectives. Accordingly, the Council will not be taking any action in relation to the premises licence for the Coach Hotel, Coleshill as a result of the application for review which was received on 25 May 2022.

Narrative

Although not matters on which the Committee has made any determination, members wish to make the following observations.

Much was said in the hearing by all parties about the community spirit in Coleshill and how both residents and businesses work together and support one another. In furtherance of this it would be beneficial if the licence holder and DPS were to provide contact details so that those who experience issues arising in the vicinity of the premise are able to raise them so that, if necessary, action can be taken to address those issues. Providing a telephone number and an e-mail address should suffice.

Also, it was mentioned that the website for the Coach Hotel showed out of date opening times which was indicative of a breach of the licence conditions. Although there was no evidence to show trading after permitted hours and no finding by the Committee of such a breach, it is recommended that the website is now amended to ensure that it complies with the licence and does not mislead customers or others who may be affected.

Although no finding has been made in relation to the allegations on this occasion, should a further application be made to review the licence, the Committee is not prevented from re-examining these allegations and

taking account of additional information and evidence in relation to them, should that be within the scope of that application.

Parties Rights

You have the right to appeal to a magistrates court against this decision. Any appeal must be made within 21 days beginning with the date on which you are notified of this decision. You may commence the appeal at Nuneaton Magistrates Court, Warwickshire Justice Centre, Vicarage Street, Nuneaton, CV11 4JU or at another magistrates court. The Court service may decide to transfer any appeal for hearing at another Court. A Court fee may be payable. You are recommended to take legal advice in relation to any proposed appeal.

A Jenns
Chairman