

LICENSING SUB COMMITTEE - LICENSING ACT 2003

14th December 2018

Present: Councillors Griffiths, Knight and J. Squires

Also in Attendance:

Councillor Ditta

Officers:

Vanessa Brown
Niall McMenamin

Solicitor
Senior Licensing
Practitioner, Worcestershire
Regulatory Services
Democratic Services
Administrator

Helen Richards

1 Election of Chairman

RESOLVED: That Councillor Griffiths be appointed Chairman.

COUNCILLOR GRIFFITHS IN THE CHAIR

2 Declarations of Interest

Councillor Squires represents the Arboretum ward on the University Forum and knows Mr Thomas Taylor in his capacity as assistant director of security at the University. However, she was unaware that he was the applicant today and has not discussed this matter with him.

3 Application for the Grant of a Premises Licence - University of Worcester Art House, Castle Street, Worcester

The Sub-Committee considered an application for the grant of a premises licence in respect of University of Worcester Art House, Castle Street, Worcester.

At the start of the meeting the Chairman made the following statement:

"Presentations to this Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee."

All parties to the hearing introduced themselves.

Mr Thomas Taylor, the applicant was not represented and was satisfied to go ahead without legal representation. Mr Taylor stated he was satisfied with the proposed procedure.

The representors were also aware they could have had legal representation, and were satisfied with the proposed procedure.

Vanessa Brown, for the Legal Services Manager, summarised the matter for consideration. She explained that the matter had been referred to the Sub-Committee for determination by Worcestershire Regulatory Services because objections had been made opposing Mr Taylor's application.

Niall McMenamain, Senior Licensing Officer on behalf of Worcestershire Regulatory Services (WRS) explained that this was a new application received on 13th September 2018. It was advertised in accordance with the Licensing Act. Due to an administrative issue it was resubmitted and advertised again. The application is for the following activities:

Performance of dance	0900 – 2200	Indoors
Performance of plays	0900 – 2200	Indoors
Playing of recorded music	0900 – 2200	Indoors
Sale of alcohol	1200 - 2200	Indoors

It should be noted that the playing of recorded music is not longer a licensable activity unless after 2300. The designated premises supervisor identified in the application is Mr Thomas Anthony Taylor.

In the application, the applicant described the premises as an educational establishment, with the Art House being predominantly a teaching space for Arts and Drama. The applicant has gone on to explain that there will be ad hoc occasions where Art Exhibitions will be on display and alcohol, mainly wine and sparkling wine will be consumed on and within the building. The open spaces within the building, is where the alcohol will be served.

No objections have been received from statutory bodies including West Mercia Police and Environmental Health.

The Licensing Officer answered Members' questions explaining that when members of the public were invited to a play or dance performance it becomes a licensable activity. Clarity was also sought regarding the plan submitted with the application. The area outlined in red showed the full site including the car park and other outside areas, whereas alcohol was intended to be sold only within the building.

Ms Vanessa Leatherdale one of the representors asked the Licensing Officer questions regarding how the application had been advertised. She felt that the application had not been publicised widely enough and the Sub-Committee should consider postponing the hearing.

The Licensing Officer confirmed that all procedures had been correctly followed by the University.

Mr Taylor then spoke in support of his application. He explained that the primary function of the Art House was teaching. Some ad hoc performances will also be mounted such as art shows, dance performances etc. These would be ticketed events and would involve a glass of wine or sparkling wine. Mr Taylor said it was difficult to predict how many events over the year would take place, as well as what time they would be scheduled, hence the wide cover provided by applying for an alcohol licence between 12:00 – 22:00.

He confirmed that alcohol would not be served outside the building and security staff would ensure that people did not take drinks outside.

Mr Taylor said he would not allow licence conditions to be broken or allow for anything to jeopardise any of the other university's licences. He said the university was a responsible licensee and had only had to eject one person at the University Arena during a Worcester Wolves basketball game in four years. Mr Taylor said there was no intention to have a bar at the Art House, nor would the premises be hired out for student parties.

Councillor Squires asked Mr Taylor if he had communicated directly with local residents as they obviously felt that they had not been made properly aware of the Art House's plans. Mr Taylor said he had not, and had just followed legislative procedures. Mr Taylor advised that via Councillor Denham he had said he would meet with the residents but that he was told this was not something that they wished to do.

Representors were then asked to make representations. Vanessa Leatherdale said she had lived in Charter Place for 25 years and that it was very tranquil there. She said the house backed on the Art House and was extremely concerned about noise. Ms Leatherdale said the building had tunnels beneath it from its earlier history and now with added air conditioning units on the roof felt that noise was inevitable. She was also concerned that outside agencies may hire the building and thought that it was inevitable that would be a problem.

Mr Taylor explained that any external bookings would be outside of term-time in June – September and would have to conform to the rules and regulations for the building.

Councillor Ditta as ward councillor was representing a resident who was unable to attend the hearing. He asked Mr Taylor why Temporary Event Notices (TENs) had not been considered if only a few events were planned.

Mr Taylor explained that he thought applying for a TEN could be a risk if an event needed to be organised quickly. The Licensing Officer explained that TENs were used for ad hoc events in unlicensed premises, these were limited to 15 in a year. However, conditions could not be attached to a TEN. A full premises licence had been applied in order not to use TENs.

Jean Lowth, another representor said she had visited that building and it was very beautiful, with an open spaces and large windows. Because of the design, noise problems were inevitable. She went on to say that she had listened carefully to Mr Taylor's intentions but felt he could not make promises about his intentions as once the University have the licence for alcohol and dancing there was nothing to stop them holding events that will cause noise problems. With events taking place in the evening parking would pose more of a problem and public nuisance was inevitable.

Wendy Trounce, another Charter Place resident said she felt Mr Taylor's explanations had given her some reassurance that if everything he said was to be carried out the residents would be satisfied about how the Art House is run.

Vanessa Leatherdale went on to say that the Art House was not fit for purpose due to the structure and vibrations could already be felt in residents houses, enough for pictures to fall off walls. Charter Place had a communal garden which she felt would be used by drunken patrons of the Art House.

Steve Bennett, another local resident said that the building had originally been designed as a car showroom in the 1930s despite Mr Taylor's assurances there was nothing to stop it becoming a nightclub with considerable public nuisance. He also felt that car parking would be an issue.

Vanessa Brown, for legal services, explained that noise nuisance was a matter for environmental health and that they had not raised any objections to the application. Car parking and whether the building was fit for purpose came within the remit of planning and planning permission had already been agreed.

The plan of the Art House was discussed and the red line outlining the perimeter of the building including the car park was found to be misleading. Mr Taylor assured the Sub-Committee that drinks would only be served within the shaded area which was the brick construction.

The Licensing Officer and Solicitor had nothing to add.

All parties with the exception of the Members of the Sub-Committee and representatives of Legal and Democratic Services, then withdrew to enable the Sub-Committee to consider its decision.

In considering the decision the following legal advice was given:

- That the Licensing Objectives must be the paramount consideration.
- That the Sub-Committee may only have regard to the representations which promote the four licensing objectives.
- The Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fall under the Sub-Committee's jurisdiction.

All parties were then recalled and the Chairman explained that the Sub-Committee had regard to:

- The licensing objectives set out on the Licensing Act 2003.
- The Council's Statement of Licensing Policy.
- The guidance issued under section 182 of the Act.
- The Report presented by the Senior Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the applicant Mr Thomas Taylor
- The written representation submitted and the oral representations made at the Hearing by the other parties, Steve Bennett, Wendy Trounce, Vanessa Leatherdale and Jean Lowth and Cllr Ditta (ward councillor) representing Mrs J Thomason, who had raised objections to the application.

The Sub-Committee decided to grant the application as applied for with a requirement that a new plan is provided to remove the outside areas.

The reasons for the Sub-Committee's decision are as follows:

- The Sub-Committee noted that the provision for the Playing of Recorded Music was not a licensable activity that fell within their remit as it was only required up until 22.00 hours.
- The Sub-Committee noted the representations made by the Applicant concerning the use of the premises. In particular that the licence was sought to allow ad hoc events which complimented the primary function of the building which was used as an educational facility.
- The intention with regards to events is that they will mostly be ticketed to ensure control over those attending and the licence for the sale of alcohol would be to allow those attending the events to purchase a glass of wine or beer. There is no intention to have a permanent bar in situ.
- The Sub Committee noted that the University holds a similar licence for a much larger venue, and that the Applicant is the Designated Premises. Members were satisfied that the applicant was experienced in running such venues and had a clear understanding of the requirements to promote the licensing objectives.
- The Sub Committee was unable to give weight to representations that fell outside the Licensing remit in particular those matters which pertained to the suitability of the building with regards to noise, smoking outside the premises and parking.
- The Sub Committee considered the concerns raised with regards to the licensable activities and that the fears for the future were that the activities may go beyond those which were outlined. The Sub Committee understood the concerns but did not consider that there was evidence that related to this specific premise to suggest that the licensing objectives would not be upheld.
- The Sub Committee noted the hours sought for the licence, namely until 22.00hrs, and did not consider that this was indicative of a premises intending to operate as a student bar or nightclub as suggested.
- In considering the information submitted by the other parties, the Sub-Committee noted that no objections had been received from any of the responsible authorities.
- The Sub Committee concluded that there was no evidence to prevent the grant of the variation; however a new plan is to be submitted to remove the outside area as the applicant had intended this in the original application.
- The Sub-Committee was mindful of the review process that applies to any premises that fails to promote the licensing objectives and the ability of any party to bring the licence before the Sub-Committee should evidence be obtained to prove that the premises is failing to meet its obligations.

Councillor Squires requested that Mr Taylor arranges to invite The charter Place Resident's Committee to future University Forum meetings.

Duration of the meeting: 11.00 a.m. – 1.15 p.m.

Chairman at the meeting on
14th December 2018